

## **BILL ANALYSIS**

Senate Research Center  
82R4920 KSD-F

S.B. 1823  
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Higher Education  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Four non-profit education authorities have operated in Texas for over 30 years. They currently receive approximately \$230 million in tax-exempt bonding authority through the state's private activity bonding allocation process. These higher education authorities finance guaranteed student loans under the Higher Education Act of 1965 through a combination of tax-exempt and taxable bonds, but they do not have the ability to finance alternative (or private) education loans using tax-exempt bonds. Instead, higher cost taxable bonds have been used to finance these alternative education loans, making these types of loans more expensive for students attending Texas colleges and universities.

S.B. 1823 provides low-cost student loans to Texas students without causing the State of Texas to incur debt. S.B. 1823 would allow the non-profit higher education authorities to make lower cost alternative education loans available to Texas students by using proceeds from tax-exempt bonds. The bill requires the bonds to receive an investment grade rating. The ability to receive an investment grade rating is enhanced by allowing the use of a "moral obligation" from the State of Texas to replenish the bond's reserve fund should there be a shortfall in the fund's ability to pay interest and principal to the bondholders. The moral obligation would be subject to appropriation risk, as the replenishment of the reserve fund would be subject to appropriation by the Texas Legislature.

As proposed, S.B. 1823 amends current law relating to guaranteed student loans and alternative education loans.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends the heading to Section 53B.47, Education Code, to read as follows:

Sec. 53B.47. GUARANTEED STUDENT LOANS AND ALTERNATIVE EDUCATION LOANS; BONDS FOR THE PURCHASE OF EDUCATION LOAN NOTES.

SECTION 2. Amends Sections 53B.47(a), (b), (c), (d), (f), and (h), Education Code, as follows:

(a) Authorizes an higher education loan authority (authority) to, upon approval of the city or cities which created the same, issue revenue bonds or otherwise borrow money to obtain funds to purchase or to make guaranteed student loans or alternative education loans. Require revenue bonds issued for such purpose to be issued in accordance with and with the effect provided in this chapter. Requires that such bonds be payable from and secured by a pledge of revenues derived from or by reason of the ownership of guaranteed student loans or alternative education loans and investment income after deduction of such expenses of operating the loan program as may be specified by the bond resolution or trust indenture.

(b) Authorizes an authority to cause money to be expended to make or purchase for its account guaranteed student loans that are guaranteed by the Texas Guaranteed Student Loan Corporation, other guaranteed student loans, or alternative education loans that are executed by or on behalf of students who are residents of this state, or have been admitted to attend an accredited institution within this state.

(c) Requires the authority to contract with a nonprofit corporation, organized under the laws of this state, whereby such corporation will provide the reports and other information required for continued participation in the federally guaranteed loan program provided by the Higher Education Act of 1965, as amended, or in an alternative education loan program.

(d) Provides that the authority, as a municipal corporation of the state, is charged with a portion of the responsibility of the state to provide educational opportunities in keeping with all applicable state and federal laws. Requires that nothing in this section be construed as a prohibition against establishing policies to limit the purchase of guaranteed student loans or alternative education loans, rather than to guaranteed student loans, executed by students attending school in a certain geographical area or by students who are residents of the area.

(f) Authorizes a nonprofit corporation, whether acting at the request of a city or cities under Subsection (e) or acting as a servicer or administrator for another corporation that purchases or makes guaranteed student loans or alternative education loans, or that on its own behalf issues securities or otherwise obtains funds to purchase or make guaranteed student loans or alternative education loans, to:

(1) exercise the powers granted by Chapter 22 (Nonprofit Corporations), Business Organizations Code, rather than the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., V.T.C.S.);

(2) service loans purchased or made from its funds or contract with another person to service the loans;

(3) grant a security interest in a trust estate securing its securities; and

(4) make investments as authorized by Subsection (e).

(h) Authorizes an alternative education loan to be made under this section only by or on behalf of a qualified alternative education loan lender.

SECTION 3. Amends Sections 1372.033(a) and (d), Government Code, as follows:

(a) Redefines, in this section, "qualified nonprofit corporation" and "student loan bond allocation." Deletes existing text defining "additional need," "annual need," "floor allocation," "remaining amount to be allocated," "Texas eligible loan," "Texas loan," and "total amount to be collected."

(d) Provides that each qualified nonprofit corporation that applies for a student loan bond allocation in compliance with all applicable application requirements for a program year is entitled to receive a student loan bond allocation for that year. Deletes existing text providing that each qualified nonprofit corporation that applies for a student loan bond allocation in compliance with all applicable application requirements is entitled to receive a floor allocation except as provided by this section. Deletes existing text providing that if the total amount to be allocated is less than the sum of the floor allocations for all of the applicants, each applicant is entitled to a proportion of the total amount to be allocated equal to the proportion its floor allocation bears to the total of the floor allocation for all of the applicants. Deletes existing text providing that a qualified nonprofit corporation whose annual need is zero is not entitled to apply for a student loan bond allocation.

SECTION 4. Repealers: Sections 1372.033(c) (relating to a certified statement for student loans), (e) (relating to allocation of remaining funds), and (f) (relating to applicant share of remaining balance), Government Code.

SECTION 5. Provides that the change in law made by this Act to Section 1372.033, Government Code, applies to the allocation of the available state ceiling under that section beginning with the 2011 program year under Chapter 1372 (Private Activity Bonds and Certain Other Bonds), Government Code.

SECTION 6. Effective date: upon passage or September 1, 2011.