

SUBJECT: Requiring certain disclosures by political subdivisions before issuing debt

COMMITTEE: Pensions, Investments and Financial Services — committee substitute recommended

VOTE: 8 ayes — Murphy, Capriglione, Flynn, Gervin-Hawkins, Gutierrez, Lambert, Stephenson, Wu

0 nays

3 absent — Vo, Leach, Longoria

WITNESSES: For — Trey Lary, Allen Boone Humphries Robinson LLP; James Quintero, Texas Public Policy Foundation; Joe Palmer (*Registered, but did not testify*: Annie Spilman, National Federation of Independent Business; Howard Cohen, Schwartz, Page & Harding LLP; Daniel Gonzalez and Julia Parenteau, Texas Realtors; Al Zito)

Against — Tali Wildman (*Registered, but did not testify*: David Anderson, Arlington ISD Board of Trustees; Colby Nichols, Fast Growth School Coalition; Brian Woods, Texas Association of School Administrators, Texas Association of School Boards, Texas School Alliance, Fast Growth Coalition; Ruben Longoria, Texas Association of School Boards; John Grey, Texas School Alliance; Alexis Tatum, Travis County Commissioners Court)

On — (*Registered, but did not testify*: Adam Haynes, Conference of Urban Counties; Aimee Bertrand, Harris County Commissioners Court; James Hernandez, Harris County)

BACKGROUND: Government Code ch. 1251 requires voter approval in a bond election before a county or municipality may issue bonds that are to be paid from property tax revenue.

Local Government Code sec. 271.049 requires the issuers of certificates of obligation to publish a notice before issuing any new certificates. If the

issuer receives a petition protesting the issuance of the certificates signed by at least five percent of voters, they may not be issued unless the issuance is approved at a bond election under Government Code ch. 1251.

DIGEST:

CSHB 477 would require political subdivisions to make certain disclosures before issuing new debt, including:

- a voter information document containing information on the property tax impact of proposed bonds;
- specific bond election ballot language relating to outstanding debt; and
- certain new disclosures before issuing certificates of obligation.

Voter information document. In bond elections in political subdivisions with at least 250 registered voters, a voter information document would have to be prepared for each proposition to be voted on at the election. The voter information document would be required to be posted in the manner prescribed for bond election orders and would have to distinctly state:

- the language that would appear on the ballot;
- a table with the principal, estimated interest, and estimated combined principal and interest required for full payment of the proposed bonds and the principal, estimated interest, and estimated combined principal and interest required for full payment of all outstanding bonds as of the date the political subdivision adopted the debt obligation order;
- the estimated maximum annual increase in taxes that would be imposed on a residence homestead with an appraised value of \$100,000, based on certain assumptions made by the governing body of the political subdivision detailed in the bill; and
- any other information considered relevant or necessary to explain the other information in the document.

For political subdivisions that maintain websites, all of the information in the voter information document would be required to be provided on the

political subdivision's website at least 21 days before the bond election.

Bond election ballot requirements. Ballots in bond elections for new debt issued by a political subdivision would be required to specifically state a general description of the purposes of the bonds, the total principal amount of the bonds, and that taxes sufficient to pay the principal and interest of the bonds would be imposed.

Certificates of obligation disclosures. The bill would require local governments to make additional disclosures in the published notice of their intention to issue new certificates of obligation. The notice would be required to disclose:

- the principal of all outstanding certificates of obligation;
- the combined principal and interest required for full payment of all outstanding debt of the issuer;
- the maximum principal amount of proposed certificates of obligation;
- the estimated principal and interest required for full payment of the proposed certificates of obligation;
- the estimated interest rate for the certificates to be authorized or a notice that the maximum interest rate for the certificates may not exceed the maximum interest rate; and
- the maximum maturity date of the certificates to be authorized.

A local government would be required to publish those disclosures in a newspaper and, if the local government maintains a website, continuously on its website for at least 45 days before issuing the certificates of obligation.

Debt obligation order disclosures. The bill would amend the required disclosures in the document ordering a bond election to include:

- that taxes sufficient to pay the principal of and interest on the debt obligations may be imposed;
- the maximum maturity date of the debt obligations to be authorized

or that the debt obligations may be issued to mature over a specified number of years not to exceed the maximum number of years authorized by law;

- the aggregate amount of the outstanding principal of the political subdivision's debt obligations as of the date the election is ordered; and
- the aggregate amount of the outstanding interest on debt obligations of the political subdivision as of the date the election is ordered, which may be based on the political subdivision's expectations relative to variable rate debt obligations.

Debt obligation. CSHB 477 would change the definition of "debt obligation" to clarify that, in connection with the bill's new required disclosures, the term:

- applied to issued public securities secured by and payable from property taxes; and
- did not include public securities that were designated as self-supporting by the political subdivision issuing the securities.

Effective date. The bill would take effect September 1, 2019, and would apply only to a bond election ordered on or after the effective date, or a certificate of obligation for which the first notice of intention was issued on or after the effective date.

**SUPPORTERS
SAY:**

CSHB 477 would impose consistent standards for financial transparency in the issuance of new public debt. Debt at the local level is a problem in many Texas communities. This bill would inform voters of outstanding debt carried by local governments and the property tax impact of new debt issuances.

Prescribing the form and information requirements would bring uniformity to bond elections for all taxpayers. Putting the maximum tax increase per \$100,000 residential home value on the ballot would give taxpayers a simple illustration of the tax impact of a bond election.

Certificates of obligation are a financing tool that local officials use to issue long-term, tax-funded debt without adequate citizen input or approval, and the ability to fund multiple projects with a single certificate of obligation issuance is confusing and disguises public indebtedness.

According to the Bond Review Board, in the decade from 2006 to 2015 outstanding certificate of obligation debt issued by cities, counties and hospital or health districts rose by nearly 85 percent, substantially faster than the 50 percent growth rate for total debt held by these entities. While certificates of obligation are a useful and important tool for local governments, increasing disclosure prior to the issuance of certificates of obligation is an important means of holding elected officials accountable to voters.

Concerns that local governments would be burdened by new disclosure requirements are outweighed by the need for financial transparency and open government.

OPPONENTS
SAY:

While CSHB 477 seeks to make bonds more transparent, it would be a one-size-fits-all measure that would not take into account differences in the types of local governments. It would be better to allow each local jurisdiction to hold itself accountable for due diligence of public debt issuance through its time-tested public debt planning and election processes.

Although improved transparency is an admirable goal, piling more state-mandated disclosures on local governments disrupts already existing, proven accountability processes. The average citizen wants to trust local elected officials and their advisers, held accountable by local controls, to filter through the technicalities and jargon of public debt financing necessary to carry out projects in the public interest.

Singling out a specific data point of the property tax impact on a residential home would mislead voters rather than inform them. The financial impact of large-scale public financing projects is complicated and typically studied by experts through objective, data-driven methods

for years before a bond election is held. Highlighting residential home property tax increases could leave voters with a false impression that this single data point was somehow illustrative of the entire financial impact of the bond, and leave out valuable context on the wider financial benefits projects funded by a certificate of obligation could bring to the community.

Certificates of obligation afford local officials flexibility in responding to critical and emerging public needs, allowing them to act without having to spend resources on a bond election. Unlike general obligation bonds, a single certificate of obligation can be issued to support more than one purpose or project, reducing the cost of issuance. Local governments often use certificates of obligation to refinance or reduce interest rates on existing debt, enjoying substantial savings. The new disclosures related to outstanding certificates of obligation would run the risk of misleading voters about the uses and benefits that certificates of obligation provide to local governments.