

BILL ANALYSIS

C.S.H.B. 1378
By: Flynn
Investments & Financial Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There are concerns that legislation is needed to ensure greater transparency in open government by establishing guidelines for a political subdivision's completion and distribution of annual financial reports. C.S.H.B. 1378 seeks to enhance the transparency of political subdivision debt obligations.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 1378 amends the Local Government Code to require a political subdivision to prepare an annual financial report that includes certain financial information for each fund subject to the authority of the governing body of the political subdivision during the fiscal year; certain debt obligation information for the political subdivision as of the last day of the preceding fiscal year; and any other information that the political subdivision considers relevant or necessary to explain the values of the debt obligations. The bill sets out information that must be stated in the report. The bill authorizes the political subdivision, instead of replicating information that is posted separately online, to provide in the annual report a direct link to, or a clear statement describing the location of, the separately posted information.

C.S.H.B. 1378 authorizes a political subdivision, as an alternative to preparing an annual financial report, to provide the required financial and debt obligation information and any related information to the comptroller of public accounts in the form and manner prescribed by the comptroller. The bill requires the comptroller to post the information on the comptroller's website in the format that the comptroller determines is appropriate and requires the political subdivision to provide a link from the political subdivision's website or a website in which the political subdivision controls the content of the posting, as applicable, to the location on the comptroller's website where the political subdivision's financial information may be viewed. The bill requires the comptroller to adopt rules as necessary to implement the alternative reporting option.

C.S.H.B. 1378 sets out additional requirements for a political subdivision relating to making the annual financial report available for inspection by any person, posting the report online along with the contact information for the main office of the political subdivision, and maintaining or causing to be maintained a website to comply with the bill's report requirements. The bill gives

certain political subdivisions that did not maintain a website or cause a website to be maintained on January 1, 2015, the option of posting the required information on a website in which the political subdivision controls the content of the posting, including a social media site, as an alternative to posting the information on a website that the political subdivision maintains or causes to be maintained, provided that the information is easily found by searching the name of the political subdivision on the Internet.

C.S.H.B. 1378 prohibits the governing body of an issuer of a certificate under the Certificate of Obligation Act of 1971 from authorizing a certificate to pay a contractual obligation to be incurred if a bond proposition to authorize the issuance of bonds for the same purpose was submitted to the voters during the preceding three years and failed to be approved, except in certain specified cases, and to comply with a state or federal law, rule, or regulation if the political subdivision has been officially notified of noncompliance with the law, rule, or regulation.

C.S.H.B. 1378 transfers Local Government Code provisions relating to the annual financial statement of certain governmental entities to the Education Code to make the requirement that the governing body of such entities prepare an annual financial statement applicable exclusively to an open-enrollment charter school. The bill requires the governing body of an open-enrollment charter school to take action to ensure that the school's annual financial statement is made available in the manner provided by state public information law and is posted continuously on the school's website. The bill requires an open-enrollment charter school to maintain or cause to be maintained a website to comply with the requirement to make available the school's annual financial statement.

C.S.H.B. 1378 repeals Section 140.006, Local Government Code.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1378 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Chapter 140, Local Government Code, is amended by adding Section 140.008 to read as follows:

Sec. 140.008. ANNUAL FINANCIAL REPORT; DEBT INFORMATION. (a) In this section:

(1) "Debt obligation" means an issued public security, as defined by Section 1201.002, Government Code.

(2) "Political subdivision" means a county, municipality, school district, junior college district, other special district, or other subdivision of state government.

(b) Except as provided by Subsections (c) and (d), a political subdivision shall prepare

HOUSE COMMITTEE SUBSTITUTE

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(1) "Debt obligation" means an issued public security, as defined by Section 1201.002, Government Code.

(2) "Political subdivision" means a county, municipality, school district, junior college district, other special district, or other subdivision of state government.

(b) Except as provided by Subsections (c) and (d), a political subdivision shall prepare

an annual financial report that includes:

(1) financial information for each fund subject to the authority of the governing body of the political subdivision during the fiscal year, including:

(A) the total receipts of the fund, itemized by source of revenue, including taxes, assessments, service charges, grants of state money, gifts, or other general sources from which funds are derived;

(B) the total disbursements of the fund, itemized by the nature of the expenditure;

(C) the balance in the fund as of the last day of the fiscal year; and

(D) any other information required by law to be included by the political subdivision in an annual financial report or comparable annual financial statement, exhibit, or report;

(2) as of the last day of the preceding fiscal year, debt obligation information for the political subdivision that must state:

(A) the amount of all authorized debt obligations;

(B) the principal of all outstanding debt obligations;

(C) the principal of each outstanding debt obligation;

(D) the combined principal and interest required to pay all outstanding debt obligations on time and in full;

(E) the combined principal and interest required to pay each outstanding debt obligation on time and in full;

