

## ATTACHMENT I

### **Statutory Citations Relating to Proposed Amendment to 19 TAC Chapter 61, School Districts, Subchapter CC, Commissioner's Rules Concerning School Facilities, §61.1032, Instructional Facilities Allotment**

#### **Texas Education Code (TEC), §46.002, Rules.**

- (a) The commissioner may adopt rules for the administration of this subchapter.
- (b) The commissioner's rules may limit the amount of an allotment under this subchapter that is to be used to construct, acquire, renovate, or improve an instructional facility that may also be used for noninstructional or extracurricular activities.

#### **TEC, §46.003, School Facilities Allotment.**

- (a) For each year, except as provided by Sections 46.005 and 46.006, a school district is guaranteed a specified amount per student in state and local funds for each cent of tax effort, up to the maximum rate under Subsection (b), to pay the principal of and interest on eligible bonds issued to construct, acquire, renovate, or improve an instructional facility. The amount of state support is determined by the formula:  
$$\text{FYA} = (\text{FYL} \times \text{ADA} \times \text{BTR} \times 100) - (\text{BTR} \times (\text{DPV}/100))$$

where:

"FYA" is the guaranteed facilities yield amount of state funds allocated to the district for the year;

"FYL" is the dollar amount guaranteed level of state and local funds per student per cent of tax effort, which is \$35 or a greater amount for any year provided by appropriation;

"ADA" is the greater of the number of students in average daily attendance, as determined under Section 42.005, in the district or 400;

"BTR" is the district's bond tax rate for the current year, which is determined by dividing the amount budgeted by the district for payment of eligible bonds by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, Section 42.2521, divided by 100; and

"DPV" is the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, Section 42.2521.
- (b) The bond tax rate under Subsection (a) may not exceed the rate that would be necessary for the current year, using state funds under Subsection (a), to make payments of principal and interest on the bonds for which the tax is pledged.
- (c) To enable the district to collect local funds sufficient to pay the district's share of the debt service, a district may levy a bond tax at a rate higher than the maximum rate for which it may receive state assistance.
- (d) The amount budgeted by a district for payment of eligible bonds may include:
  - (1) bond taxes collected in the current school year;
  - (2) bond taxes collected in a preceding school year in excess of the amount necessary to pay the district's share of actual debt service on bonds in that year,

provided that the taxes were not used to generate other state financial assistance for the district; or

- (3) maintenance and operations taxes collected in the current school year or a preceding school year in excess of the amount eligible to be used to generate other state financial assistance for the district.
- (e) Bonds are eligible to be paid with state and local funds under this section if:
  - (1) taxes to pay the principal of and interest on the bonds were first levied in the 1997-1998 school year or a later school year; and
  - (2) the bonds do not have a weighted average maturity of less than eight years.
- (f) A district may use state funds received under this section only to pay the principal of and interest on the bonds for which the district received the funds.
- (g) The board of trustees and voters of a school district shall determine district needs concerning construction, acquisition, renovation, or improvement of instructional facilities.
- (h) To receive state assistance under this subchapter, a school district must apply to the commissioner in accordance with rules adopted by the commissioner before issuing bonds that will be paid with state assistance. Until the bonds are fully paid or the instructional facility is sold:
  - (1) a school district is entitled to continue receiving state assistance without reapplying to the commissioner; and
  - (2) the guaranteed level of state and local funds per student per cent of tax effort applicable to the bonds may not be reduced below the level provided for the year in which the bonds were issued.

**TEC, §46.004, Lease-Purchase Agreements.**

- (a) A district may receive state assistance in connection with a lease-purchase agreement concerning an instructional facility. For purposes of this subchapter:
  - (1) taxes levied for purposes of maintenance and operations that are necessary to pay a district's share of the payments under a lease-purchase agreement for which the district receives state assistance under this subchapter are considered to be bond taxes; and
  - (2) payments under a lease-purchase agreement are considered to be payments of principal of and interest on bonds.
- (b) Section 46.003(b) applies to taxes levied to pay a district's share of the payments under a lease-purchase agreement for which the district receives state assistance under this subchapter.
- (c) A lease-purchase agreement must be for a term of at least eight years to be eligible to be paid with state and local funds under this subchapter.

**TEC, §46.005, Limitation on Guaranteed Amount.**

The guaranteed amount of state and local funds for a new project that a district may be awarded in any state fiscal biennium under Section 46.003 for a school district may not exceed the lesser of:

- (1) the amount the actual debt service payments the district makes in the biennium in which the bonds are issued; or
- (2) the greater of:
  - (A) \$100,000; or
  - (B) the product of the number of students in average daily attendance in the district multiplied by \$250.

