

## **BILL ANALYSIS**

Senate Research Center  
79R5116 KEG-F

S.B. 495  
By: Williams  
Business & Commerce  
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As Filed

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

The Office of the Attorney General is required by law to review and approve all bonds and similar obligations ("public securities") issued by governmental entities and certain nonprofit corporations created to act on behalf of governmental entities and certain credit agreements and contracts related to public securities. The purpose of this review is to make a legal determination as to whether the securities and credit agreements have been properly authorized to be issued in conformity with the law. The opinion issued is extremely valuable to the issuers of public debt because it makes the securities and agreements valid, enforceable, and incontestable in court for any reason, except for a constitutional defect. The attorney general reviews the record of proceedings, which are the legal documents related to the issuance of a public security or credit agreement, for approximately 1,400 different public securities and credit agreements per year.

As part of the attorney general's review process, issuers of public securities are required by Section 1202.004, Government Code, to pay a nonrefundable fee to the attorney general for completion of this review. Chapter 1371, Government Code, and certain other statutes require the attorney general's approval of credit agreements and the attorney general collects a fee in accordance with Section 1202.004, Government Code, for those reviews.

The amounts of the fees charged for these reviews are based on a fee schedule that has remained unchanged for more than 13 years.

S.B. 495 increases the fees charged by the attorney general for its legal review of public securities and credit agreements by changing the method by which these fees are calculated. Fees would be based on 1/20th of one percent of the principal amount, with a minimum fee of no less than \$500 and a maximum fee of no more than \$10,000.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the attorney general in SECTION 2 (Section 1202.004, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 1201.001, Government Code, by amending Subdivision (4) and adding Subdivision (5), to redefine "record of proceedings" and define "credit agreement."

SECTION 2. Amends Section 1202.004, Government Code, as follows:

Sec. 1202.004. New heading: FEE FOR EXAMINATION BY ATTORNEY GENERAL. Deletes existing text providing the method for determining the amount of a fee required by this section and an exception. Requires an issuer, when the issuer submits a record of proceedings, rather than a public security, to the attorney general for examination and approval as provided by law, to pay a nonrefundable examination fee to the attorney general in accordance with this section, and, when issuing multiple series of a single public security issue, to pay the fee prescribed by this section for each series, rather than the fee prescribed by Subsection (a) or (b) for each series, not to exceed \$2,500 for one issue in which all series are issued simultaneously. Provides that the nonrefundable examination fee required by this section, except as provided by Subsection (d), is equal to the lesser of 1/20th of one percent of the principal amount of the public security to which the record of proceeding relates, or \$10,000. Provides that the

minimum examination fee required by this section is \$500. Authorizes the attorney general to adopt rules as necessary to administer this section.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2005.