

## **BILL ANALYSIS**

C.S.H.B. 114  
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Investments & Financial Services  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

There are concerns that, due to a rapidly expanding population, school districts with limited financing options are using capital appreciation bonds to meet immediate development needs. Interested parties note that use of such bonds may be supported by the belief that the number of taxpayers will continue to increase and the subsequent tax base growth will enable repayment of the obligation. However, the parties contend that the school-aged population in Texas, and in other states where such bonds are used, is expanding faster than such tax base growth can support.

The parties further assert that this buy-now, pay-later approach often results in crippling repayment obligations, with the repayment costs being greater than the benefits derived from the bond, and that the repayment ratio of these bonds is much higher than that of other types of bonds. It has been reported that the issuance of these bonds has made it possible for a local governmental entity to borrow large sums of money, forgo any payment on principal or interest for decades, and, once current officeholders have long vacated their positions, then be required to pay back as much as 10 times the original amount once the bond matures. C.S.H.B. 114 seeks to address this issue.

### **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 this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 114 amends the Government Code to prohibit a county, municipality, special district, school district, junior college district, or other political subdivision from issuing capital appreciation bonds, as defined by the bill, that are secured by property taxes unless certain conditions, as specified by the bill, are met. This prohibition does not apply to the issuance of refunding bonds or capital appreciation bonds for the purpose of financing transportation projects.

C.S.H.B. 114 requires a governing body of a political subdivision that determines, in accordance with one of the specified conditions of bond issuance, that a personal or financial relationship exists between the members of the governing body and certain professionals associated with the bond issuance to submit the determination to the Texas Ethics Commission. The bill requires the governing body of a political subdivision to regularly update the total amount of the political subdivision's outstanding bonded indebtedness, including the amount of principal and interest to

be paid until maturity, that is required to be posted on the political subdivision's website, in accordance with one of the specified conditions of bond issuance, to ensure that the information is current and accurate.

C.S.H.B. 114 prohibits capital appreciation bond proceeds from being used to purchase items more regularly considered maintenance items or transportation-related items. The bill limits the use of capital appreciation bond proceeds unspent after completion of the project identified as the proceeds' intended use to a use identified on the political subdivision's website, in accordance with one of the specified conditions of bond issuance, unless another use is approved by the voters of the political subdivision at an election held for that purpose.

C.S.H.B. 114 caps the total amount of capital appreciation bonds at 25 percent of the political subdivision's total outstanding bonded indebtedness at the time of the issuance, including the amount of principal and interest to be paid on the outstanding bonds until maturity. The bill prohibits a county, municipality, special district, school district, junior college district, or other political subdivision from extending the maturity date of an issued capital appreciation bond, including through the issuance of refunding bonds that extend the maturity date, but authorizes a political subdivision to extend the maturity date of an issued capital appreciation bond only if the extension of the maturity date will decrease the total amount of projected principal and interest to maturity or if the political subdivision is a school district and the maximum legally allowable tax rate for indebtedness has been adopted and the Texas Education Agency certifies in writing that the solvency of the permanent school fund's bond guarantee program would be threatened without the extension.

#### **EFFECTIVE DATE**

September 1, 2015.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 114 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. Subchapter B, Chapter 1201, Government Code, is amended by adding Section 1201.0245 to read as follows:

Sec. 1201.0245. CAPITAL APPRECIATION BONDS BY POLITICAL SUBDIVISIONS. (a) In this section, "capital appreciation bond" means a bond that accrues and compounds interest from its date of delivery, the interest on which by its terms is payable only upon maturity or prior redemption.

(b) A county, municipality, special district, school district, junior college district, or other political subdivision may not issue capital appreciation bonds that are secured by ad valorem taxes unless:

(1) the bonds have a scheduled maturity date that is not later than 20 years after the date of issuance;

##### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter B, Chapter 1201, Government Code, is amended by adding Section 1201.0245 to read as follows:

Sec. 1201.0245. CAPITAL APPRECIATION BONDS BY POLITICAL SUBDIVISIONS. (a) In this section, "capital appreciation bond" means a bond that accrues and compounds interest from its date of delivery, the interest on which by its terms is payable only upon maturity or prior redemption.

