

By: _____

___ B. No. _____

A BILL TO BE ENTITLED

AN ACT

relating to the issuance of certain tax-supported bonds.

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

SECTION 1. Subchapter A, Chapter 45, Education Code, is amended by adding Section 45.0035 to read as follows:

Sec. 45.0035. LIMITATION ON ISSUANCE OF TAX-SUPPORTED

BONDS. (a) In this section:

(1) "District's local bonded debt limit" means an amount equal to the greater of: (A) 10 percent of the certified assessed valuation of taxable property in the district; (B) for a district with a student enrollment of less than 4,000, 12 percent of the certified assessed valuation of taxable property in the district; and (C) for a district that has experienced student enrollment growth of at least 15% over the three-year period next preceding the year in which bonds are issued, the amount specified in clause (A) or (B) plus 10 percent of the student enrollment growth rate for the three-year period next preceding the year in which bonds are issued.

(2) "District's adjusted local bonded debt limit" means an amount equal to the sum of (A) the district's local bonded debt limit plus (B) 20 percent of the district's state funding percentage.

(3) "District's state funding percentage" means the quotient of (A) the amount of state assistance received by the district pursuant to Chapter 46, Education Code, for the payment of debt service for the preceding year divided by (B) the aggregate

amount of debt service paid in respect of the district's bonded debt for the preceding year, expressed as a percentage.

(b) A school district may issue bonds described by Section 45.001 only if (1) the aggregate principal amount of outstanding bonded indebtedness of the district after the issuance of such bonds does not exceed the district's adjusted local bonded debt limit and (2) the district has adopted a debt management policy, as provided by subsection (e), and a capital improvement plan, as provided by subsection (f).

(c) For purposes of this section, a district's bonded indebtedness shall exclude the portion of such district's bonded indebtedness issued for the purpose of constructing, acquiring and equipping a replacement for a school building lost to fire or natural disaster less the amount paid by insurance covering the loss.

(d) In addition to the limitation imposed by subsection (b), for bonds issued on or after September 1, 2011, a school district may not issue bonds described by Section 45.001 for the construction, acquisition and equipment of athletic facilities designed to be used predominantly for non-instructional or extracurricular activities if, after the issuance of such bonds, the aggregate principal amount of outstanding bonds issued for such purpose will exceed 10 percent of the district's adjusted local bonded debt limit. For the purposes of this subsection (d), the calculation of the aggregate principal amount of a district's outstanding bonds issued for athletic facilities designed for non-instructional or extracurricular activities shall exclude bonds issued before September 1, 2011.

(e) A district's debt management policy shall encompass a district's ability to maintain financial stability, provide debt management flexibility to meet future facility needs, preserve public trust, minimize costs for taxpayers, preserve access to capital markets,

improve bond ratings from independent credit rating agencies, and demonstrate administrative oversight of bond programs for taxpayers.

(f) A district's capital improvement plan shall address the location, timing and financing of capital improvements over a multi-year period of not less than five years. The capital improvement plan shall describe (1) significant, non-recurring expenditures for land, buildings and equipment and (2) intended financing sources and development schedules for capital improvement projects. A district shall conduct an annual public hearing to review the capital improvement plan.

SECTION 2. Section 45.0031, Education Code, is repealed.

SECTION 3. (a) The repeal of Section 45.0031, Education Code, by this Act applies to bonds approved by voters before the effective date of this Act. Section 45.0031, Education Code, shall not apply to bonds approved by voters before the effective date of this Act and issued on or after the effective date of this Act.

(b) Section 45.0035, Education Code, as added by this Act, applies to bonds approved by voters before the effective date of this Act if the bonds are issued on or after the effective date of this Act.

SECTION 4. This Act takes effect September 1, 2011.

BILL ANALYSIS

By: _____ .B. _____

____/____/2011
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Capital spending by Texas school district for the construction and renovation of school facilities, predominately funded by locally voter approved bonds, represents an important economic stimulus driver for the state. Pursuant to a January 2011 report entitled "The Economic and Fiscal Impacts of Texas School District Capital Spending: Opportunities and Challenges under Current 50-Cent Tax Rate Cap" prepared by Bernard L. Weinstein, Ph.D. (Adjunct Professor of Business Economics, Southern Methodist University) and Terry L. Clower, Ph.D. (Associate Professor of Economics, University of North Texas), capital construction by Texas school districts "created almost \$85 billion in new economic activity while supporting over 500,000 person years of employment across the state" during years 2002 through 2009.

