ATTACHMENT II
Text of Proposed Amendment to 19 TAC

Chapter 33. Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund

§33.65. Bond Guarantee Program [~~for School District Bonds~~] .

(a) Statutory provision. The commissioner of education must administer the guarantee program for school district bonds according to the provisions of the Texas Education Code (TEC), Chapter 45, Subchapter C.

(b) Definitions. The following definitions apply to the guarantee program for school district bonds.

(1) Annual debt service--Payments of principal and interest on outstanding bonded debt scheduled to occur between September 1 and August 31 during the fiscal year in which the guarantee is sought as reported by the state information depository (SID), if the district has outstanding bonded indebtedness.

(A) The annual debt service will be determined by the current report of the bonded indebtedness of the district as reported by the SID as of the date of the application deadline.

(B) The annual debt service does not include : [~~the amount of debt service to be paid on the bonds for which the reservation is sought.~~]

(i) the amount of debt service to be paid on the bonds for which the reservation is sought; or

(ii) the amount of debt service attributable to any debt that is no longer outstanding at the application deadline, provided that the Texas Education Agency (TEA) has sufficient evidence of the discharge or defeasance of such debt.

(C) The debt service amounts used in this calculation for variable rate bonds will be those that [~~which~~] are published in the final official statement.

(2) Application deadline--The last business day of the month in which an application for a guarantee is filed. Applications must be received by the TEA division responsible for state funding by 5:00 p.m. on the last business day of the month to be considered in that month's application processing.

(3) Average daily attendance (ADA)--Total refined average daily attendance as defined by the TEC, §42.005.

(4) Bond Guarantee Program (BGP)--The guarantee program for school district bonds that is described by this section and established under the TEC, Chapter 45, Subchapter C.

(5) [~~(2)~~] Bond order--The order adopted by the governing body of a school district that authorizes the issuance of bonds.

[~~(3) Application deadline--The last business day of the month in which an application for a guarantee is filed. Applications must be received by the Texas Education Agency division responsible for state funding by 5:00 p.m. on the last business day of the month to be considered in that month's application processing.~~]

[~~(4) New money issue--An issuance of bonds for the purposes of constructing, renovating, acquiring, and equipping school buildings; the purchase of property; or the purchase of school buses. Eligibility for the guarantee for new money issues is limited to the issuance of bonds authorized under the TEC, §45.003. A new money issue does not include the issuance of bonds to purchase a facility from a public facility corporation created by the school district or to purchase any property that is currently under a lease-purchase contract under the Local Government Code, Chapter 271, Subchapter A. A new money issue does not include an issuance of bonds to refinance any type maintenance of tax-supported debt. Maintenance tax-supported debt includes, but is not limited to:~~]

[~~(A) time warrants or loans entered under the TEC, Chapter 45, Subchapter E; or~~]

[~~(B) any other type of loan or warrant that is not supported by bond taxes as defined by the TEC, §45.003.~~]

[~~(5) Refunding issue--An issuance of bonds for the purpose of refunding bonds that are supported by bond taxes as defined by the TEC, §45.003. Eligibility for the guarantee for refunding issues is limited to refunding issues that refund bonds that were authorized by a bond election under the TEC, §45.003.~~]

(6) Combination issue--An issuance of bonds for which an application is filed for a guarantee that includes both a new money portion and a refunding portion, as permitted by the Texas Government Code, Chapter 1207. The eligibility of combination issues for the guarantee is limited by the eligibility of the new money and refunding portions as defined in this subsection.

[~~(7) Average daily attendance (ADA)--Total refined average daily attendance as defined by §129.1025 of this title (relating to Adoption By Reference: Student Attendance Accounting Handbook).~~]

(7) [~~(8)~~] Enrollment growth--Growth in student enrollment that has occurred over the previous five years.

(8) New money issue--An issuance of bonds for the purposes of constructing, renovating, acquiring, and equipping school buildings; the purchase of property; or the purchase of school buses. Eligibility for the guarantee for new money issues is limited to the issuance of bonds authorized under the TEC, §45.003. A new money issue does not include the issuance of bonds to purchase a facility from a public facility corporation created by the school district or to purchase any property that is currently under a lease-purchase contract under the Local Government Code, Chapter 271, Subchapter A. A new money issue does not include an issuance of bonds to refinance any type of maintenance tax-supported debt. Maintenance tax-supported debt includes, but is not limited to:

(A) time warrants or loans entered under the TEC, Chapter 45, Subchapter E; or

(B) any other type of loan or warrant that is not supported by bond taxes as defined by the TEC, §45.003.