(b) A county, municipality, special district, school district, junior college district, or other political subdivision may not issue capital appreciation bonds that are secured by ad valorem taxes unless:

(1) the bonds have a scheduled maturity date that is not later than 25 years after the date of issuance;

(2) the governing body of the political subdivision has received a written estimate of the cost of the issuance, including:

(A) the amount of principal and interest to be paid until maturity;

(B) the amount of fees to be paid to outside vendors, including vendors who sell products to be financed by the bond issuance;

(C) the amount of fees to be paid to each financing team member; and

(D) the projected tax impact of the bonds and the assumptions on which the calculation of that impact is based;

(3) the governing body of the political subdivision has determined in writing whether any personal or financial relationship exists between the members of the governing body and any financial advisor, bond counsel, bond underwriter, or other professional associated with the bond issuance; and

(4) the governing body of the political subdivision posts prominently on the political subdivision's Internet website and enters in the minutes of the governing body:

(A) the total amount of the bonds to be voted on;

(B) the length of maturity of the bonds;

(C) the projects proposed to be financed with bond proceeds;

(D) the total amount of the political subdivision's outstanding bonded indebtedness at the time of the election, including the amount of principal and interest to be paid until maturity;

(E) the total amount of the political subdivision's outstanding bonded indebtedness, updated quarterly, including the amount of principal and interest to be paid until maturity; and

(F) the information received under Subdivision (2) and determined under Subdivision (3).

(2) the governing body of the political subdivision has received a written estimate of the cost of the issuance, including:

(A) the amount of principal and interest to be paid until maturity;

(B) the amount of fees to be paid to outside vendors, including vendors who sell products to be financed by the bond issuance;

(C) the amount of fees to be paid to each financing team member; and

(D) the projected tax impact of the bonds and the assumptions on which the calculation of the projected tax impact is based;

(3) the governing body of the political subdivision has determined in writing whether any personal or financial relationship exists between the members of the governing body and any financial advisor, bond counsel, bond underwriter, or other professional associated with the bond issuance; and

(4) the governing body of the political subdivision posts prominently on the political subdivision's Internet website and enters in the minutes of the governing body:

(A) the total amount of the proposed bonds;

(B) the length of maturity of the proposed bonds;

(C) the projects to be financed with bond proceeds;

(D) the intended use of bond proceeds not spent after completion of the projects identified in Paragraph (C);

(E) the total amount of the political subdivision's outstanding bonded indebtedness at the time of the election, including the amount of principal and interest to be paid on existing bond indebtedness until maturity;

(F) the total amount of the political subdivision's outstanding bonded indebtedness, including the amount of principal and interest to be paid until maturity; and

(G) the information received under Subdivision (2) and determined under Subdivision (3).

(c) The governing body of a political subdivision that makes a determination that a personal or financial relationship described by Subsection (b)(3) exists shall submit the determination to the Texas Ethics

(c) The total amount of capital appreciation bonds may not exceed 25 percent of the political subdivision's total outstanding bonded indebtedness at the time of the issuance, including the amount of principal and interest to be paid on the outstanding bonds until maturity.

(d) Except as provided by Subsection (e), a county, municipality, special district, school district, junior college district, or other political subdivision may not extend the maturity date of an issued capital appreciation bond, including through the issuance of refunding bonds that extend the maturity date.

(e) A school district may extend the maturity date of an issued capital appreciation bond only if:

(1) the maximum legally allowable tax rate for indebtedness has been adopted; and

(2) the attorney general certifies in writing that the solvency of the permanent school fund's bond guarantee program would be threatened without the extension.

(f) Subsection (b) does not apply to the issuance of:

Commission.

(d) The governing body of a political subdivision shall regularly update the debt information posted on the political subdivision's Internet website under Subsection (b)(4)(F) to ensure that the information is current and accurate.

(e) Capital appreciation bond proceeds may not be used to purchase:

(1) items more regularly considered maintenance items, including replacement HVAC units, upgraded plumbing, or similar items; or

(2) transportation-related items, including buses.

(f) Capital appreciation bond proceeds unspent after completion of the project identified as the proceeds' intended use may be used only for a use identified on the political subdivision's website under Subsection (b)(4)(D), unless another use is approved by the voters of the political subdivision at an election held for that purpose.

(g) The total amount of capital appreciation bonds may not exceed 25 percent of the political subdivision's total outstanding bonded indebtedness at the time of the issuance, including the amount of principal and interest to be paid on the outstanding bonds until maturity.

(h) Except as provided by Subsection (i), a county, municipality, special district, school district, junior college district, or other political subdivision may not extend the maturity date of an issued capital appreciation bond, including through the issuance of refunding bonds that extend the maturity date.

(i) A political subdivision may extend the maturity date of an issued capital appreciation bond only if:

(1) the extension of the maturity date will decrease the total amount of projected principal and interest to maturity; or

(2) the political subdivision is a school district and:

(A) the maximum legally allowable tax rate for indebtedness has been adopted; and

(B) the Texas Education Agency certifies in writing that the solvency of the permanent school fund's bond guarantee program would be threatened without the extension.

(j) Subsection (b) does not apply to the issuance of:

(1) refunding bonds under Chapter 1207; or  
(2) capital appreciation bonds for the  
purpose of financing transportation projects.

SECTION 2. The change in law made by this Act does not affect the validity of capital appreciation bonds issued before the effective date of this Act.

SECTION 3. This Act takes effect September 1, 2015.

(1) refunding bonds under Chapter 1207; or  
(2) capital appreciation bonds for the  
purpose of financing transportation projects.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.