

BILL ANALYSIS

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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2012, the comptroller of public accounts of the State of Texas issued a series of reports that highlighted information related to local debt. In the last decade, local governments more than doubled their debt load to more than \$7,500 for every man, woman, and child in the state. Since 1993, the number of Texas special districts levying sales tax has increased by more than 1,900 percent. The number of Texas special districts levying property tax has risen by 45 percent. Certain interested parties believe that taxpayers have been asked to approve billions in debt without sufficient context—often with no idea of current debt load or annual debt service payments.

S.B. 14 seeks to provide transparency by requiring cities, counties, school districts, community college districts, universities and special districts that levy taxes or issue debt to provide more financial transparency to the public. Special districts include water districts, transit authorities, and hospital districts, among others. S.B. 14 ensures that voters will be more informed when they vote on new debt and limits the ability of governments to issue debt without voter approval. Additionally, S.B. 14 ensures that special-purpose taxing entities demonstrate that they serve the purposes for which they were created.

As proposed, S.B. 14 amends current law relating to the fiscal transparency and accountability of certain entities responsible for public money.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of education in SECTION 1 (Sections 46.102 and 46.103, Education Code) of this bill.

Rulemaking authority is expressly granted to the Texas Higher Education Coordinating Board in SECTION 3 (Section 61.0621, Education Code) of this bill.

Rulemaking authority previously granted to the comptroller of public accounts of the State of Texas is modified in SECTION 19 (Section 26.16, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 46, Education Code, by adding Subchapter D, as follows:

SUBCHAPTER D. PUBLIC INFORMATION REGARDING FACILITIES

Sec. 46.101. DEFINITION. Defines, in this subchapter, "instructional facility."

Sec. 46.102. INVENTORY OF EXISTING FACILITIES. (a) Requires a school district or open-enrollment charter school to post an inventory of the district's or school's existing facilities on the district's or school's Internet website.

(b) Requires that the inventory include at least the following information regarding instructional facilities:

(1) the total available square footage and maximum student capacity of the district's or school's instructional facilities in aggregate;

(2) the total current student enrollment in the district or school; and

(3) square footage, maximum student capacity, and current student enrollment for each separate instructional facility.

(c) Requires that the inventory include at least the following information regarding each facility other than an instructional facility:

(1) square footage;

(2) a statement of the facility's current use; and

(3) any other information specified by rule adopted by the commissioner of education (commissioner).

(d) Requires that the information provided under this section for the facility also include the final updated information required under Section 46.103, for a facility for which the school district or open-enrollment charter school developed and posted construction or renovation information in accordance with Section 46.103. Provides that this subsection does not require a district or school to develop and post information regarding construction or renovation costs for a facility not subject to Section 46.103.

(e) Requires a school district or open-enrollment charter school to update the information posted under this section at least annually and more frequently if necessary to ensure that the information provides an accurate description of existing facilities.

(f) Requires a school district or open-enrollment charter school to maintain an Internet website to comply with this section.

Sec. 46.103. CONSTRUCTION AND RENOVATION OF FACILITIES. (a) Requires a school district or open-enrollment charter school to post on the district's or school's Internet website at least the information specified by this section regarding each project for the construction or renovation of a facility.

(b) Requires that the following information be posted regarding an instructional facility:

(1) the square footage of the facility;

(2) the square footage per student, computed using the maximum student capacity at the facility;

(3) the cost per square foot;

(4) the cost per student, computed using the maximum student capacity at the facility; and

(5) the average cost of constructing a comparable facility in the region, as determined by the commissioner under Subsection (f).

(c) Requires that the following information be posted regarding a facility other than an instructional facility:

(1) the square footage of the facility;

- (2) a statement of the intended use of the facility;
- (3) the cost per square foot;
- (4) the average cost of constructing a comparable facility in the region, as determined by the commissioner under Subsection (f); and
- (5) any other information specified by rule adopted by the commissioner.