(9) Notes issued to provide interim financing--An issuance of notes, including commercial paper notes, designed to provide short-term financing for the purposes of constructing, renovating, acquiring, and equipping school buildings; the purchase of property; or the purchase of school buses. For notes to be eligible for the credit enhancement under this section, the notes must be:

(A) issued to pay costs for which bonds have been authorized at an election occurring before the issuance of the notes;

(B) approved by the Office of the Attorney General or issued in accordance with proceedings that have been approved by the Office of the Attorney General; and

(C) refunded by bonds issued to provide long-term financing no more than three years from the date of issuance of such notes, provided that the date of issuance of notes will be determined by reference to the date on which the notes were issued for capital expenditures and the intervening date or dates of issuance of any notes issued to refinance outstanding notes will be disregarded.

(10) Refunding issue--An issuance of bonds for the purpose of refunding bonds, including notes issued to provide interim financing, that are supported by bond taxes as defined by the TEC, §45.003. Eligibility for the guarantee for refunding issues is limited to refunding issues that refund bonds, including notes issued to provide interim financing, that were authorized by a bond election under the TEC, §45.003.

(11) Total debt service--Total outstanding principal and interest on bonded debt.

(A) The total debt service will be determined by the current report of the bonded indebtedness of the district as reported by the SID as of the date of the application deadline, if the district has outstanding bonded indebtedness.

(B) The total debt service does not include:

(i) the amount of debt service to be paid on the bonds for which the reservation is sought; or

(ii) the amount of debt service attributable to any debt that is no longer outstanding at the application deadline, provided that the TEA has sufficient evidence of the discharge or defeasance of such debt.

(C) The debt service amounts used in this calculation for variable rate bonds will be those that are published in the final official statement.

(c) Data sources.

(1) The following data sources will be used for purposes of prioritization:

(A) projected ADA as adopted by the legislature for appropriations purposes;

(B) final property values certified by the comptroller of public accounts for the tax year preceding the year in which the bonds will be issued. If final property values are unavailable, the most recent projection of property values by the comptroller will be used;

(C) debt service information reported by the SID as of the date of the application deadline; and

[~~(C) annual debt service, as defined in subsection (b)(1) of this section, due during the fiscal year in which the proposed debt will be issued. The amount of debt service on the proposed bond issue will not be included in the calculation of annual debt service; and~~]

(D) [~~enrollment increases over the previous five years, which will be determined using~~] enrollment information reported to the Public Education Information Management System (PEIMS) for the five-year time period ending in the year before the application date.

(2) The commissioner may consider adjustments to data values determined to be erroneous or not reflective of current conditions before the deadline for receipt of applications for that application cycle.

(d) Application processing. To facilitate prioritization of applications for the guarantee or the credit enhancement authorized under §61.1038 of this title (relating to School District Bond Enhancement Program) , all applications received during a calendar month will be held until the fifteenth [~~twentieth~~] business day of the subsequent month. On the fifteenth [~~twentieth~~] business day of each month, the commissioner of education will announce the results of the prioritization described in paragraph (5) of this subsection and process applications for initial approval for [~~of~~] the guarantee or initial and final approval for the guarantee, as applicable, up to the available capacity as of the application deadline, subject to the requirements of this subsection. If Permanent School Fund (PSF) capacity has been exhausted, the commissioner will process the application for approval of the credit enhancement as specified in §61.1038 of this title.

(1) The school district may not submit an application for a guarantee or credit enhancement before the successful passage of an authorizing proposition.

(2) The actual guarantee of the bonds is subject to the [~~initial~~] approval process [~~and the final approval process~~] prescribed in subsection (e) of this section. An applicant school district with a credit rating from any credit rating agency that is the same as or higher than that of the BGP is ineligible for consideration for the guarantee.

(3) Refunding issues must comply with the following requirements to retain eligibility for the guarantee for the refunding bonds , except that subparagraph (D) of this paragraph does not apply to a refunding issue that provides long-term financing for notes issued to provide interim financing .

