

By: Wentworth

S.B. No. 1696

A BILL TO BE ENTITLED

AN ACT

relating to the issuance of obligations by political subdivisions of the state to pay unfunded liabilities to public pension funds.

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

SECTION 1. Subtitle C, Title 4, Local Government Code, is amended by adding Chapter 139 to read as follows:

CHAPTER 139. OBLIGATIONS FOR CERTAIN LIABILITIES

TO PUBLIC PENSION FUNDS

Sec. 139.001. DEFINITIONS. In this chapter:

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

(2) "Political subdivision" includes a combination of political subdivisions, including a combination created under Chapter 791, Government Code. The term does not include a school district.

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

Sec. 139.002. 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 political subdivision;

(2) includes a plan qualified under Section 401(a),

1 Internal Revenue Code of 1986, as amended; and

2 (3) does not include:

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

5 (B) a program administered by the federal
6 government;

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

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

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

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

16 (G) an eligible deferred compensation plan as
17 defined by Section 457(b), Internal Revenue Code of 1986, as
18 amended; or

19 (H) a program for which benefits are administered
20 by a life insurance company or for which the only funding agency is
21 a life insurance company.

22 Sec. 139.003. PENSION FUND OBLIGATIONS AUTHORIZED. (a) A
23 political subdivision may issue obligations to fund all or any part
24 of an unfunded liability.

25 (b) Before authorizing issuance and delivery of an
26 obligation under this section, the governing body of the political
27 subdivision must enter into a written agreement with the governing

1 body of the public retirement system that:

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

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

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

11 Sec. 139.004. PROCEEDS OF OBLIGATIONS ISSUED. The
12 political subdivision shall deposit the net proceeds of obligations
13 issued under Section 139.003 to the credit of the public pension
14 fund. The amount deposited under this section becomes part of the
15 public pension fund's assets.

16 Sec. 139.005. OBLIGATIONS PAYABLE FROM REVENUE. (a) An
17 obligation issued under Section 139.003 must be made payable from
18 any source of revenue available to the political subdivision for
19 payment of its contributions to the public pension fund.

20 (b) Unless otherwise provided by the political subdivision,
21 the political subdivision shall pay debt service on obligations
22 issued under Section 139.003 from:

23 (1) the fund from which compensation is paid to its
24 officers and employees; or

25 (2) its general fund.

26 Sec. 139.006. OBLIGATION AS REFINANCING. An obligation
27 issued under Section 139.003 is a complete or partial refinancing

1 of a commitment of the political subdivision to fund its unfunded
2 liability. When an obligation is issued under Section 139.003, a
3 commitment of the political subdivision to fund its unfunded
4 liability being refinanced by the obligations is transferred to
5 those obligations.

6 Sec. 139.007. SALE OF OBLIGATIONS; MATURITY. Obligations
7 issued under Section 139.003 may be sold at private or public sale
8 and must mature not later than the 30th anniversary of the date of
9 issuance.

10 Sec. 139.008. ADDITIONAL AUTHORITY; CREDIT AGREEMENTS. (a)
11 In this section, "credit agreement" and "obligation" have the
12 meanings assigned by Section 1371.001, Government Code.

13 (b) The governing body of a political subdivision that
14 issues obligations under Section 139.003 may exercise any of the
15 rights or powers of the governing body of an issuer under Chapter
16 1371, Government Code, and may enter into a credit agreement under
17 that chapter. An obligation issued under Section 139.003 is an
18 obligation under Chapter 1371, Government Code, but is not required
19 to be rated as required by that chapter.

20 Sec. 139.009. CHAPTER CONTROLLING. This chapter prevails
21 over any conflict between this chapter and:

22 (1) another law respecting the issuance of obligations
23 of political subdivisions; or

24 (2) a municipal home-rule charter.

25 SECTION 2. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

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- 1 Act does not receive the vote necessary for immediate effect, this
- 2 Act takes effect September 1, 2003.