

CHAPTER 659

S.B. No. 262

AN ACT

relating to institutions served by higher education authorities; the exercise of the powers of higher education authorities by nonprofit corporations; and board members of higher education authorities.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Subdivision (5), Section 53.02, Education Code, as amended, is amended to read as follows:

(5) "Institution of higher education" means (i) *any institution of higher education as defined by Subdivision (3) of Section 61.003 of this code, or (ii) [either] a degree-granting college or university corporation accredited by the Texas Education Agency or by a recognized accrediting agency, as defined by Subdivision (13) [(12)] of Section 61.003 of this code, or (iii) a postsecondary proprietary school accredited by the Association of Independent Colleges and Schools, the National Association of Trade and Technical Schools, or the National Accrediting Commission of Cosmetology Arts and Sciences.*

SECTION 2. Section 53.35, Education Code, as amended, is amended to read as follows:

Sec. 53.35. Issuance of Bonds; Procedure; Etc. (a) The bonds shall be authorized by resolution adopted by a majority vote of a quorum of the board. Bonds authorized under this section shall be issued in accordance with Chapter 845, Acts of the 67th Legislature, Regular Session, 1981 (Article 717k-6, Vernon's Texas Civil Statutes). The bonds shall mature serially or otherwise in not to exceed 50 years. The rate of interest to be borne by the bonds shall not exceed the maximum rate prescribed by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes).

(b) In addition to or in lieu of establishing an authority under the provisions of this chapter, the governing body of a city or cities may request or order created *one or more* [a] nonprofit *corporations* [~~corporation~~] to act on its behalf and as its duly constituted authority and instrumentality to exercise the powers granted to an authority under the provisions of Section 53.33, Texas Education Code. If a nonprofit corporation is created for such purposes or agrees to such request, the directors thereof shall thereafter be appointed and be subject to removal by the governing body of the city or cities. In addition to the powers of lease or acquisition of facilities granted under Section 53.33, the corporation shall have all powers granted under the Texas Non-Profit Corporation Act for the purpose of aiding institutions of higher education in providing educational facilities and housing facilities and facilities incidental, subordinate, or related thereto or appropriate in connection therewith. In addition to the provisions of Section 53.33 and the Texas Non-Profit Corporation Act, as amended (Article 1396-1.01, Vernon's Texas Civil Statutes), Sections 53.131, 53.14, 53.15, 53.31, 53.32, 53.331, 53.34, 53.35, 53.38, and 53.41, Texas Education Code, shall apply to and govern such corporation and its procedures and bonds.

SECTION 3. Subdivision (1), Section 1, Chapter 640, Acts of the 68th Legislature, Regular Session, 1983 (Article 988b, Vernon's Texas Civil Statutes), is amended to read as follows:

(1) "Local public official" means a member of the governing body or another officer, whether elected or appointed, paid or unpaid, of any district (including a school district), county, city, precinct, central appraisal district, transit authority or district, or other local governmental entity who exercises responsibilities beyond those that are advisory in nature, *but does not include a board member of a higher education authority created under Chapter 53, Education Code, unless a vote, act, or participation by the board member as to the affairs of a higher education authority would provide a financial benefit to a financial institution, school, college, or university constituting a source of income to the board member or being a business entity in which the board member has an interest distinguishable from financial benefit available to any other like financial institution or other school, college, or university whose students are eligible for a student loan available under Chapter 53, Education Code.*

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on April 15, 1987, by the following vote: Yeas 31, Nays 0. Passed the House on May 29, 1987, by the following vote: Yeas 147, Nays 0, one present not voting.

Approved June 18, 1987.

Effective June 18, 1987.