HOUSE
RESEARCH
ORGANIZATION bill digest 5/23/2023

SB 2035 (2nd reading)
Bettencourt
(Capriglione)

SUBJECT: Limiting use of anticipation notes and certificates of obligation for funding

COMMITTEE: Pensions, Investments & Financial Services — favorable, without amendment

VOTE: 6 ayes — Capriglione, Lambert, Bhojani, Frazier, Leo-Wilson, VanDeaver

2 nays — Bryant, Plesa

1 absent — Vo

SENATE VOTE: On final passage (April 26) — 20 - 10 - 1

WITNESSES: For — James Quintero, Texas Public Policy Foundation (*Registered, but did not testify*: Samuel Sheetz, Americans for Prosperity; Jorge Martinez, Karla Sierra, The LIBRE Initiative)

Against — (*Registered, but did not testify*: TJ Patterson, City of Fort Worth; Julie Wheeler, Travis County Commissioners Court)

On — Adam Haynes, Conference of Urban Counties

BACKGROUND: Some have suggested that extending the length of time that certain taxing entities are prohibited from using certificates of obligation to fund a voter-related project could prevent the use of these certificates to fund a project that voters previously rejected.

DIGEST: SB 2035 would establish conditions under which the governing bodies of anticipation note issuers would be permitted to and prohibited from authorizing anticipation notes. A governing body could not authorize an anticipation note to pay a contractual obligation if a bond proposition was submitted to the voters and failed to be approved in the previous five years. The governing body could authorize an anticipation note:

- in certain cases of public calamity;

- to preserve or protect the public health of residents;
- in cases of unforeseen damage to public machinery, equipment, or other property;
- to finance the cleanup, mitigation, or remediation of a natural disaster;
- to comply with a federal court order; and
- to comply with a state or federal law, rule, or regulation if officially notified of noncompliance with the law, rule, or regulation.

The bill would increase from three to five years the period of time in which a governing body could not authorize a certificate by ordinance or order to pay a contractual obligation if a bond proposition failed to be approved by voters.

The bill would take effect September 1, 2023, and only would apply to an anticipation note or certificate of obligation authorized to be issued on or after the effective date.