(F) the amounts required by Paragraphs (A)- (E) limited to authorized and outstanding debt obligations secured by ad valorem taxation, expressed as a total amount and, if the political subdivision is a municipality, county, or school district, as a per capita amount; and

(G) the following for each debt obligation:

(i) the issued and unissued amount;

(ii) the spent and unspent amount;

(iii) the maturity date; and

(iv) the stated purpose for which the debt obligation was authorized; and

(3) any other information that the political subdivision considers relevant or necessary to explain the values required by Subdivisions (2) (A)- (F), including:

(A) an amount required by Subdivision (2)(F) stated as a per capita amount if the political subdivision is not required to provide the amount under that paragraph;

an annual financial report that includes:

(1) financial information for each fund subject to the authority of the governing body of the political subdivision during the fiscal year, including:

(A) the total receipts of the fund, itemized by source of revenue, including taxes, assessments, service charges, grants of state money, gifts, or other general sources from which funds are derived;

(B) the total disbursements of the fund, itemized by the nature of the expenditure;

(C) the balance in the fund as of the last day of the fiscal year; and

(D) any other information required by law to be included by the political subdivision in an annual financial report or comparable annual financial statement, exhibit, or report;

(2) as of the last day of the preceding fiscal year, debt obligation information for the political subdivision that must state:

(A) the amount of all authorized debt obligations;

(B) the principal of all outstanding debt obligations;

(C) the principal of each outstanding debt obligation;

(D) the combined principal and interest required to pay all outstanding debt obligations on time and in full;

(E) the combined principal and interest required to pay each outstanding debt obligation on time and in full;

(F) the amounts required by Paragraphs (A)-(E) limited to authorized and outstanding debt obligations secured by ad valorem taxation, expressed as a total amount and, if the political subdivision is a municipality, county, or school district, as a per capita amount; and

(G) the following for each debt obligation:

(i) the issued and unissued amount;

(ii) the spent and unspent amount;

(iii) the maturity date; and

(iv) the stated purpose for which the debt obligation was authorized; and

(3) any other information that the political subdivision considers relevant or necessary to explain the values required by Subdivisions (2)(A)-(F), including:

(A) an amount required by Subdivision (2)(F) stated as a per capita amount if the political subdivision is not required to provide the amount under that paragraph;

(B) an explanation of the payment sources for the different types of debt; and

(C) a projected per capita amount of an amount required by Subdivision (2)(F), as of the last day of the maximum term of the most recent debt obligation issued by the political subdivision.

(c) Instead of replicating in the annual financial report information required by Subsection (b) that is posted separately on the political subdivision's Internet website, or on a website as authorized by Subsection (g)(2), the political subdivision may provide in the report a direct link to, or a clear statement describing the location of, the separately posted information.

(d) As an alternative to preparing an annual financial report, a political subdivision may provide to the comptroller the information described by Subsection (b) and any other related information required by the comptroller in the form and in the manner prescribed by the comptroller. The comptroller shall post the information on the comptroller's Internet website in the format that the comptroller determines is appropriate. The political subdivision shall provide a link from the political subdivision's website, or a website as authorized by Subsection (g) (2) , to the location on the comptroller's website where the political subdivision's financial information may be viewed. The comptroller shall adopt rules necessary to implement this subsection.

(e) Except as provided by Subsection (d), the governing body of a political subdivision shall take action to ensure that:

(1) the political subdivision's annual financial report is made available for inspection by any person and is posted continuously on the political subdivision's Internet website, or on a website as authorized by Subsection (g)(2), until the political subdivision posts the next annual financial report; and

(2) the contact information for the main office of the political subdivision is continuously posted on the website, including the physical address, the mailing address, the main telephone number, and an e-mail address.

(f) Except as provided by Subsection (g), a political subdivision shall maintain or cause to be maintained an Internet website to

(B) an explanation of the payment sources for the different types of debt; and

(C) a projected per capita amount of an amount required by Subdivision (2)(F), as of the last day of the maximum term of the most recent debt obligation issued by the political subdivision.

(c) Instead of replicating in the annual financial report information required by Subsection (b) that is posted separately on the political subdivision's Internet website, or on a website as authorized by Subsection (g)(2), the political subdivision may provide in the report a direct link to, or a clear statement describing the location of, the separately posted information.

(d) As an alternative to preparing an annual financial report, a political subdivision may provide to the comptroller the information described by Subsection (b) and any other related information required by the comptroller in the form and in the manner prescribed by the comptroller. The comptroller shall post the information on the comptroller's Internet website in the format that the comptroller determines is appropriate. The political subdivision shall provide a link from the political subdivision's website, or a website as authorized by Subsection (g)(2), to the location on the comptroller's website where the political subdivision's financial information may be viewed. The comptroller shall adopt rules necessary to implement this subsection.

