

## **BILL ANALYSIS**

C.S.H.B. 397  
Mowrey  
Urban Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Chapter 271 of the Local Government Code is entitled *Purchasing and Contracting Authority of Municipalities, Counties, and Certain Other Local Governments*. Among other provisions, chapter 271 contains the Public Property Finance Act, provisions for competitive bidding on public works contracts, cooperative purchasing, and other miscellaneous provisions. Subchapter C of chapter 261 is entitled *Certificate of Obligation Act*. This contains the legislation first enacted in 1971 for the issuance of certificates of obligation (“COs”) by cities and counties.

Under current law, a municipality or county can issue certificates of obligation in any amount without voter approval, although the statute has since its enactment contained a provision requiring voter approval upon a petition of five percent of the voters. These debt instruments were originally intended to help local government meet short-term needs without the cost or time needed to hold a bond election. In recent years, some units of local government have abused their authority to issue certificates of obligation and have taken on ever-increasing amount of debt.

C.S.H.B. 397 lowers the petition threshold under which citizens can require a public vote on the issuance of certificates of obligation, and includes a requirement that the issuer publicize intent to issue.

### **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 271.049, Local Government Code, to require an election prior to the issuance of certificates of obligation if a petition is submitted to the municipal clerk or secretary, or the county clerk, depending on which entity is the issuer, signed by a total number of registered voters equal to at least two percent of the number of votes cast for all candidates for governor in the last gubernatorial election held in the county or municipality. In addition, this section requires notice by newspaper publication 30 days before issuance, rather than the current 14 days; and requires the issuer to send press releases of intent to issue to area television, radio, and newsprint media 30 days before issuance.

SECTION 2. Amends Section 271.0525(c), Local Government Code, to require an election prior to the issuance of county refinancing certificates of obligation if two percent of the qualified voters protest the issuance.

SECTION 3. Act not retroactive.

SECTION 4. Effective date.

### **EFFECTIVE DATE**

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2003.

**COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.H.B. 397 removes the original's \$2 million ceiling that would trigger an election regarding the issuance of certificates of obligation. In addition, the substitute adds the requirement of press releases to area media outlets and extends newspaper publication requirements to 30 days before issuance. Modifies two percent petition requirement in original from two percent of qualified voters to two percent of votes in the most recent gubernatorial election. Changes petition requirement for a protest of the issuance of refinancing certificates from five to two percent. Reformatted.