(A) The district must have an accreditation status of Accredited as defined by §97.1055 of this title (relating to Accreditation Status). If the district has an accreditation status of Accredited-Warned or Accredited-Probation, the commissioner will investigate the

underlying reason for the accreditation rating to determine whether the accreditation rating is related to the district's financial soundness. If the accreditation rating is related to the district's financial soundness, the refunding bonds will not be eligible to retain the guarantee. Districts with an accreditation status of Not Accredited-Revoked will not be eligible to retain the guarantee on the refunding bonds.

(B) The bonds to be refunded must have been : [~~previously guaranteed by the Permanent School Fund (PSF). Only refunding issues as defined in subsection (b)(5) of this section are eligible for the guarantee.~~]

(i) previously guaranteed by the PSF or approved for credit enhancement under §61.1038 of this title;

(ii) issued on or after November 1, 2008, and before the effective date of §61.1038 of this title; or

(iii) issued as notes to provide interim financing as defined in subsection (b)(9) of this section.

(C) Only refunding issues as defined in subsection (b)(10) of this section are eligible for the guarantee.

(D) [~~(C)~~] The district must demonstrate that issuing the refunding bond(s) will result in a present value savings to the district and that the refunding bond or bonds will [~~must~~] not have a maturity date later than the final maturity date of the bonds being refunded. Present value savings 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. Present value savings must be computed at the true interest cost of the refunding bonds.

(E) [~~(D)~~]If a district files an application for a combination issue, the application will be treated as a single issue for the purposes of eligibility for the guarantee. A guarantee for the combination issue will be awarded only if both the new money portion and the refunding portion meet all of the applicable eligibility requirements described in this subsection. The district making the application must present data to the commissioner that demonstrates compliance for both the new money portion of the issue and the refunding portion of the issue.

(F) [~~(E)~~] The refunding transaction must comply with the provisions of paragraphs (7) and (9) of this subsection.

(4) The commissioner will estimate the available capacity of the PSF on a monthly basis so that the commissioner is able to make the determination described in subsection (e)(2) of this section [~~to provide initial approval to the guarantee of school district bonds~~] . If necessary, the [~~The~~] commissioner will confirm that the PSF has sufficient capacity to guarantee the bonds before the issuance of the final approval for the guarantee in accordance with subsection (e)(4) [~~(e)(3)~~] of this section. The calculation of capacity will be based on a multiplier of _____ times the cost value of the PSF. The commissioner may reduce the multiplier to maintain the AAA credit rating of the BGP. Changes to the multiplier made by the commissioner are to be ratified or rejected by the State Board of Education (SBOE) at the next meeting for which the item can be posted.

(5) The SBOE [~~State Board of Education (SBOE)~~] will establish an amount of capacity to be held in reserve of no less than 5.0% of the fund's capacity. Guarantees will be awarded each month beginning with the districts with the lowest property wealth per ADA until the PSF reaches its net capacity to guarantee bonds, as determined by subtracting the amount to be held in reserve from the total available capacity. The reserved capacity can be used to award guarantees for districts that experience unforeseen catastrophes or emergencies that require the renovation or replacement of school facilities as described in the TEC, §44.031(h).

(A) The amount to be held in reserve may be increased by a majority vote of the SBOE based on changes in the asset allocation and risk in the portfolio and unrealized gains in the

portfolio, or by the commissioner as necessary to prudently manage fund capacity. Changes to the amount held in reserve made by the commissioner are to be ratified or rejected by the SBOE at the next meeting for which the item can be posted.

(B) Guarantees will be awarded to applicants based on the fund's capacity to fully guarantee the bond issue for which the guarantee is sought. Applications for bond issues that cannot be fully guaranteed will not receive an award. The amount of bond issue for which the guarantee was requested may not be modified after the monthly application deadline for the purposes of securing the guarantee during the award process.

(6) An application received after the application deadline will be considered a valid application for the subsequent month, unless withdrawn by the submitting district before the end of the subsequent month.

(7) Each district that submits a valid application will be notified of the application status within 15 [~~ten~~] business days of the [~~end of the month following the~~] application deadline. If a district is awarded initial approval for the guarantee or initial and final approval for the guarantee, as applicable, as described in subsection (e) [~~(e)(2)~~] of this section, the following requirements must be met.

(A) If applicable, the [~~The~~] district must comply with the provisions for final approval described in subsection (e)(4) [~~(e)(3)~~] of this section to maintain approval for the guarantee.

(B) The bonds must be approved by the Office of the Attorney General within 180 [~~120~~] days of the date of the letter granting the approval of the guarantee. The initial approval for the guarantee or initial and final approval for the guarantee, as applicable, will expire at the end of the 180-day [~~120-day~~] period. The commissioner may extend the 180-day [~~120-day~~] period, based on extraordinary circumstances, on [~~upon~~] receiving a written request from the district before [~~prior to~~] the expiration of the 180-day [~~120-day~~] period.

(8) If a district does not receive a guarantee or for any reason does not receive approval of the bonds from the Office of the Attorney General within the specified time period, the district may reapply in a subsequent month. Applications that were denied a guarantee will not be retained for consideration in subsequent months.

(9) If the bonds are not approved by the Office of the Attorney General within 180 [~~120~~] days of the date of the letter granting the approval of the guarantee, the commissioner will consider the application withdrawn , and the district must reapply for a guarantee.

(10) Districts may not represent the bonds as guaranteed for the purposes of pricing or marketing the bonds before [~~prior to~~] the date of the letter granting approval of the guarantee.

(e) Application for the guarantee.

(1) Application process. Districts must apply to the commissioner of education for the guarantee or the credit enhancement of eligible bonds. The district must submit, in a form specified by the commissioner, the information required under the TEC, §45.055(b), and this section and any additional information the commissioner may require. The application and all additional information required by the commissioner must be received before the application will be processed. [~~The application must be accompanied by a fee to be set by the commissioner and approved by the SBOE.~~]

(A) The application fee is $_____.

(B) [~~(A)~~] The fee is due at the time the application for the guarantee or the credit enhancement is submitted. An application will not be processed until the fee has been received in accordance with the process prescribed by the commissioner for remitting the fee on the application form.

(C) [~~(B)~~]The fee will not be refunded to a district that:

(i) is not approved for the guarantee or the credit enhancement ; or

(ii) does not sell its bonds before the expiration of its approval for the guarantee or the credit enhancement .

(D) [~~(C)~~] The fee may be transferred to a subsequent application for the guarantee or the credit enhancement by the district if the district withdraws its application and submits the subsequent application before the expiration of its [~~initial~~] approval for the guarantee or the credit enhancement .

(2) Initial and final approval provisions.

(A) If, during the monthly estimation of PSF capacity described in subsection (d)(4) of this section, the commissioner determines that the available capacity of the PSF is 10% or less, the commissioner may require an applicant school district to obtain final approval for the guarantee as described in paragraph (4) of this subsection.

(B) If the commissioner has not made such a determination:

(i) the commissioner will consider the initial approval described in paragraph (3) of this subsection as both the initial and final approval; and

(ii) an applicant school district that has received notification of initial approval for the guarantee, as described in paragraph (3) of this subsection, may consider that notification as notification of initial and final approval for the guarantee and may complete the sale of the applicable bonds.

(3) [~~(2)~~] Initial approval. [~~Under the TEC, §45.056, the commissioner will investigate the applicant school district's accreditation status and financial status. A district must be accredited and financially sound to be eligible for initial approval by the commissioner. The commissioner's review will include the following:~~]

(A) Under the TEC, §45.056, the commissioner will investigate the applicant school district's accreditation status and financial status. A district must be accredited and financially sound to be eligible for initial approval by the commissioner. The commissioner's review will include the following:

(i) the purpose of the bond issue;

(ii) the district's accreditation status as defined by §97.1055 of this title in accordance with the following:

(I) if the district's accreditation status is Accredited, the district will be eligible for consideration for the guarantee;

(II) if the district's accreditation status is Accredited-Warned or Accredited-Probation, the commissioner will investigate the underlying reason for the accreditation rating to determine whether the accreditation rating is related to the district's financial soundness. If the accreditation rating is related to the district's financial soundness, the district will not be eligible for consideration for the guarantee; or

(III) if the district's accreditation status is Not Accredited-Revoked, the district will not be eligible for consideration for the guarantee;

(iii) the district's compliance with statutes and rules of the TEA; and

(iv) the district's financial status and stability, regardless of the district's accreditation rating, including approval of the bonds by the Office of the Attorney General under the provisions of the TEC, §45.0031 and §45.005.

(B) The commissioner will grant or deny initial approval for the guarantee based on the review described in subparagraph (A) of this paragraph and will provide an applicant district whose application has received initial approval for the guarantee written notice of initial approval.

[~~(A) the purpose of the bond issue;~~]

[~~(B) the district's accreditation status as defined by §97.1055 of this title in accordance with the following:~~]

[~~(i) if the district's accreditation status is Accredited, the district will be eligible for consideration for the guarantee;~~]

[~~(ii) if the district's accreditation status is Accredited-Warned or Accredited-Probation, the commissioner will investigate the underlying reason for the accreditation rating to determine whether the accreditation rating is related to the district's financial soundness. If the accreditation rating is related to the district's financial soundness, the district will not be eligible for consideration for the guarantee; or~~]

[~~(iii) if the district's accreditation status is Not Accredited-Revoked, the district will not be eligible for consideration for the guarantee;~~]

[~~(C) the district's compliance with statutes and rules of the Texas Education Agency (TEA); and~~]

[~~(D) the district's financial status and stability, regardless of the district's accreditation rating, including approval of the bonds by the attorney general under the provisions of the TEC, §45.0031 and §45.005.~~]

(4) [~~(3)~~] Final approval. The provisions of this paragraph apply only as described in paragraph (2) of this subsection. A district must receive final approval before completing the sale of the bonds for which the district has received notification of initial approval.

(A) A district that has received initial approval must provide a written notice to the TEA two working days before issuing a preliminary official statement (POS) for the bonds that are eligible for the guarantee or two business days before soliciting investment offers, if the bonds will be privately placed without the use of a POS.

(i) The district must receive written confirmation from the TEA that the capacity continues to be available before proceeding with the public or private offer to sell bonds.

(ii) The TEA will provide this notification within one business day of receiving the notice of the POS or notice of other solicitation offers to sell the bonds.

(B) A district that received confirmation from the TEA in accordance with subparagraph (A) of this paragraph must provide written notice to the TEA of the placement of an agenda item on a meeting of the school board of trustees to approve the bond sale no later than two business days before the meeting. If the bond sale is completed pursuant to a delegation by the board to a pricing officer or committee, notice must be given to the TEA no later than two business days before the execution of a bond purchase agreement by such pricing officer or committee.

(i) The district must receive written confirmation from the TEA that the capacity continues to be available for the bond sale before the approval of the sale by the school board of trustees or by the pricing officer or committee.

(ii) The TEA will provide this notification within one business day before the date that the district expects to complete the sale by official action of the board or of a pricing officer or committee.

(C) The TEA will process requests for final approval from districts that have received initial approval on a first come, first served basis. Requests for final approval must be received before the expiration of the initial approval.

(D) A district may provide written notification as required by this paragraph by facsimile transmission or by electronic mail in a manner prescribed by the commissioner.

(f) Limitations on access to the guarantee.

(1) The following limitations apply to bonds for which the election authorizing the issuance of bonds was called after July 15, 2004.

(2) The commissioner will limit approval of the guarantee to a district that has, at the time of the application for the guarantee, less than the amount of annual debt service per ADA that represents the 90th percentile of annual debt service per ADA for all districts, as determined by the commissioner annually, or less than the amount of total debt service per ADA that represents the 90th percentile of total debt service per ADA for all districts, as determined by the commissioner annually [~~with less than $1,650 of annual debt service per student in ADA at the time of the application for a guarantee~~] . The limitation will not apply to school districts that have enrollment growth, as defined in subsection (b)(7) of this section, of [~~that is~~] at least 25% [~~higher than the enrollment reported five years earlier~~] , based on PEIMS data on enrollment available at the time of application. The annual debt service amount is the amount defined by subsection (b)(1) of this section. The total debt service amount is the amount defined by subsection (b)(11) of this section.

(3) The eligibility of bonds to receive the guarantee is limited to those new money, refunding, and combination issues as defined in subsection (b)(8), (10), and (6), respectively, [~~subsection (b)(4)-(6)~~] of this section.

(g) Allocation of specific holdings. If necessary to successfully operate the BGP [~~guarantee program~~] , the commissioner may allocate specific holdings of the PSF to specific bond issues guaranteed under this section. This allocation will not prejudice the right of the SBOE to dispose of the holdings according to law and requirements applicable to the fund; however, the SBOE will ensure that holdings of the PSF are available for a substitute allocation sufficient to meet the purposes of the initial allocation. This allocation will not affect any rights of the bond holders under law.

(h) Defeasance [~~Defeasement~~] . The guarantee will be completely removed when bonds guaranteed by the BGP [~~this program~~] are defeased, and such a provision must be specifically stated in the bond resolution. If bonds guaranteed by the BGP [~~this program~~] are defeased, the district must notify the commissioner in writing within ten calendar days of the action.

(i) Bonds issued before August 15, 1993. For bonds issued before August 15, 1993, a school district seeking the guarantee of eligible bonds must certify that, on the date of issuance of any bond, no funds received by the district from the Available School Fund (ASF) are reasonably expected to be used directly or indirectly to pay the principal or interest on, or the tender or retirement price of, any bond of the political subdivision or to fund a reserve or placement fund for any such bond.

(j) Bonds guaranteed before December 1 [~~31~~] , 1993. For bonds guaranteed before December 1, 1993, if a school district cannot pay the maturing or matured principal or interest on a guaranteed bond, the commissioner will cause the amount needed to pay the principal or interest to be transferred to the district's paying agent solely from the PSF and not from the ASF. The commissioner also will direct the comptroller of public accounts to withhold the amount paid, plus interest, from the first state money payable to the district, excluding payments from the ASF.

(k) Bonds issued after August 15, 1993, and guaranteed on or after December 1, 1993. If a school district cannot pay the maturing or matured principal or interest on a guaranteed bond, the commissioner will cause the amount needed to pay the principal or interest to be transferred to the district's paying agent from the PSF. The commissioner also will direct the comptroller of public accounts to withhold the amount paid, plus interest, from the first state money payable to the district, regardless of source, including the ASF.

(l) Payments. For purposes of the provisions of the TEC, Chapter 45, Subchapter C, matured principal and interest payments are limited to amounts due on guaranteed bonds at scheduled maturity, at scheduled interest payment dates, and at dates when bonds are subject to mandatory redemption, including extraordinary mandatory redemption, in accordance with their terms. All such payment dates, including mandatory redemption dates, must be specified in the order or other document pursuant to which the bonds initially are issued. Without limiting the provisions of this subsection, payments attributable to an optional redemption or a right granted to a bondholder to demand payment upon a tender of such bonds in accordance with the terms of the bonds do not constitute matured principal and interest payments.

(m) Guarantee restrictions. The guarantee provided for eligible bonds in accordance with the provisions of the TEC, Chapter 45, Subchapter C, is restricted to matured bond principal and interest. The guarantee does not extend to any obligation of a district under any agreement with a third party relating to bonds that is defined or described in state law as a "bond enhancement agreement" or a "credit agreement," unless the right to payment of such third party is directly as a result of such third party being a bondholder.

(n) Notice of default. A school district that has determined that it is or will be unable to pay maturing or matured principal or interest on a guaranteed bond must immediately, but not later than the fifth business day before maturity date, notify the commissioner.

(o) Payment from PSF.

(1) Immediately after the commissioner receives the notice described in subsection (n) of this section, the commissioner will instruct the comptroller to transfer from the appropriate account in the PSF to the district's paying agent the amount necessary to pay the maturing or matured principal or interest.

(2) Immediately after receipt of the funds for payment of the principal or interest, the paying agent must pay the amount due and forward the canceled bond or coupon to the comptroller. The comptroller will hold the canceled bond or coupon on behalf of the PSF.

(3) Following full reimbursement to the PSF with interest, the comptroller will further cancel the bond or coupon and forward it to the school district for which payment was made.

(p) Bonds not accelerated on default. If a school district fails to pay principal or interest on a guaranteed bond when it matures, other amounts not yet mature are not accelerated and do not become due by virtue of the school district's default.

(q) Reimbursement of PSF. If payment from the PSF is made on behalf of a school district, the school district must reimburse the amount of the payment in accordance with the requirements of the TEC, §45.061.

(r) Repeated failure to pay. If a total of two or more payments are made under the BGP or the credit enhancement program authorized under §61.1038 of this title on the bonds of a school district, the commissioner will take action in accordance with the provisions of the TEC, §45.062.