(e) Except as provided by Subsection (d), the governing body of a political subdivision shall take action to ensure that:

(1) the political subdivision's annual financial report is made available for inspection by any person and is posted continuously on the political subdivision's Internet website, or on a website as authorized by Subsection (g)(2), until the political subdivision posts the next annual financial report; and

(2) the contact information for the main office of the political subdivision is continuously posted on the website, including the physical address, the mailing address, the main telephone number, and an e-mail address.

(f) Except as provided by Subsection (g), a political subdivision shall maintain or cause to be maintained an Internet website to

comply with this section.

(g) This subsection does not apply to a county or municipality with a population of more than 2,000 or a school district or a junior college district. If a political subdivision did not maintain an Internet website or cause a website to be maintained on January 1, 2013, the political subdivision shall post the information required by this section on:

(1) the political subdivision's website, if the political subdivision chooses to maintain the website or cause the website to be maintained; or

(2) a website in which the political subdivision controls the content of the posting, including a social media site, provided that the information is easily found by searching the name of the political subdivision on the Internet.

SECTION 16. Section 271.047, Local Government Code, is amended by adding Subsection (d) to read as follows:

(d) Except as provided by this subsection, the governing body of an issuer may not authorize a certificate to pay a contractual obligation to be incurred if a bond proposition to authorize the issuance of bonds for the same purpose was submitted to the voters during the preceding three years and failed to be approved. A governing body may authorize a certificate that the governing body is otherwise prohibited from authorizing under this subsection:

(1) in a case described by Sections 271.056(1)-(3); and

(2) to comply with a state or federal law, rule, or regulation if the political subdivision has been officially notified of noncompliance with the law, rule, or regulation.

No equivalent provision.

comply with this section.

(g) This subsection does not apply to a county or municipality with a population of more than 2,000 or a school district or a junior college district. If a political subdivision did not maintain an Internet website or cause a website to be maintained on January 1, 2015, the political subdivision shall post the information required by this section on:

(1) the political subdivision's website, if the political subdivision chooses to maintain the website or cause the website to be maintained; or

(2) a website in which the political subdivision controls the content of the posting, including a social media site, provided that the information is easily found by searching the name of the political subdivision on the Internet.

SECTION 2. Section 271.047, Local Government Code, is amended by adding Subsection (d) to read as follows:

(d) Except as provided by this subsection, the governing body of an issuer may not authorize a certificate to pay a contractual obligation to be incurred if a bond proposition to authorize the issuance of bonds for the same purpose was submitted to the voters during the preceding three years and failed to be approved. A governing body may authorize a certificate that the governing body is otherwise prohibited from authorizing under this subsection:

(1) in a case described by Sections 271.056(1)-(3); and

(2) to comply with a state or federal law, rule, or regulation if the political subdivision has been officially notified of noncompliance with the law, rule, or regulation.

SECTION 3. Section 140.005, Local Government Code, is transferred to Subchapter D, Chapter 12, Education Code, redesignated as Section 12.1191, Education Code, and amended to read as follows:

Sec. 12.1191 [~~140.005~~]. ANNUAL FINANCIAL STATEMENT OF CHARTER SCHOOL [~~ROAD, OR OTHER DISTRICT~~]. (a) The governing

body of an [~~a school district,~~] open-enrollment charter school [~~, junior college district, or a district or authority organized under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution,~~] shall prepare an annual financial statement showing for each fund subject to the authority of the governing body during the fiscal year:

(1) the total receipts of the fund, itemized by source of revenue, including taxes, assessments, service charges, grants of state money, gifts, or other general sources from which funds are derived;

(2) the total disbursements of the fund, itemized by the nature of the expenditure; and

(3) the balance in the fund at the close of the fiscal year.

(b) The governing body of an open-enrollment charter school shall take action to ensure that the school's annual financial statement is made available in the manner provided by Chapter 552, Government Code, and is posted continuously on the school's Internet website.

(c) An open-enrollment charter school shall maintain or cause to be maintained an Internet website to comply with this section.

No equivalent provision.

SECTION 4. Section 140.006, Local Government Code, is repealed.

No equivalent provision.

SECTION 5. The repeal by this Act of Section 140.006, Local Government Code, does not apply to the publication of an annual financial statement for a district's fiscal year ending before the effective date of this Act. The publication of an annual financial statement for a district's fiscal year ending before the effective date of this Act is governed by the law in effect when the fiscal year ended, and the former law is continued in effect for that purpose.

No equivalent provision.

SECTION 6. Section 140.008, Local Government Code, as added by this Act, applies only to an annual financial report for a fiscal year ending on or after the effective date of this Act. An annual financial report for a fiscal year ending before the effective date of this Act is governed by the law in

effect when the fiscal year ended, and the former law is continued in effect for that purpose.

No equivalent provision.

SECTION 7. This Act takes effect September 1, 2015.