

BILL ANALYSIS

Senate Research Center

S.B. 1759
By: Armbrister
Intergovernmental Relations
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DIGEST AND PURPOSE

Current laws regarding public securities contain provisions that are inconsistent with modern commercial practices. As proposed, S.B. 1759 clarifies such provisions to make the issuance and sale of and security and payment for public securities more efficient, more consistent among different codes, and less confusing.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1201.022(a), Government Code, to authorize a public security to be issued to be sold at a public or private sale and under the terms determined by the governing body of the issuer to be in the issuer's best interests.

SECTION 2. Amends Chapter 1201B, Government Code, by adding Section 1201.028, as follows:

Sec. 1201.028. SINGLE MEETING OF GOVERNING BODY SUFFICIENT. Provides that certain actions taken at a meeting of the governing body of an issuer are immediately effective and a subsequent meeting is not required, notwithstanding any other law, including a provision in a municipal charter.

SECTION 3. Amends Section 1203.023, Government Code, to require a trust company or commercial bank acting as a registrar under this chapter to maintain the registrar records in this state at the direction of the issuer.

SECTION 4. Amends Section 1207.008, Government Code, to provide that an issuer is not required to comply with Subsection (a)(2) if the governing body of the issuer determines and states in the proceedings authorizing the issuance of the refunding bonds that the manner in which the refunding is being executed does not make it practicable to make the determination required by that subsection.

SECTION 5. Amends Section 1207.061(a), Government Code, to authorize an issuer to deposit an amount of money sufficient to provide for the payment or redemption of the obligations to be refunded or to be paid or redeemed in whole or in part without issuing refunding bonds directly with a trust company or commercial bank other than one described in this section that does not act as a depository for the issuer and is named in the proceedings of the issuer authorizing execution of an agreement under Section 1207.062.

SECTION 6. Amends Section 1207.062(a), Government Code, to authorize an issuer to enter into an escrow or similar agreement with a person described by Section 1207.061(a), rather than paying agent or trustee, with respect to the safekeeping, investment, administration, and disposition of a deposit made under Section 1207.061.

SECTION 7. Amends Section 1207.063, Government Code, to make a conforming change.

SECTION 8. Amends Section 1371.001(2), Government Code, to conform to Section 1, Chapter 1018, Acts of the 76th Legislature, Regular Session, 1999, to provide that an approved venue project under Chapter 334 (Sports and Community Venues) or 335 (Sports and Community Venue Districts), Local Government Code, is included in the definition of “eligible project.”

SECTION 9. Amends Section 1371.001(4), Government Code, to conform to Section 1, Chapters 378, 984, and 1018, Acts of the 76th Legislature, Regular Session, 1999, and to include the following in the definition of “issuer”: a hospital district in a county that has a population of more than two million; an independent school district that has an average daily attendance of 50,000 or more as determined under Section 42.005 (Average Daily Attendance), Education Code; a municipality or county operating under Chapter 334, Local Government Code; or a district created under Chapter 335, Local Government Code.

SECTION 10. Amends Section 1371.051, Government Code, to authorize the governing body of an issuer, on its authorization and approval, to issue, sell and deliver an obligation to finance all or part of a payment owed or to be owed on the establishment of a certain type of credit agreement or the settlement or termination of a certain credit agreement, whether the settlement or termination occurs at the option of the parties to the agreement or by operation of the terms of the agreement.

SECTION 11. Amends Chapter 1371B, Government Code, by adding Section 1371.0521, as follows:

Sec. 1371.0521. INDEPENDENT SCHOOL DISTRICT OBLIGATION. Prohibits an independent school district from issuing an obligation under this chapter unless the obligation is authorized in accordance with Section 45.003 (Bond and Tax Elections), Education Code.

SECTION 12. Amends Section 1502.055(c), Government Code, to provide that this section does not apply to the sale of an unencumbered natural gas system owned by a municipality with a population of more than 100,000, rather than 1.2 million.

SECTION 13. Amends Chapter 271C, Local Government Code, by adding Section 271.0521, as follows:

Sec. 271.0521. SALES AND USE TAX AS AVAILABLE REVENUE SOURCE IN MUNICIPALITIES WITH POPULATION OF 50,000 OR MORE. (a) Provides that this section applies only to a municipality with a population of 50,000 or more.

(b) Sets forth certain methods by which a municipality is authorized to issue certificates to be paid from and secured by certain municipal sales and use taxes.

SECTION 14. Amends Section 321.506, Tax Code, to add an exception to the provision that the money received by a municipality under this chapter is for the use and benefit of the municipality.

SECTION 15. Amends Section 4A(e), Development Corporation Act of 1979 (Article 5190.6, V.T.C.S.), to add an exception to the provision that the Municipal Sales and Use Tax Act (Chapter 321, Tax Code), governs the imposition of the sales and use tax under this section and related matters.

SECTION 16. Amends Section 4B(g), Article 5190.6, V.T.C.S., to authorize the tax proceeds to be used as provided by Section 271.0521, Local Government Code, to secure and pay certificates of obligation issued by the municipality in connection with the projects.

SECTION 17. Amends Section 55.16, Education Code, as follows:

(a) Requires a board having management and control of an institution of higher education (board) to perform certain duties as provided by this section.

(b) Provides that unless it is expressly provided by law that specified funds under the control of a board are not considered revenue funds, a provision in this title or another law that limits the purpose for which funds under the control of the board may be spent does not impair a board's ability to pledge and use all revenue funds under the board's control to secure and pay obligations of the board under this chapter or other law.

(c) Requires a board to fix each rental, rate, charge, or fee that the board has authority to fix in an amount determined to be necessary to pay or provide, for each activity or service, all associated capital costs. Provides that, except as otherwise provided by Subsection (e), this section does not authorize a board to impose a rental, rate, charge, or fee at an amount exceeding a limit imposed by another provision of this title.

(d) Requires a board, for billing and reporting purposes, to accumulate all mandatory fees or charges provided for by this section or Chapter 54 as a separate facilities and services charge.

SECTION 18. (a) Validates all acts and proceedings of each governing board, as defined by Section 55.01 (Definitions), Education Code, and as used in Chapter 130 (Junior College Districts), Education Code, relating to the establishment and collection of rates, rentals, charges, and fees, as of the dates they occurred.

(b) Provides that the provisions of this section do not apply to an act or proceeding that on September 1, 2001, is involved in litigation if the litigation ultimately results in the act or proceeding being held invalid by a final judgment of a court; or one that has been held invalid by a final judgment of a court.

SECTION 19. Effective date: September 1, 2001.