

BILL ANALYSIS

Senate Research Center
76R14345 PEP-D

H.B. 347
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Intergovernmental Relations
5/6/1999
Committee Report (Amended)

DIGEST

Due to overcrowded conditions in local jails, certain municipalities and counties in Texas financed new jail facilities (facilities) commencing in the mid-1980's. Commonly, the municipality or county contracted with a nonprofit corporation that acted on behalf of the governmental unit, thereby allowing the governmental unit to lease-purchase, or lease with an option to purchase, the facilities from the nonprofit corporation which, in turn, issued certificates of participation (certificates) representing a "pass-through" of the lease payments of the governmental unit. Proceeds from the sale of these certificates were then applied to build the facilities. Typically, the obligation of the municipality or county to make lease payments has been subject to annual appropriations made by the governing body. Additionally, most of the financing arrangements have included a deed of trust and security agreement entered into by the nonprofit corporation with a trustee to secure for the benefit of the purchasers of the certificates a mortgage on the financed facility. Many of the certificates were initially sold at a high interest rate, relative to current bond market rates. Certain municipalities and counties desire to refinance the facilities through issuance of refunding bonds but have been unable to do so because there is an apparent lack of statutory authorization for the refinancing of the facilities in this manner. This bill would authorize municipalities, counties, and nonprofit corporations acting on their behalf to refinance facilities originally financed through certificates of participation.

PURPOSE

As proposed, H.B. 347 authorizes municipalities, counties, and nonprofit corporations acting on their behalf to refinance facilities originally financed through certificates of participation.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 361.051(4) and (5), Local Government Code, to redefine "lease obligation" and "obligations."

SECTION 2. Amends Section 361.052, Local Government Code, to include obligations incurred, rather than only issued, in connection with an eligible project as one of the obligations which the governing body of an entity is empowered and authorized to issue. Provides that this subsection is applicable regardless of when the obligations are due, or when title to the project is transferred to the entity. Authorizes revenues derived by an entity from the operation of an eligible project to be pledged to secure or pay the entity's obligations, in whole or in part. Authorizes an entity to apply certain provisions of Article 717q, V.T.C.S., or certain sections of this code to the issuance of obligations and the execution of credit agreements to satisfy the purposes of this subchapter, except that an entity's obligations may be refunded by the issuance of bonds, that are payable from a pledge of ad valorem tax receipts only if the issuance of the bonds is approved by a majority of votes cast at an election conducted as provided by the Election Code. Makes nonsubstantive changes.

SECTION 3. Amends Section 361.053(d), Local Government Code, to authorize the bonds to be secured additionally by a deed of trust granting a security interest in an eligible project.

SECTION 4. Emergency clause.
Effective date: upon passage.

SUMMARY OF COMMITTEE CHANGES

SECTION 2.

Amends Section 361.052, Local Government Code, to authorize an entity to apply certain provisions of Article 717q, V.T.C.S., or certain sections of this code to the issuance of obligations and the execution of credit agreements to satisfy the purposes of this subchapter, except that an entity's obligations may be refunded by the issuance of bonds, that are payable from a pledge of ad valorem tax receipts only if the issuance of the bonds is approved by a majority of votes cast at an election conducted as provided by the Election Code.