Currently, in order to issue voter approved bonds school districts must prove to the attorney general that they can repay their bonded debt as it matures through the levy of an annual ad valorem tax at a rate of not more than 50 cents per \$100 of valuation (the "50-Cent Test").

The 50-Cent Test was enacted in 1991. Due to the growing student populations and corresponding facility needs, construction cost increases, state mandated additional instructional space requirements, reduced state funding for the payment of bonds and the slowdown in the growth of taxable assessed valuations, the 50-Cent Test currently restricts the ability of many school districts to issue new bonds approved by voters for school facilities. In addition, several districts that do have remaining bonding capacity under the 50-Cent Test are restricted in their ability to repay bonds in a cost-effective manner.

To satisfy the 50-Cent Test, districts are increasingly being required to extend the repayment period for bonds beyond fiscally prudent periods (up to 40-years), substantially increasing the amount of interest paid by local taxpayers and the state (pursuant to the state's funding programs). As a result, the amount of the total tax burden on taxpayers has increased by as much as 7 times more than the amount that would result from more prudent repayment terms.

In addition, to demonstrate their ability to pass the 50-Cent Test, current law requires many districts to agree to use tier one state funding assistance for bond payments. As a result, tier one state funding assistance is diverted from its intended use for instruction and teacher salaries to satisfy commitments made by district's under the 50-Cent Test in connection with previously issued bonds. Such diversions may be required throughout the repayment period of a district's

outstanding bonds. As the pressure on school districts' bonding capacity under the 50-Cent Test continues to increase (for the reasons noted above), reliance on tier one state funding assistance to satisfy the 50-Cent Test will increase, resulting in additional and potentially substantial diversions of tier one state funding assistance away from instruction and teacher salaries to the payment of debt service on bonds.

Also, under current law, school districts are not required to adopt debt management policies or capital improvement plans.

This bill utilizes the debt to taxable assessed valuation test imposed by former Section 20.04 of the Education Code (predecessor to Section 45.003, Education Code, prior to the re-enactment and revision of Titles 1 and 2, Education Code, by the 74th Legislature) and authorizes a school district to issue bonds if the district's aggregate principal amount of bonded debt would not exceed 10 percent of the district's certified assessed valuation of taxable property.

By replacing the 50-Cent Test with a debt to taxable assessed valuation test, school districts will be permitted to utilize the optimum repayment period for their bonded debt, resulting in shorter repayment periods, lower interest costs for taxpayers, increased future bond capacity to meet future facility needs and continued economic stimulus for the state. Furthermore, this bill removes the financial penalties imposed under existing law that force districts to extend the repayment period for bonds beyond fiscally prudent time frames.

This bill preserves the equity standards reflected in current law by adjusting the debt limit ratio for districts that have a wealth per student below the equalized wealth level and receive state funding assistance for the payment of bonds. The bill also adjusts the debt limit ratio for school districts that (i) have less than 4,000 students, (ii) have experienced student enrollment growth in excess of 15% over the three-year period preceding the issuance of bonds or (iii) have experienced casualty losses due to fire or natural disaster.

This bill enhances the transparency of a district's capital improvement plan, reduces the repayment cost of bonds approved for facilities by billions and promotes fiscal responsibility and accountability among school districts by requiring school districts to adopt a debt management policy to govern their debt positions and a long-term capital improvement plan required to be annually discussed with the public. In addition, this bill enhances dollars available for instruction by limiting the amount of bonded debt a school district may incur for athletic facilities that are to be used predominantly for non-instructional or extracurricular activities and by removing incentives that support the diversion of tier one state funding assistance from instructional uses to the payment of bonds.

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 Subchapter A, Chapter 45, Education Code, by adding Section 45.0035, as follows:

Sec. 45.0035. LIMITATION ON ISSUANCE OF TAX-SUPPORTED BONDS. (a) In this section:

(1) "District's local bonded debt limit" means an amount equal to the greater of: (A) 10 percent of the certified assessed valuation of taxable property in the district; (B) for a district with a student enrollment of less than 4,000, 12 percent of the certified assessed valuation of taxable property in the district; and (C) for a district that has experienced student enrollment growth of at least 15% over the three-year period next preceding the year in which bonds are issued, the amount specified in clause (A) or (B) plus 10 percent of the student enrollment growth rate for the three-year period next preceding the year in which bonds are issued.