(d) Requires a school district or open-enrollment charter school to comply with this section at the beginning of a project by posting information based on estimated costs and anticipated construction or renovation design plans. Requires the district or school to post updated information that reflects the actual cost and final specifications of the project at the conclusion of the project. Requires the school district or open-enrollment school to continue to post the information as provided by Section 46.102(d).

(e) Requires a school district or open-enrollment charter school to maintain an Internet website to comply with this section.

(f) Requires the commissioner to determine and periodically update information regarding the average cost per square foot in each region of the state of constructing instructional facilities and other school district or open-enrollment charter school facilities. Authorizes the commissioner to base a determination under this subsection on any relevant information available to the commissioner and to enter into any contract necessary to authorize use of or access to the information.

SECTION 2. Amends Section 51.005, Education Code, as follows:

Sec. 51.005. New heading: ANNUAL FINANCIAL REPORT. (a) Creates this subsection from existing text. Requires each institution of higher education to:

- (1) Creates this subdivision from existing text and makes no further changes; and
- (2) post the institution's most recent annual financial report continuously on the institution's Internet website.

(b) Requires each institution of higher education that is a component of a university system to include in its annual financial report a description of any debt issued by the university system for or on behalf of the institution during the fiscal year covered by the report. Defines, in this subsection, "university system."

SECTION 3. Amends Subchapter C, Chapter 61, Education Code, by adding Section 61.0621, as follows:

Sec. 61.0621. JUNIOR COLLEGE DISTRICT CONSTRUCTION COST REPORTING. (a) Requires the Texas Higher Education Coordinating Board (THECB) to require each junior college district to report building construction costs and related information to THECB for the purpose of determining the average cost per square foot, adjusted for inflation for the region of the state in which the project is located, and the average cost per student for each junior college district.

(b) Requires THECB to prescribe the form, manner, and times of reports required under this section in consultation with the governing boards of the state's junior college districts.

(c) Requires THECB to compile the information reported under Subsection (a) for all junior college districts and periodically report its findings to the districts.

Requires THECB and each junior college district to post THECB's findings on each respective entity's Internet website.

(d) Requires THECB to adopt rules for the administration of this section.

(e) Requires THECB, in administering this section, to attempt to avoid duplicating other reporting requirements applicable to junior college districts.

SECTION 4. Amends Subchapter B, Chapter 403, Government Code, by adding Section 403.0117, as follows:

Sec. 403.0117. LOCAL TAX RATES PUBLISHED ON INTERNET. (a) Requires the comptroller of public accounts of the State of Texas (comptroller) to publish on the comptroller's Internet website, listed by county:

(1) the name of each political subdivision that imposes a sales and use tax and the sales and use tax rate for the political subdivision; and

(2) the tax rate information reported to the comptroller by each county assessor-collector under Section 26.16(e) (relating to the comptroller prescribing by rule the manner in which information is required to be presented), Tax Code.

(b) Requires the comptroller to update the information described by Subsection (a) at least annually.

SECTION 5. Amends Section 1202.008, Government Code, as follows:

Sec. 1202.008. New heading: COLLECTION AND REPORT OF INFORMATION ON LOCAL SECURITIES. (a) Defines "local security."

(b) Creates this subsection from existing text. Requires, rather than authorizes, the attorney general of the State of Texas (OAG) to collect, in the form required by the Texas Bond Review Board (BRB), information on each local security, rather than information on public securities issued by a municipal corporation or political subdivision of this state.

(c) Redesignates existing Subsection (b) as Subsection (c). Requires that the information include the terms of each local security, the debt service payable on each local security, and other information required by BRB. Makes conforming changes.

(d) Redesignates existing Subsection (c) as Subsection (d). Requires OAG to send the information to BRB for inclusion in the reports required by Sections 1231.062 (Biennial Debt Statistics Report), 1231.104, and 1231.105, rather than inclusion in the board's report of debt statistics under Section 1231.062.

(e) Prohibits OAG from approving a local security under Section 1202.003 (Review and Approval of Public Securities) until OAG receives written notification from BRB that BRB has received the information required by Subsection (c) or has agreed to a later date for the submission of the information.

