

## **BILL ANALYSIS**

Senate Research Center

S.B. 1476  
By: West  
Subcommittee on Higher Education  
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As Filed

### **DIGEST AND PURPOSE**

Nonprofit student loan corporations provide secondary market financing for guaranteed student loans to Texas residents and students attending college in Texas. The proceeds of bonds issued by these corporations are used to acquire student loan notes from originating lenders. The bonds are payable solely from the repayment and guarantee obligations of the student loans, with no state or local government obligation or liability.

In 1996, the Internal Revenue Code was changed to allow a nonprofit student loan corporation to broaden its purposes to encompass a charitable activity allowed for other nonprofit entities, and to eliminate the requirement that net assets be transferred to the federal government on dissolution of the nonprofit corporation. Certain steps must be taken by a nonprofit corporation to change its tax status and broaden its charitable activities. No state law exists to allow a nonprofit student loan corporation to take advantage of the 1996 tax law changes.

As proposed, S.B. 1476 amends the Education Code to authorize the creation of nonprofit corporations for the limited purpose of refunding outstanding tax-exempt bonds and to allow the nonprofit corporations to obtain, along with other student loan issuers, a portion of the state's tax-exempt bond volume.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state office, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 53.47(a)(6), Education Code, to provide that "qualified nonprofit corporation" includes a nonprofit corporation that issues bonds the proceeds of which are used to refund bonds issued on or after January 1, 1990, and before January 1, 2001, that qualified as student loan bonds under Section 144(b), Internal Revenue Code of 1986, as amended.

SECTION 2. Amends Section 53.47, Education Code, by adding Subsection (h), to authorize the governing body of a city, by ordinance or resolution, to authorize the incorporation of a nonprofit corporation under this chapter to act on behalf of the city as its duly constituted instrumentality for the purpose of exercising the powers set forth in this subsection. Provides that on approval by the city, the nonprofit corporation is authorized to issue revenue bonds and to loan the proceeds thereof to an entity that has assumed the outstanding bond obligations of a nonprofit corporation, the loan being for the limited purpose of refunding such outstanding bonds. Provides that in issuing the bonds, the nonprofit corporation is considered to be acting on behalf of the city by which it was created. Requires the bonds to be refunded to have been originally issued as "qualified scholarship funding bonds" (as defined in Section 150(d)(2), Internal Revenue Code of 1986, as amended) by a nonprofit corporation while acting under Subsection (f) hereof and that subsequently made the election permitted under Section 150(d)(3) of the Internal Revenue Code, as amended. Requires any refunding bonds to be solely the obligation of the nonprofit corporation and not to be or constitute a debt or obligation of the city.

Requires the ordinance or resolution of the city authorizing the incorporation of the corporation to approve the articles of incorporation and any amendments to the articles of incorporation. Requires, upon dissolution of the corporation, title to all property owned by it to be vested in and become the property of the city. Authorizes a corporation to be incorporated under this chapter by filing its articles of incorporation with the secretary of state in the manner prescribed for the incorporation of nonprofit corporations under the Texas Non-Profit Corporations Act (Art. 1396-1.01 et seq, V.T.C.S.). Requires the secretary of state, on filing of the articles of incorporation, to issue a certificate showing that the corporation is incorporated under this chapter. Provides that, except to the extent provided by this section, Sections 53.131 (Authority's Earnings), 53.14 (Board of Directors), 53.15 (Organization of Board; Quorum; Employees; Counsel), 53.31 (No Taxing Power), 53.32 (No Power of Eminent Domain), 53.35(a) (relating to bond issuance) and 53.39 (Refunding Bonds) apply to and govern the corporation, its procedures, and bonds. Requires the corporation, in addition to the specific powers granted under this Subsection (h), to have all powers granted under the Texas Non-profit Corporation Act that are necessary, incidental, or subordinate in carrying out the purposes authorized in this subsection.

SECTION 3. Repealer: Section 53.47(k) (establishing a September 1, 2003, expiration date for Subsection (a)(6)), Education Code.

SECTION 4. Effective date: upon passage or September 1, 2003.