S.B. No. 2240

Chapter 849

1 AN ACT

2 relating to the financing of educational and related facilities by

3 higher education facility authorities or nonprofit corporations

4 performing the functions of those authorities and to the governance

5 of certain higher education facility authorities.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Subsection (b), Section 53.35, Education Code,

8 is amended to read as follows:

9 In addition to or in lieu of establishing an authority under the provisions of this chapter, the governing body of a city 10 or cities may request or order created one or more nonprofit 11 corporations to act on its behalf and as its duly constituted 12 13 authority and instrumentality to exercise the powers granted to an 14 authority under the provisions of Sections 53.33 and 53.34. 15 nonprofit corporation is created for such purposes or agrees to 16 such request, the directors thereof shall thereafter be appointed and be subject to removal by the governing body of the city or 17 18 cities. In addition to the powers granted under, and subject to the 19 limitations provided by, Sections 53.33 and 53.34, the corporation 20 shall have all powers granted under the Texas Non-Profit 21 Corporation Act for the purpose of aiding institutions of higher 22 education in providing educational facilities 23 facilities and facilities incidental, subordinate, or related 24 thereto or appropriate in connection therewith. In addition to

- 1 Sections 53.33 and 53.34 and the Texas Non-Profit Corporation Act,
- 2 as amended (Article 1396-1.01 et seq., Vernon's Texas Civil
- 3 Statutes), Sections 53.131, 53.14, 53.15, 53.31, 53.32, 53.331,
- 4 53.34, 53.35, 53.38, 53.40, and 53.41 of this code apply to and
- 5 govern such corporation and its procedures, bonds, and other
- 6 obligations.
- 7 SECTION 2. Section 53.40, Education Code, is amended to
- 8 read as follows:
- 9 Sec. 53.40. APPROVAL OF BONDS; REGISTRATION;
- 10 NEGOTIABILITY. (a) Bonds issued under this chapter and the record
- 11 relating to their issuance shall be submitted to the attorney
- 12 general, and if the attorney general [he] finds that they have been
- 13 issued in accordance with this chapter and constitute valid and
- 14 binding obligations of the authority and are secured as recited
- 15 therein, the attorney general [he] shall approve them, and they
- 16 shall be registered by the comptroller of public accounts, who
- 17 shall certify the registration thereon. Thereafter they are
- 18 incontestable. The bonds shall be negotiable and shall contain the
- 19 following provision: "The holder hereof shall never have the right
- 20 to demand payment thereof out of money raised or to be raised by
- 21 taxation." If the attorney general does not find that the bonds
- 22 have been issued in accordance with this chapter and constitute
- 23 valid and binding obligations of the authority and are secured as
- 24 recited therein, the attorney general may not approve the bonds,
- 25 and the bonds may not be registered by the comptroller.
- (b) When bonds to be issued to benefit an institution of
- 27 <u>higher education and the record relating to their issuance are</u>

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- 1 submitted to the attorney general, the authority shall deliver
- 2 notice of that action to the governor, the lieutenant governor, the
- 3 speaker of the house of representatives, and the Legislative Budget
- 4 Board. The notice must include the amount of the bonds to be issued
- 5 and a description of the facilities to be financed from the bond
- 6 proceeds.
- 7 SECTION 3. Subdivision (6), Section 53A.02, Education Code,
- 8 is amended to read as follows:
- 9 (6) "Educational facility" means a classroom
- 10 building, laboratory, science building, faculty or administrative
- 11 office building, or other facility used [exclusively] for the
- 12 conduct of the educational and administrative functions of an
- 13 institution of higher education.
- SECTION 4. Subsection (c), Section 53A.14, Education Code,
- 15 is amended to read as follows:
- 16 (c) [No officer or employee of any such city is eligible for
- 17 appointment as a director. Directors are not entitled to
- 18 compensation for services but are entitled to reimbursement for
- 19 expenses incurred in performing such service.
- 20 SECTION 5. This Act takes effect immediately if it receives
- 21 a vote of two-thirds of all the members elected to each house, as
- 22 provided by Section 39, Article III, Texas Constitution. If this
- 23 Act does not receive the vote necessary for immediate effect, this
- 24 Act takes effect September 1, 2009.

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Jee

I hereby certify that S.B. No. 2/240 passed the Senate on May 12, 2009, by the following vote: Yeas 31, Nays 0...

Speaker of the House

I hereby certify that S.B. No. 2240 passed the House on May 27, 2009, by the following vote: Yeas 144, Nays 4, one present not voting._

Clerk of

Approved:

FILED IN THE OFFICE OF THE SECRETARY OF STATE 28M O'CLOCK