(2) "District's adjusted local bonded debt limit" means an amount equal to the sum of (A) the district's local bonded debt limit plus (B) 20 percent of the district's state funding percentage.

(3) "District's state funding percentage" means the quotient of (A) the amount of state assistance received by the district pursuant to Chapter 46, Education Code, for the payment of debt service for the preceding year divided by (B) the aggregate amount of debt service paid in respect of the district's bonded debt for the preceding year, expressed as a percentage.

(b) A school district may issue bonds described by Section 45.001 only if (1) the aggregate principal amount of outstanding bonded indebtedness of the district after the issuance of such bonds does not exceed the district's adjusted local bonded debt limit and (2) the district has adopted a debt management policy, as provided by subsection (e), and a capital improvement plan, as provided by subsection (f).

(c) For purposes of this section, a district's bonded indebtedness shall exclude the portion of such district's bonded indebtedness issued for the purpose of constructing, acquiring and equipping a replacement for a school building lost to fire or natural disaster less the amount paid by insurance covering the loss.

(d) In addition to the limitation imposed by subsection (b), for bonds issued on or after September 1, 2011, a school district may not issue bonds described by Section 45.001 for the construction, acquisition and equipment of athletic facilities designed to be used predominantly for non-instructional or

extracurricular activities if, after the issuance of such bonds, the aggregate principal amount of outstanding bonds issued for such purpose will exceed 10 percent of the district's adjusted local bonded debt limit. For the purposes of this subsection (d), the calculation of the aggregate principal amount of a district's outstanding bonds issued for athletic facilities designed for non-instructional or extracurricular activities shall exclude bonds issued before September 1, 2011.

(e) A district's debt management policy shall encompass a district's ability to maintain financial stability, provide debt management flexibility to meet future facility needs, preserve public trust, minimize costs for taxpayers, preserve access to capital markets, improve bond ratings from independent credit rating agencies, and demonstrate administrative oversight of bond programs for taxpayers.

(f) A district's capital improvement plan shall address the location, timing and financing of capital improvements over a multi-year period of not less than five years. The capital improvement plan shall describe (1) significant, non-recurring expenditures for land, buildings and equipment and (2) intended financing sources and development schedules for capital improvement projects. A district shall conduct an annual public hearing to review the capital improvement plan.

SECTION 2. Repeals Section 45.0031, Education Code.

SECTION 3. (a) Provides that the repeal of Section 45.0031, Education Code, by this Act applies to bonds approved by voters before the effective date of this Act and that Section 45.0031, Education Code, shall not apply to bonds approved by voters before the effective date of this Act and issued on or after the effective date of this Act.

(b) Provides that Section 45.0035, Education Code, as added by this Act, applies to bonds approved by voters before the effective date of this Act if the bonds are issued on or after the effective date of this Act.

SECTION 4. Effective date: September 1, 2011.

TEXAS BOND REVIEW BOARD

DEBT AFFORDABILITY STUDY

THIS STUDY PROVIDES DATA ON THE STATE'S HISTORICAL,
CURRENT AND PROJECTED DEBT POSITIONS AND DEVELOPS FINANCIAL DATA
FROM WHICH POLICYMAKERS CAN REVIEW VARIOUS DEBT STRATEGIES
BY USE OF THE STUDY'S DEBT CAPACITY MODEL.

**FEBRUARY
2011**



Results

Ratio 3 is 0.54 percent for fiscal 2011 and peaks at 0.76 percent in fiscal 2014. These figures are below rating agency benchmark of 3 percent.

Ratio 4: Ratio 4: Not Self-Supporting Debt per Capita

This ratio is the amount of NSS debt divided by the state's population and measures the dollar amount of debt per person. Like Ratio 3, Ratio 4 plays a role in determining the state's credit rating.

Results

Ratio 4 is \$215.74 for fiscal 2011 and peaks to \$334.66 in fiscal 2014. These figures are below rating agency benchmark of \$1,000 per Capita.

Ratio 5: Rate of Debt Retirement

The rate at which long-term debt is retired measures the extent to which new debt capacity is created for future debt issuance. As stated previously, credit rating agencies review the length of time needed for debt to be retired with the expectation that on average, 25 percent of the principal amount of debt with a 20-year maturity is retired in five years and 50 percent is retired in 10 years.

