

SUBJECT: Lease-purchase and installment obligations of certain municipalities

COMMITTEE: Financial Institutions — committee substitute recommended

VOTE: 9 ayes — Averitt, Solomons, Denny, Ehrhardt, Elkins, Grusendorf, Marchant, Pitts, Juan Solis

0 nays

WITNESSES: For — Scott Bradley and Larry Williamson, Texas Student Housing Corp.; James Carter, Texas Student Housing Group; Karen Kennard, Texas Municipal League; Jennifer Renken; Jeremy Steinmeyer

Against — Nancy Moffat

On — Jim Thomassen, Office of the Attorney General

BACKGROUND: Last session, the Legislature passed HB 2799 by Marchant, amending various sections of the Public Funds Investment Act (codified as chpt. 2256, Government Code), which applies to public funds invested outside the treasury division of the Comptroller's Office by a state agency, local governments, or investment pools acting on behalf of multiple governmental entities.

A Senate amendment to that bill added sec. 2256.056, Government Code, requiring municipalities with populations of less than 50,000 to obtain approval from the Office of the Attorney General (OAG) before entering into lease-purchase or installment sale obligations with a principal of \$1 million or more. The process for approval is outlined in art. 717k-8, VTCS. Since this bill passed, no such requests for approval have been filed with OAG.

DIGEST: CSHB 2235 would repeal sec. 2256.056, Government Code.

The bill would take effect on September 1, 1999.

SUPPORTERS SAY: CSHB 2235 would restore local control to municipalities in making important purchasing decisions. It would repeal an unnecessary and, in fact, unused, bureaucratic hurdle that affects more than 95 percent of all Texas

municipalities. Obtaining approval from the Attorney General's Office to enter lease-purchase or installment sale obligations is a potentially costly and time-consuming requirement. No requests for approval have been filed with the attorney general since the law went on the books.

Sec. 3.003, art. 717k-8, VTCS, now specifically exempts "any lease, lease-purchase, or installment sale obligation" from OAG's bond approval authority. This exemption originally applied to all municipalities, regardless of size, and for all such obligations, regardless of principal amount. HB 2235 simply would restore this exemption by eliminating the conflicting statute, sec. 2256.056, Government Code.

OPPONENTS
SAY:

Smaller municipalities now must seek approval from the Attorney General's Office before financing any obligation using bonds. Lease-purchase and installment sale obligations with a principal of \$1 million or more could be used to circumvent bond approval requirements, particularly when the purchase involves buildings or other real property. For this reason, it is important to require smaller municipalities to seek independent review and approval from the attorney general before taking on obligations of this magnitude.

Purchases by most smaller municipalities of computers, motor vehicles, and other equipment — the items most often obtained through a lease-purchase or installment sale agreement — would not exceed \$1 million and thus could be executed without OAG review.

OTHER
OPPONENTS
SAY:

OAG should approve all lease-purchase and installment sale transactions exceeding \$1 million for all municipalities. The same arguments favoring such approval apply not just to smaller cities.

NOTES:

The substitute changed the caption by adding the words "by certain municipalities."