

BILL ANALYSIS

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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Debt held by cities, counties, special districts, and school districts in Texas has risen to alarming levels. According to the Texas Bond Review Board's latest data, local government debt service rose to \$333.1 billion in fiscal year 2014, which is the equivalent of nearly \$12,500 owed per man, woman, and child in the state of Texas. A contributing factor to the rise of local debt has been increased reliance on the issuance of certificates of obligation (COs) which are defined as debt instruments that allow certain cities, counties, and certain hospital or health districts to issue debt without voter approval (unless a referendum is petitioned) and are backed by tax revenue, fee revenues, or a combination of the two. According to a report prepared by the Comptroller of Public Accounts of the State of Texas titled *Your Money and Local Debt*, "Since fiscal 2005, local governments have issued \$12.7 billion in COs. Since 2005, CO issues were 16.6 percent of all debt issued by eligible entities." Another analysis by the Texas Bond Review Board (BRB) shows how quickly their use has escalated. According to BRB: "Since fiscal 2004 CO debt outstanding has increased by 87.2% (\$6.04 billion) from \$6.93 billion outstanding in fiscal 2004 to \$12.97 billion outstanding at August 31, 2013. At August 31, 2013, Cities accounted for 72.6 percent of the total CO debt outstanding."

S.B. 310 does not eliminate or substantially impair the issuance of COs. Instead, the bill focuses on three key areas:

- Protects public input: Institutes safeguards that prohibit political subdivisions from issuing COs to achieve a purpose that voters rejected, except in instances of "grave public necessity."
- Provides greater government transparency: Requires a lengthier notification period and that certain basic financial information be made available online to the public prior to the issuance of a CO. Also requires an issuer to maintain a website.
- Makes it easier for voters to appeal: Reforms the petition process so that five percent of the total number of voters who voted in the most recent gubernatorial election can compel a public vote.

As proposed, S.B. 310 amends current law relating to procedures and requirements for the issuance of certificates of obligation.

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 Section 271.047, Local Government Code, by adding Subsection (d), as follows:

- (d) Prohibits the governing body of an issuer, except in a case of grave public necessity to meet an unusual and unforeseen condition, 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.

SECTION 2. Amends Section 271.049, Local Government Code, as follows:

(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, 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 change to this subdivision;

(2) Deletes text stating the maximum amount of the certificates to be authorized; makes a nonsubstantive change;

(3) Makes a nonsubstantive change;

(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. Sets forth language required for the certificate form.

(c) Provides that, if before the date tentatively set for the authorization of the issuance of the certificates or if before the authorization, the municipal secretary or clerk if the issuer is a municipality, or the county clerk if the issuer is a county, receives 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 at least five percent of the qualified voters of the issuer, protesting the issuance of the certificates, the issuer may not authorize 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 Election), Government Code.

(d) Provides that this section does not apply to certificates issued for the purposes described by Sections 271.056(1)-(3) (Exemption from Advertisement Requirement), rather than Sections 271.056(1)-(4).

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

(f) Defines "debt obligation."

SECTION 3. Provides that the changes in law made by this Act to Section 271.049, Local Government Code, apply only to a certificate of obligation for which the first notice of intention to issue the certificate is made on or after the effective date of this Act. Provides that a certificate of obligation for which the first notice of intention to issue the certificate is made before the effective date of this Act is governed by the law in effect when the notice of intention is made, and the former law is continued in effect for that purpose.

SECTION 4. Effective date: September 1, 2015.