Results

In five years 46.4 percent of NSS debt will be retired; 72.3 percent will be retired in 10 years. These figures are above rating agency benchmarks.

Figure 1.2 summarizes the ratio analysis for fiscal years 2011 through 2015. The negative numbers in Ratio 1 indicate shortfalls in debt service when compared to the corresponding target, cap or maximum percentage.

Figure 1.2
Summary of Ratios 1-5

Fiscal Year	2011		2012		2013		2014		2015	
RATIO 1: Not Self-Supporting Debt Service as a Percentage of Unrestricted General Revenue										
NSS Debt Service										
Issued	\$ 480,472,119	1.39%	\$ 447,129,068	1.28%	\$ 420,137,770	1.17%	\$ 412,702,361	1.11%	\$ 353,741,124	0.92%
Authorized but Unissued	157,557,543	0.46%	286,054,870	0.82%	381,225,095	1.06%	457,925,769	1.24%	461,903,048	1.20%
Projected	-	0.00%	15,722,487	0.04%	55,960,253	0.16%	95,296,973	0.26%	125,722,537	0.33%
Total NSS Debt Service	\$ 638,029,663	1.85%	\$ 748,906,425	2.14%	\$ 857,323,117	2.39%	\$ 965,925,104	2.61%	\$ 941,366,709	2.45%
Additional Debt-Service Capacity*										
Target (2%)	\$ 53,501,909	0.15%	\$ (49,270,529)	-0.14%	\$ (138,623,589)	-0.39%	\$ (225,309,335)	-0.61%	\$ (173,687,047)	-0.45%
Cap (3%)	\$ 399,267,695	1.15%	\$ 300,547,419	0.86%	\$ 220,726,175	0.61%	\$ 144,998,550	0.39%	\$ 210,152,785	0.55%
Max (5%)	\$1,090,799,267	3.15%	\$ 1,000,183,316	2.86%	\$ 939,425,702	2.61%	\$ 885,614,319	2.39%	\$ 977,832,447	2.55%
Debt Service including Special Debt Commitments (SDC)										
NSS Debt Service	\$ 638,029,663	1.85%	\$ 748,906,425	2.14%	\$ 857,323,117	2.39%	\$ 965,925,104	2.61%	\$ 941,366,709	2.45%
Special Debt Commitments	958,675,798	2.78%	1,036,271,504	2.96%	1,135,334,934	3.16%	1,164,146,753	3.14%	1,141,905,120	2.97%
Total	\$1,596,705,461	4.63%	\$ 1,785,177,929	5.10%	\$ 1,992,658,050	5.55%	\$ 2,130,071,857	5.75%	\$ 2,083,271,829	5.43%
Additional Debt-Service Capacity* (Includes SDC)										
Target (2%)	\$ (905,173,889)	-2.62%	\$ (1,085,542,033)	-3.10%	\$ (1,273,958,523)	-3.55%	\$ (1,389,456,088)	-3.75%	\$ (1,315,592,166)	-3.43%
Cap (3%)	\$ (559,408,103)	-1.62%	\$ (735,724,084)	-2.10%	\$ (914,608,759)	-2.55%	\$ (1,019,148,203)	-2.75%	\$ (931,752,335)	-2.43%
Max (5%)	\$ 132,123,469	0.38%	\$ (36,088,188)	-0.10%	\$ (195,909,231)	-0.55%	\$ (278,532,434)	-0.75%	\$ (164,072,673)	-0.43%
RATIO 2: Not Self-Supporting Debt Service as a Percentage of Budgeted General Revenue	1.43%		2.08%		2.30%					
RATIO 3: Not Self-Supporting Debt as a Percentage of Personal Income	0.54%		0.64%		0.72%		0.76%		0.71%	
RATIO 4: Not Self-Supporting Debt Per Capita	\$215.74		\$262.86		\$302.42		\$334.66		\$327.23	
Ratio 5: Rate of Debt Retirement in	5 Years		10 Years							
Not Self-Supporting Debt	46.4%		72.3%							
Self-Supporting Debt	14.9%		32.1%							

* Debt-service capacity available to meet target, cap or maximum percentages.

SOURCE: Texas Bond Review Board