SECTION 6. Amends the heading to Subtitle B, Title 9, Government Code, to read as follows:

SUBTITLE B. PROVISIONS APPLICABLE TO PUBLIC SECURITIES

SECTION 7. Amends Section 1231.001, Government Code, by adding Subdivision (4), to define "local security."

SECTION 8. Amends Section 1231.062(b), Government Code, as follows:

(b) Requires that a report include, in addition to certain other metrics, total debt per capita; tax-supported debt per capita; principal scheduled to be repaid in five years, 10 years, and 20 years; recent issuances of short-term notes; and debt outstanding. Deletes existing text requiring the inclusion of tax-supported debt service as a percentage of general revenue expenditure; per capita total debt; per capita tax-supported debt; total debt and tax-supported debt as a percentage of total income; total personal income per capita; total debt per capita as a percentage of total income per capita; total debt and tax-supported debt as a percentage of annual revenues and expenditures; principal required to be repaid in five years and principal required to be repaid in 10 years; growth rates of total debt per capita and total debt per dollar of personal income; recent trends in the issuance of short-term notes; debt service coverage ratios, if applicable; and recent trends in capitalized interest use.

SECTION 9. Amends the heading to Section 1232.102, Government Code, to read as follows:

Sec. 1231.102. STATE SECURITIES ANNUAL REPORT.

SECTION 10. Amends Subchapter F, Chapter 1231, Government Code, by adding Sections 1231.104, 1231.105, and 1231.106, as follows:

Sec. 1231.104. LOCAL SECURITIES ANNUAL REPORT. Requires the bond finance office, not later than the 180th day after the end of each state fiscal year, to publish a report listing the amount of local securities outstanding, applicable repayment schedules, and other information the office considers relevant.

Sec. 1231.105. ONLINE ANNUAL LOCAL DEBT STATISTICS REPORT. Requires the bond finance office to publish on the office's Internet website a report that includes the statistical information listed in Section 1231.062(b) for all local securities for the preceding fiscal year no later than the 150th day after the end of each state fiscal year.

Sec. 1231.106. REQUIRED INFORMATION. (a) Requires an issuer of a local security to provide annually to the bond finance office, and at other times required by the office, information that the office determines necessary to administer the powers or duties of BRB or the office, including the preparation of any report.

(b) Requires the bond finance office to develop a standardized format to simplify the submission of information by an issuer under this section.

SECTION 11. Amends Chapter 1251, Government Code, by designating Sections 1251.001 through 1251.006 as Subchapter A and adding a heading to Subchapter A to read as follows:

SUBCHAPTER A. COUNTIES AND MUNICIPALITIES

SECTION 12. Amends Chapter 1251, Government Code, by adding Subchapter B, as follows:

SUBCHAPTER B. BOND MATTERS AFFECTING MORE THAN ONE TYPE OF POLITICAL SUBDIVISION

Sec. 1251.051. DEFINITIONS. Defines "debt obligation" and "political subdivision" in this subchapter.

Sec. 1251.052. CONTENTS OF BALLOT PROPOSITION. (a) Requires that the proposition submitted for an election to authorize a political subdivision to issue bonds distinctly state:

(1) as a total amount and as a per capita amount:

(A) the then-current principal of all outstanding debt obligations of the political subdivision;

(B) the then-current combined principal and interest required to pay all outstanding debt obligations of the political subdivision on time and in full;

(C) the principal of the bonds to be authorized; and

(D) the estimated combined principal and interest required to pay the bonds to be authorized on time and in full;

(2) the purpose for which the bonds are to be authorized;

(3) the estimated rate of interest for the bonds to be authorized; and

(4) the maturity date of the bonds to be authorized.

(b) Provides that the requirements for a proposition prescribed by this section are in addition to any other requirements prescribed by law. Provides that to the extent of a conflict between this section and Section 52.072 (Propositions), Election Code, this section controls.

