

- SUBJECT:** Exempting school districts from court cost bonds and appeal bonds
- COMMITTEE:** Judiciary and Civil Jurisprudence — favorable, without amendment
- VOTE:** 11 ayes — Jackson, Lewis, Bohac, Castro, S. Davis, Hartnett, Madden, Raymond, Scott, Thompson, Woolley
- 0 nays
- WITNESSES:** For — (*Registered, but did not testify:* Julie Shields, Texas Association of School Boards)
- Against — None
- On — Carole Callaghan
- BACKGROUND:** Court cost bonds guarantee the payment of filing fees and other court costs. Supersedeas, or appeal bonds, ensure that a judgment is paid if it is affirmed on appeal. Civil Practice and Remedies Code, sec. 6.001 and 6.002, exempt certain city, state, and federal government entities from paying for court cost bonds or from paying for appeal bonds when appealing a judgment. Civil Practice and Remedies Code, sec. 6.003, also exempts certain water districts from appeal bond requirements.
- DIGEST:** HB 942 would add sec. 6.004 to the Civil Practice and Remedies Code to exempt school districts from paying for court cost bonds when initiating lawsuits and from paying for supersedeas or cost bonds when appealing a judgment.
- The bill would take effect September 1, 2011, and would apply only to a suit or appeal filed on or after the effective date.
- SUPPORTERS SAY:** Most government entities are exempt from having to pay for court cost and appeal bonds because they pose little risk of nonpayment, and school districts are no different. School districts are considered political subdivisions of the state and, like counties and cities, have large tax bases that ensure that costs will be paid. Bond payment exemptions would

provide some amount of relief to school districts now facing large funding cuts.

Bonding companies generally charge a nonrefundable fee of 1 to 2 percent of the judgment, plus 10 percent of the judgment, which would be refunded to the school district if it wins the appeal. For large judgments, this is a significant cost that generally is not budgeted for by school districts. Under current law, school districts are susceptible to threats from opposing counsel pressing the school district not to appeal and reminding them of the bond they will have to pay. School districts sometimes decide not to appeal based on the bond amount rather than on the merits of the appeal.

**OPPONENTS
SAY:**

The appeal bond ensures that money is available to the plaintiff if the trial judgment is affirmed on appeal. The appellate process can take years to be finally resolved, and over this time a school district's financial situation could deteriorate. It would be unfair to shift this risk to a plaintiff with a valid judgment. At least 200 school districts already are at the maximum property tax rate and still more require voter approval to raise taxes. For this reason, school districts could be less able than other government entities to raise revenue to pay a large judgment.

NOTES:

During the 2009 regular session, an identical bill, HB 1319 by Pierson, passed the House by 140-0 and was referred to the Senate Jurisprudence Committee, which took no further action.