

BILL ANALYSIS

Senate Research Center
2001/S0178/2

S.B. 988
By: Duncan
State Affairs
3/19/2001
As Filed

DIGEST AND PURPOSE

All issuers of voter-authorized debt benefit from having a valid choice between the negotiated and competitive methods of sale. This choice is important because, under certain market conditions, utilizing the negotiated method of sale can provide significant economic advantages. Furthermore, during the 76th Legislature, Chapter 536 (S.B. 1091) amended the Education Code permitting school districts to sell “new money” voter-authorized debt via either public (competitive) or private (negotiated) methods. Currently, however, the Office of the Attorney General (OAG) is not interpreting state law to treat underwriter’s compensation the same for both a negotiated and competitive sale. In a competitive sale, underwriter’s compensation is not counted against voter-authorized debt; however, in a negotiated sale the underwriter’s compensation is counted against voter authorized debt. OAG treatment of underwriter’s compensation creates an economic inequity between the two methods of sale effectively negating an issuer’s choice. As proposed, S.B. 988 pertains to the treatment of underwriter’s compensation (production) related to the sale of voter authorized debt via the negotiated method of sale. This bill makes it clear that underwriter’s production does not count against voter authorization in a negotiated sale just as it currently is not counted against voter authorization for a competitive sale.

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 Chapter 1201B, Government Code, by adding Section 1201.028, as follows:

Sec. 1201.028. COMMISSIONS NOT TO BE PAID FROM PRINCIPAL. Provides that in a public or private sale of public securities, the principal amount of which is limited by law, by voted authorization, or otherwise, for purposes of determining whether the principal amount of public securities that are issued exceed the limit, amounts produced by the initial purchaser through market pricing of the public securities when the public securities are resold by the initial purchaser are not to be regarded as proceeds of the issuer if such amounts constitute all or part of the compensation of the initial purchaser.

SECTION 2. Effective date: September 1, 2001.

Makes application of this Act prospective.

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