Sec. 1251.053. **ONLINE SAMPLE BALLOT.** Requires that a sample of the ballot printed for an election to authorize a political subdivision to issue bonds be posted on the political subdivision's Internet website as soon as practicable after the official ballots have been prepared and remain posted until the day following the election.

Sec. 1251.054. **FORM OF BALLOT.** Requires the secretary of state to prescribe a form of the ballot for an election held under this subchapter. Provides that a political subdivision is not required to use the form.

SECTION 13. Transfers Section 140.005, Local Government Code, to Subchapter D, Chapter 12, Education Code, redesignates it as Section 12.1191, Education Code, and amends it as follows:

Sec. 12.1191. New heading: **ANNUAL FINANCIAL STATEMENT OF CHARTER SCHOOL.** (a) Creates this subsection from existing text. Requires the governing body of an open-enrollment charter school to prepare an annual financial statement showing for each fund subject to the authority of the governing body during the fiscal year:

(1) the total receipts of the fund, itemized by source of revenue, including taxes, assessments, service charges, grants of state money, gifts, or other general sources from which funds are derived;

(2) the total disbursements of the fund, itemized by the nature of the expenditure; and

(3) the balance in the fund at the close of the fiscal year.

Deletes existing text requiring the governing body of a school district, junior college district, or a district or authority organized under Article III, Section 52 (Counties, Cities, or Other Political Corporations or Subdivisions; Lending Credit; Grants; Bonds), or Article XVI, Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Texas Constitution, to prepare the annual financial statement showing certain information for each certain fund.

(b) Requires the governing body of an open-enrollment charter school to take action to ensure that the school's annual financial report is made available in the manner provided by Chapter 552 (Public Information), Government Code, and is posted continuously on the school's Internet website.

(c) Requires an open-enrollment charter school to maintain an Internet website to comply with this section.

SECTION 14. Amends Chapter 140, Local Government Code, by adding Section 140.008, as follows:

Sec. 140.008. ANNUAL FINANCIAL REPORT; DEBT INFORMATION. (a) Defines, in this section, "debt obligation" and "political subdivision."

(b) Requires a political subdivision to prepare an annual financial report that includes:

(1) financial information for each fund subject to the authority of the governing body of the political subdivision during the fiscal year, including:

(A) the total receipts of the fund, itemized by source of revenue, including taxes, assessments, service charges, grants of state money, gifts, or other general sources from which funds are derived;

(B) the total disbursements of the fund, itemized by the nature of the expenditure;

(C) the balance in the fund as of the last day of the fiscal year; and

(D) any other information required by law to be included by the political subdivision in an annual financial report or comparable annual financial statement, exhibit, or report; and

(2) then-current debt obligation information for the political subdivision that must state:

(A) as a total amount and as a per capita amount:

(i) the amount of all authorized debt obligations;

(ii) the principal of all outstanding debt obligations;

(iii) the principal of each outstanding debt obligation;

(iv) the combined principal and interest required to pay all outstanding debt obligations on time and in full; and

(v) the combined principal and interest required to pay each outstanding debt obligation on time and in full; and

(B) for each debt obligation:

(i) the issued and unissued amount;

(ii) the spent and unspent amount;

(iii) the maturity date; and

(iv) the stated purpose for which the debt obligation was authorized.

(c) Requires the governing body of a political subdivision to take action to ensure that the political subdivision's annual financial report is made available for inspection by any person and is posted continuously on the political subdivision's Internet website, and that certain contact information for the main office of the political subdivision is continuously posted on the website.

(d) Requires a political subdivision to maintain an Internet website to comply with this section.

SECTION 15. Amends Section 271.047, Local Government Code, by adding Subsection (d), as follows:

(d) Prohibits the governing body of an issuer from authorizing a certificate to pay a contractual obligation to be incurred if a bond proposition to authorize the issuance of bonds for the same purpose was submitted to the voters during the preceding three years and failed to be approved, except in a case of grave public necessity to meet an unusual and unforeseen condition.