**TEC, §46.006, Shortage of Excess of Funds Appropriated for New Projects.**

- (a) If the total amount appropriated for a year for new projects is less than the amount of money to which school districts applying for state assistance are entitled for that year, the commissioner shall rank each school district applying by wealth per student. For purposes of this section, a district's wealth per student is reduced by 10 percent for each state fiscal biennium in which the district did not receive assistance under this subchapter.
- (b) A district's wealth per student is reduced for purposes of this section if a district has had substantial student enrollment growth in the preceding five-year period. The reduction is in addition to any reduction under Subsection (a) and is computed before the district's wealth per student is reduced under that subsection, if applicable. A district's wealth per student is reduced:
  - (1) by five percent, if the district has an enrollment growth rate in that period that is 10 percent or more but less than 15 percent;
  - (2) by 10 percent, if the district has an enrollment growth rate in that period that is 15 percent or more but less than 30 percent; or
  - (3) by 15 percent, if the district has an enrollment growth rate in that period that is 30 percent or more.
- (c) A district's wealth per student is reduced by 10 percent for purposes of this section if the district does not have any outstanding debt at the time the district applies for assistance under this subchapter. The reduction is in addition to any reduction under Subsection (a) or (b) and is computed before the district's wealth per student is reduced under those subsections, if applicable.
- (c-2) Expired.
- (d) The commissioner shall adjust the rankings after making the reductions in wealth per student required by Subsections (a), (b), and (c).
- (e) Beginning with the district with the lowest adjusted wealth per student that has applied for state assistance for the year, the commissioner shall award state assistance to districts that have applied for state assistance in ascending order of adjusted wealth per student. The commissioner shall award the full amount of state assistance to which a district is entitled under this subchapter, except that the commissioner may award less than the full amount to the last district for which any funds are available.
- (f) Any amount appropriated for the first year of a fiscal biennium that is not awarded to a school district may be used to provide assistance in the following fiscal year.
- (g) In this section, "wealth per student" means a school district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, Section 42.2521, divided by the district's average daily attendance as determined under Section 42.005.

**TEC, §46.007, Refunding Bonds.**

A school district may use state funds received under this subchapter to pay the principal of and interest on refunding bonds that:

- (1) are issued to refund bonds eligible under Section 46.003;
- (2) do not have a final maturity date later than the final maturity date of the bonds being refunded;
- (3) may not be called for redemption earlier than the earliest call date of the bonds being refunded; and
- (4) result in a present value savings, which is determined by computing the net present value of the difference between each scheduled payment on the original bonds and each scheduled payment on the refunding bonds. The present value savings shall be computed at the true interest cost of the refunding bonds.

**TEC, §46.009, Payment of School Facilities Allotments.**

- (a) For each school year, the commissioner shall determine the amount of money to which each school district is entitled under this subchapter.
- (b) If the amount appropriated for purposes of this subchapter for a year is less than the total amount determined under Subsection (a) for that year, the commissioner shall:
  - (1) transfer from the Foundation School Program to the instructional facilities program the amount by which the total amount determined under Subsection (a) exceeds the amount appropriated; and
  - (2) reduce each district's foundation school fund allocations in the manner provided by Section 42.253(h).
- (c) Warrants for payments under this subchapter shall be approved and transmitted to school district treasurers or depositories in the same manner as warrants for payments under Chapter 42.
- (d) As soon as practicable after September 1 of each year, the commissioner shall distribute to each school district the amount of state assistance under this subchapter to which the commissioner has determined the district is entitled for the school year. The district shall deposit the money in the interest and sinking fund for the bonds for which the assistance is received and shall adopt a tax rate for purposes of debt service that takes into account the balance of the interest and sinking fund.
- (e) Section 42.258 applies to payments under this subchapter.
- (f) If a school district would have received a greater amount under this subchapter for the applicable school year using the adjusted value determined under Section 42.257, the commissioner shall add the difference between the adjusted value and the amount the district received under this subchapter to subsequent distributions to the district under this subchapter.

**TEC, §46.013, Multiple Allotments Prohibited.**

A school district is not entitled to state assistance under this subchapter based on taxes with respect to which the district receives state assistance under Subchapter F, Chapter 42.

**TEC, §46.061, State Assistance for Refinancing.**

- (a) The commissioner by rule may provide for the payment of state assistance under this chapter to refinance school district debt. A refinancing may not increase the cost to the state of providing the assistance.
- (b) The commissioner may allocate state assistance provided for a refinancing to Subchapter A, Subchapter B, or both, as appropriate.