

# Office of School Finance

## Permanent School Fund (PSF)

## Bond Guarantee Program (BGP)



### Legal References

Texas Education Code, §5.051–45.063; 19 Texas Administrative Code, §33.6 and §33.7



### Background Information

On November 8, 1983, Article 7, Section 9(b), of the Texas Constitution, which provides for the guarantee of school district bonds by the Permanent School Fund (PSF), was approved by Texas voters. In 2011, the Legislature added charter schools to the program via Senate Bill 1 (SB 1). The Bond Guarantee Program (BGP) allows for bonds that are properly issued by a school district or a charter school to be fully guaranteed by the corpus of the PSF with the approval of the commissioner of education. The guarantee has received “AAA” ratings from the major bond rating services and replaces the need for private bond insurance.



### Program Description

To participate in the BGP, districts must apply to the Texas Education Agency (TEA) and be approved by the commissioner. An application processing fee of \$1,500 is due at the time of application. The TEA reviews each application according to both statutory requirements and State Board of Education (SBOE) rules. This review includes confirming that the application is complete and accurate and that the district is financially sound. The TEA also reviews the district’s School FIRST or Charter FIRST rating, its annual financial audit report, its accreditation status, its intervention status, its accountability rating, and the complaints database that is maintained by the agency. Charter districts must have a preliminary investment grade credit rating to be considered for the guarantee.

Applications for new money bond issues are collected each calendar month and processed at one time. Districts receive notification of their award of the guarantee on the 15th business day of the month following the month in which the application was received. Applications for the refunding of previously PSF-guaranteed issues are processed as they are received. Applications for the refunding must show a present-value savings to the district in order to be considered. In the event of default by a district, bond holders will receive all payments due them from the corpus of the PSF. The payments will then be recovered from the district’s next state aid payment. If the district fails to pay the principal or the interest on a bond as it is stated to mature, other amounts not due and payable are not accelerated and do not become due and payable by virtue of the district’s default. In the event that two or more payments are made from the PSF on behalf of a district, the commissioner may request that the attorney general institute legal action to compel the district to comply with the duties required of it by law in respect to the payment of the bonds. Charter districts are required to remit a payment to the Charter Reserve Fund with each bond issuance. The BGP has not had a district default on its bond payments in the history of the program.

The capacity of the fund to guarantee bonds under the BGP is limited by state law and by an Internal Revenue Service (IRS) private letter ruling received by the TEA. State law limits the amount that the fund can guarantee to 5 times the current cost value of the PSF. Current SBOE rules restrict the limit to 3.5 times the current cost value of the PSF, which is currently used to calculate capacity. These limits may be utilized provided that the limit is consistent with federal law and regulations. The private letter ruling from the IRS rule limited the amount that the fund can guarantee to 5 times the cost value of the PSF on December 16, 2009; however, effective May 10, 2023, the IRS published Notice 2023-39 and removed the December 16, 2009, date limit that restricted the amount of bonds the PSF can guarantee. The Treasury Department and the IRS amended §1.148-11(d)(1)(i)(F) to provide that, as of the sale date of the bonds to be guaranteed, the amount of the bonds to be guaranteed by the fund plus the then-outstanding amount of bonds previously guaranteed by the fund does not exceed a total amount equal to 500 percent of the total costs of the assets held by the fund. The SBOE has further restricted the capacity by establishing an amount of capacity, currently 0.25%, to be held in reserve. Capacity available to charter districts is limited to the percentage of available capacity that is equal to the percentage of students enrolled in charter schools. This percentage is calculated on an annual basis. Up to 50% of the capacity available to charter districts can be used to refund existing debt. Also, the board has further restricted charter capacity by establishing an additional 0.25% to be held in reserve.

In addition, the SBOE has limited approval of the guarantee to a district with less debt than a district that falls at the 90th percentile of either annual debt service per student in average daily attendance (ADA) or total debt service per ADA at the time of the application. The limitation does not apply to a school district that has enrollment that is 25% higher than the enrollment reported five years earlier and/or that called the election authorizing the issuance of bonds before July 15, 2004.

## Bond Guarantee Program Summary

Year	School Districts (Data presented by fiscal year)			Charter Districts (Data presented by fiscal year)		
	Number of Issues Guaranteed	Par Amount of Issues Guaranteed	Fiscal Year-End Balance	Number of Issues Guaranteed	Par Amount of Issues Guaranteed	Fiscal Year-End Balance
2013 - 2014	312	\$8,442,626,511	\$58,061,805,783	11	\$302,855,000	\$302,545,000
2014 - 2015	543	\$17,286,017,818	\$63,197,514,047	18	\$461,853,000	\$757,935,000
2015 - 2016	447	\$13,963,662,045	\$67,342,303,445	8	\$214,232,000	\$961,025,000
2016 - 2017	354	\$13,208,586,819	\$72,884,480,023	6	\$439,180,000	\$1,381,610,000
2017 - 2018	257	\$10,037,781,726	\$77,647,966,069	5	\$72,205,000	\$1,432,935,000
2018 - 2019	195	\$9,346,850,087	\$82,537,755,203	6	\$452,220,000	\$1,860,145,000
2019 - 2020	330	\$15,150,604,373	\$87,800,478,245	16	\$709,425,000	\$2,536,202,000
2020 - 2021	392	\$17,334,335,971	\$91,951,175,922	22	\$893,850,000	\$3,307,986,000
2021 - 2022	274	\$15,449,655,592	\$99,528,099,929	14	\$490,650,000	\$3,711,396,000
2022 - 2023	227	\$18,522,300,926	\$111,642,599,682	15	\$437,165,000	\$4,082,912,000
2023 - 2024	196	\$17,396,535,000	\$121,170,171,589	7	\$782,260,000	\$4,769,110,000



## Contact for More Information

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