SECTION 16. Amends Section 271.049, Local Government Code, as follows:

Sec. 271.049. NOTICE OF INTENTION TO ISSUE CERTIFICATES; PETITION AND ELECTION. (a) Prohibits certificates from being issued unless the issuer publishes notice of its intention to issue the certificates, regardless of the sources of payment of certificates. Requires that the notice be published:

(1) once a week for two consecutive weeks in a newspaper, as defined by Subchapter C (Notice By Publication In Newspaper), Chapter 2051, Government Code, that is of general circulation in the area of the issuer, with the date of the first publication to be before the 45th day, rather than the 30th day, before the date tentatively set for the passage of the order or ordinance authorizing the issuance of the certificates; and

(2) continuously on the issuer's Internet website for at least 45 days before the date tentatively set for the passage of the order or ordinance authorizing the issuance of the certificates.

(b) Requires that the notice state:

(1) Makes no changes to this subdivision;

(2) the purposed of the certificates to be authorized;

(3) Makes no changes to this subdivision;

(4) the following, stated as a total amount and as a per capita amount:

(A) the then-current principal of all outstanding debt obligations of the issuer;

(B) the then-current combined principal and interest required to pay all outstanding debt obligations of the issuer on time and in full;

(C) the principal of the certificates to be authorized; and

(D) the estimated combined principal and interest required to pay the certificates to be authorized on time and in full;

(5) the estimated rate of interest for the certificates to be authorized;

(6) the maturity date of the certificates to be authorized; and

(7) the process by which a petition may be submitted requesting an election on the issuance of the certificates, and sets forth the required language to be used in the petition.

Deletes existing text requiring the maximum amount and purpose of the certificates to be authorized to be stated in the notice. Makes nonsubstantive changes.

(c) Prohibits the issuer from authorizing the issuance of the certificates unless the issuance is approved at an election ordered, held, and conducted in the manner provided for bond elections under Chapter 1251 (Bond Elections), Government Code, if before the date tentatively set for the authorization of the issuance of the certificates or if before the authorization certain authorities receive a petition signed by a number of qualified voters of the issuer equal to five percent or more of the number of votes cast in the municipality or county, as applicable, in the most recent gubernatorial general election, rather than signed by at least five percent of the qualified voters of the issuer, protesting the issuance of the certificates.

(d) Provides that this section does not apply to certificates issued for the purposes described by Sections 271.056(1) (relating to prompt action to relieve the necessity of the residents or preserve the property of the issuer), (2) (relating to a case in which it is necessary to preserve the public health), (3) (relating to unforeseen damage to public equipment, machinery, or other property), rather than Sections 271.056(1), (2), (3), and(4) (relating to a contract for personal or professional services).

(e) Requires an issuer to maintain an Internet website to comply with this section.

(f) Defines, in this section, "debt obligation."

SECTION 17. Amends Title 1, Special District Local Laws Code, by adding Chapter 2, as follows:

CHAPTER 2. REVIEW OF CERTAIN SPECIAL DISTRICTS

Sec. 2.001. DEFINITION. Defines, in this chapter, "special district."

Sec. 2.002. COMPREHENSIVE REVIEW REQUIRED. Requires the governing body of a special district, at least once every three years, to conduct a comprehensive review of the district under this chapter to determine whether the district should be continued or dissolved.

Sec. 2.003. COMPREHENSIVE SELF-EVALUATION REPORT. (a) Requires the governing body, after conducting the review, to publish a written self-evaluation report not later than the 30th day before the date of the public hearing required by Section 2.005.

(b) Requires that the self-evaluation report include:

(1) an identification of the statutory provision authorizing the special district;

(2) an identification of the mission, goals, and objectives intended for the special district and an assessment of the extent to which the mission, goals, and objectives have been achieved, have failed to be achieved, or are continuing to be achieved;

(3) an identification of the problem or need that the special district was created to address and an assessment of the extent to which the problem or need has been addressed, has failed to be addressed, or is continuing to be addressed;

(4) an identification of the activities of the special district that overlap or duplicate those of other governmental entities;

(5) an identification of each tax, assessment, fee, or penalty that the special district is authorized to impose or collect;

(6) a statement of the revenue collected by the special district and an assessment of whether the revenue exceeds the amount needed to accomplish the mission, goals, and objectives of the district;

(7) an identification of the special district's financial liabilities, including bonds and other obligations; and

(8) a determination of whether the special district should be continued or dissolved.

