

AN ACT

relating to the issuance of obligations by municipalities to pay unfunded liabilities to public pension funds.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle A, Title 4, Local Government Code, is amended by adding Chapter 107 to read as follows:

CHAPTER 107. OBLIGATIONS FOR CERTAIN LIABILITIES TO PUBLIC PENSION FUNDS OF A MUNICIPALITY

Sec. 107.001. DEFINITIONS. In this chapter:

(1) "Obligation" includes a bond, certificate, note, or book entry obligation.

(2) "Unfunded liability" means an unfunded, accrued liability of a municipality to a public pension fund as determined by actuarial analysis.

Sec. 107.002. DEFINITION OF "PUBLIC PENSION FUND." In this chapter, "public pension fund":

(1) means a continuing, organized program or plan of service retirement, disability retirement, or death benefits for officers or employees of a municipality;

(2) includes a plan qualified under Section 401(a), Internal Revenue Code of 1986, as amended; and

(3) does not include:

(A) a program that provides only workers' compensation benefits;

1 (B) a program administered by the federal
2 government;

3 (C) a plan described by Section 401(d), Internal
4 Revenue Code of 1986, as amended;

5 (D) an individual retirement account consisting
6 of an annuity contract described by Section 403(b), Internal
7 Revenue Code of 1986, as amended;

8 (E) an individual retirement account as defined
9 by Section 408(a), Internal Revenue Code of 1986, as amended;

10 (F) an individual retirement annuity as defined
11 by Section 408(b), Internal Revenue Code of 1986, as amended;

12 (G) an eligible deferred compensation plan as
13 defined by Section 457(b), Internal Revenue Code of 1986, as
14 amended; or

15 (H) a program for which benefits are administered
16 by a life insurance company or for which the only funding agency is
17 a life insurance company.

18 Sec. 107.003. PENSION FUND OBLIGATIONS AUTHORIZED. (a) A
19 municipality may issue obligations to fund all or any part of an
20 unfunded liability.

21 (b) Before authorizing issuance and delivery of an
22 obligation under this section, the governing body of the
23 municipality must enter into a written agreement with the governing
24 body of the public retirement system that:

25 (1) has fiduciary responsibility for assets of the
26 public pension fund or public pension funds that are to receive the
27 net proceeds of the obligations to be issued; and

1 (2) has the duty to oversee the investment and
2 expenditure of the assets of the public pension fund.

3 (c) The written agreement must state the amount of the
4 unfunded liability and the date or dates on which the public pension
5 fund will accept the net proceeds of the obligations to be issued in
6 payment of all or a portion of the unfunded liability.

7 Sec. 107.004. PROCEEDS OF OBLIGATIONS ISSUED. The
8 municipality shall deposit the net proceeds of obligations issued
9 under Section 107.003 to the credit of the public pension fund. The
10 amount deposited under this section becomes part of the public
11 pension fund's assets.

12 Sec. 107.005. PAYMENT OF OBLIGATIONS. An obligation issued
13 under Section 107.003 may be made payable by the municipality from:

14 (1) the fund from which compensation is paid to its
15 officers and employees;

16 (2) its general fund; or

17 (3) taxes, revenues, both taxes and revenues, or any
18 other source or combination of sources of money that the
19 municipality may use under state law to secure or pay any kind of
20 bond or obligation.

21 Sec. 107.006. OBLIGATION AS REFINANCING. An obligation
22 issued under Section 107.003 is a complete or partial refinancing
23 of a commitment of the municipality to fund its unfunded liability.

24 Sec. 107.007. SALE OF OBLIGATIONS; MATURITY. Obligations
25 issued under Section 107.003 may be sold at private or public sale
26 and must mature not later than the 30th anniversary of the date of
27 issuance.

1 Sec. 107.008. ADDITIONAL AUTHORITY; CREDIT AGREEMENTS.

2 (a) In this section, "credit agreement" and "obligation" have the
3 meanings assigned by Section 1371.001, Government Code.

4 (b) The governing body of a municipality that issues
5 obligations under Section 107.003 may exercise any of the rights or
6 powers of the governing body of an issuer under Chapter 1371,
7 Government Code, and may enter into a credit agreement under that
8 chapter. An obligation issued under Section 107.003 is an
9 obligation under Chapter 1371, Government Code, but is not required
10 to be rated as required by that chapter.

11 Sec. 107.009. CHAPTER CONTROLLING. This chapter prevails
12 over any conflict between this chapter and:

13 (1) another law respecting the issuance of obligations
14 of a municipality; or

15 (2) a municipal home-rule charter.

16 SECTION 2. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2003.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1696 passed the Senate on April 25, 2003, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 31, 2003, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1696 passed the House, with amendment, on May 28, 2003, by the following vote: Yeas 91, Nays 35, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor