



June 30, 1999

VIA FACSIMILE

To All Bond Counsel:

Re: Interpretation of Certain Provisions of Senate Bill 4, Acts 1999,76th
Legislature, Regular Session ("SB 4")

Concerns regarding language in SB 4 relating to the use of the guaranteed yield component of foundation school program funds ("Tier 2") have been brought to our attention and, as you know, we have suspended approval of real property lease-purchase agreements pending resolution of the uncertainty. Additionally, the changes made by SB 4 potentially affect the use of Tier 2 funds to demonstrate compliance with the \$0.50 test for maximum tax rate for covered debt service, as required by section 45.003(e). (All statutory references herein are to the Texas Education Code.) It has been suggested that, in certain circumstances, the basic allotment portion of "Tier 1" funds, as provided by section 42.101, would be available for making lease-purchase payments and for determining compliance with the \$0.50 test. Before finally adopting a position as to our legal authority to resume approving lease-purchase agreements and as to legally available funds for purposes of the \$0.50 test, this office would like to give all interested persons the opportunity to provide any legal memoranda or briefs as to the effect of SB 4 on the use of Tier 2 funds and as to possible alternative fund sources, such as the basic allotment of Tier 1.

Please submit any such briefs or memoranda to my attention as soon as reasonably possible, but no later than Wednesday, July 14. Additionally, please provide a copy of this letter to any of your colleagues or others who may have an interest in providing a legal memorandum or brief regarding this matter.

Very truly yours,

Jim Thomassen
Assistant Attorney General
Chief, Public Finance Division

cc: David Anderson, Texas Education Agency
Craig Foster, Equity Center