(c) Requires the governing body to make the self-evaluation report available for inspection by any person. Requires the governing body to take action to ensure that the self-evaluation report is posted continuously on the special district's Internet website.

Sec. 2.004. NOTICE OF HEARING. (a) Requires the governing body of the special district to publish notice of the hearing in at least one newspaper of general circulation in the county in which the district is located and on the district's Internet website no earlier than the 30th day or later than the 15th day before the date of the hearing required by Section 2.005. Requires that the notice on the website remain posted until the conclusion of the hearing.

(b) Sets forth the required language of the notice.

Sec. 2.005. PUBLIC HEARING. (a) Requires the governing body of a special district to conduct a public hearing at which persons interested in the continuation or dissolution of the district are given the opportunity to be heard.

(b) Requires the governing body to vote on the question of whether the special district should be continued or dissolved at the conclusion of the hearing. Requires the governing body to take action to dissolve the district if the governing body votes to dissolve the district.

(c) Requires the governing body to post on the special district's Internet website, not later than the 10th day after the date of the public hearing the minutes of the hearing, the estimated number of members of the public in attendance at the hearing, and the number of witnesses testifying at the hearing.

Sec. 2.006. INTERNET WEBSITE. Requires a special district to maintain an Internet website to comply with this chapter.

SECTION 18. Amends the heading to Section 26.16, Tax Code, to read as follows:

Sec. 26.16. REPORTING OF TAX RATES AND POSTING OF RATES ON COUNTY'S INTERNET WEBSITE.

SECTION 19. Amends Section 26.16, Tax Code, by amending Subsections (a), (b), and (e) and adding Subsection (f), as follows:

(a) Requires county assessor-collectors of counties that do not participate in the assessment or collection of property taxes, in addition to those counties that do participate in the assessment or collection of property taxes, to maintain an Internet website containing certain information.

(b) Requires each taxing unit, rather than all or part of the territory of which is located in the county, to annually provide the information described by Subsection (a) pertaining to the taxing unit to the county assessor-collector of each county in which all or part of the unit's territory is located following the adoption of a tax rate by the taxing unit for the current tax year. Makes a conforming change.

(e) Requires the county assessor-collector for each county to report the tax rate information described by Subsection (a) for the current tax year to the comptroller.

(f) Requires the comptroller to prescribe by rule the time and manner in which the information described by this section is required to be reported and published, rather than presented.

SECTION 20. Repealer: Section 140.006 (Publication of Annual Financial Statement By School, Road, or Other District), Local Government Code.

SECTION 21. (a) Provides that Section 46.103, Education Code, as added by this Act, applies only to school district construction or renovation projects that are in progress on or are initiated on or after the effective date of this Act. Provides that a school district is not required to post information regarding projects that are completed on or before the effective date of this Act.

(b) Makes application of Sections 1251.052 and 1251.053, Government Code, as added by this Act, prospective.

(c) Requires the secretary of state (SOS) to make available on SOS's Internet website a form of the ballot described by Section 1251.054, Government Code, as added by this Act, not later than January 1, 2014.

(d) Requires the governing body of a school district or junior college district required to publish an annual financial statement under former Section 140.006 (Publication of Annual Financial Statement By School, Road or Other District), Local Government Code, to publish an annual financial statement for the last fiscal year ending before the effective date of this Act for which the district has not published an annual financial statement.

(e) Makes application of Section 140.008, Local Government Code, as added by this Act, prospective.

(f) Makes application of the changes in law made by this Act to Section 271.049, Local Government Code, prospective.

(g) Requires the governing body of a special district to which Chapter 2, Special District Local Laws Code, as added by this Act, applies to conclude the first comprehensive review cycle required by that chapter not later than September 1, 2014.

SECTION 22. Effective date: September 1, 2013.