

BILL ANALYSIS

Senate Research Center
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H.B. 3854
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 3854 addresses two issues that arose as a result of Hurricane Ike. First, the bill permits industrial development corporations, which are created and operated under state law, to issue a full range of special private activity bonds (PABs) authorized by the federal government in response to Hurricane Ike (Ike Bonds). (PABs are tax-exempt bonds that may be issued for limited private purposes, as authorized by federal tax law, in contrast to governmental bonds that may be issued for traditional public purposes.) Second, the bill validates a bond election held by Galveston County shortly after the storm.

With respect to the first issue, various PABs have been authorized to be issued since the 1970s. In 1979, local governments in Texas were first authorized to create development corporations to issue PABs. The purposes for which PABs may be issued have expanded and contracted over time. After Hurricane Ike, the federal government authorized Ike Bonds to be issued in the 27-county disaster area to finance rehabilitation and redevelopment after the storm. Currently, development corporations may not be authorized under state law to issue Ike Bonds for all the purposes now authorized by federal law. For example, some public utility purposes may not be covered. The bill permits development corporations to issue Ike Bonds for all the purposes permitted by federal law, except housing, and without a showing of economic development. Under federal law the dollar volume allocation of Ike Bonds in Texas (approximately \$1.8 billion) is done by the governor. Governor Rick Perry's office is working on an executive order to do so.

With respect to the second issue addressed by the bill, several weeks prior to Hurricane Ike's landfall on the Texas Gulf Coast on September 13, 2008, Galveston County called a bond election to be held on November 4, 2008. Although Galveston County sustained significant damage as a result of Hurricane Ike, county officials were able to conduct the election, together with general state and federal elections, and the bonds were approved by county voters. The three propositions for roads, facilities, and flood control passed by margins of 58 percent, 69 percent, and 56 percent, respectively. The bill validates that election and any issues related to it.

H.B. 3854 provides that Subchapter J (Hurricane Ike Disaster Relief), Chapter 501 (Provisions Governing Development Corporations), Local Government Code, applies to a corporation the creation of which was authorized by a unit wholly or partly located in the Hurricane Ike disaster area. The bill provides that a corporation to which Subchapter J applies includes an undertaking the costs of which are eligible to be paid from the proceeds of qualified Hurricane Ike disaster area bonds and does not include a qualified residential rental project or a project the costs of which are payable from qualified mortgage bonds. The bill provides that Article 1677 (Governmental Acts and Proceedings of Counties Affected by Hurricane Ike), Title 34 (County Finances), V.T.C.S., applies to any county located in the Hurricane Ike disaster area and that the governmental acts and proceedings of a county relating to a bond election are valid and binding obligations of the county.

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 501, Local Government Code, by adding Subchapter J, as follows:

SUBCHAPTER J. HURRICANE IKE DISASTER RELIEF

Sec. 501.451. **APPLICABILITY.** Provides that this subchapter applies only to a corporation the creation of which was authorized by a unit wholly or partly located in the Hurricane Ike disaster area, as defined by Section 701, Heartland Disaster Tax Relief Act of 2008 (Pub. L. No. 110-343).

Sec. 501.452. **PROJECTS RELATED TO HURRICANE IKE DISASTER AREA.** Defines "project."

Sec. 501.453. **PROJECTS NOT ADMINISTERED BY ECONOMIC DEVELOPMENT OFFICE.** Provides that a project authorized under this subchapter and bonds issued to pay all or part of the cost of a project under this subchapter are not subject to the requirements of Subchapter F (Administration by Economic Development Office).

SECTION 2. Amends Title 34, V.T.C.S., by adding Article 1677, as follows:

Art. 1677. GOVERNMENTAL ACTS AND PROCEEDINGS OF COUNTIES AFFECTED BY HURRICANE IKE

Sec. 1. **APPLICATION.** Provides that this article applies to any county located in the Hurricane Ike disaster area, as defined by Section 704, Heartland Disaster Tax Relief Act of 2008 (Pub. L. No. 110-343).

Sec. 2. **PROCEEDINGS VALIDATED.** Provides that the governmental acts and proceedings of a county relating to a bond election that was held November 4, 2008, and at which the ballot proposition was approved by a majority of the voters voting on the proposition are validated as of the dates they occurred. Provides that the validation includes the preparation and wording of the ballot proposition, any action taken by the county in calling and holding the bond election, and any other action taken by the county before the effective date of this article in connection with the issuance of any bonds approved in the bond election. Prohibits the acts and proceedings from being held invalid because they were not performed in accordance with law. Authorizes a county to take any further action or conduct any further proceeding necessary to complete the issuance of the bonds approved at the bond election, and provides that when issued the bonds are valid and binding obligations of the county in accordance with the terms of the bonds.

SECTION 3. Effective date: upon passage or September 1, 2009.