

1-1 By: Wentworth S.B. No. 1696  
1-2 (In the Senate - Filed March 14, 2003; March 20, 2003, read  
1-3 first time and referred to Committee on Intergovernmental  
1-4 Relations; April 14, 2003, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;  
1-6 April 14, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1696 By: Wentworth

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the issuance of obligations by certain municipalities  
1-11 to pay unfunded liabilities to public pension funds.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subtitle A, Title 4, Local Government Code, is  
1-14 amended by adding Chapter 107 to read as follows:

1-15 CHAPTER 107. OBLIGATIONS FOR CERTAIN LIABILITIES TO PUBLIC  
1-16 PENSION FUNDS OF CERTAIN MUNICIPALITIES

1-17 Sec. 107.001. APPLICABILITY. This chapter applies only to  
1-18 a municipality that has a population of 100,000 or more.

1-19 Sec. 107.002. DEFINITIONS. In this chapter:

1-20 (1) "Obligation" includes a bond, certificate, note,  
1-21 or book entry obligation.

1-22 (2) "Unfunded liability" means an unfunded, accrued  
1-23 liability of a municipality to a public pension fund as determined  
1-24 by actuarial analysis.

1-25 Sec. 107.003. DEFINITION OF "PUBLIC PENSION FUND." In this  
1-26 chapter, "public pension fund":

1-27 (1) means a continuing, organized program or plan of  
1-28 service retirement, disability retirement, or death benefits for  
1-29 officers or employees of a municipality;

1-30 (2) includes a plan qualified under Section 401(a),  
1-31 Internal Revenue Code of 1986, as amended; and

1-32 (3) does not include:

1-33 (A) a program that provides only workers'  
1-34 compensation benefits;

1-35 (B) a program administered by the federal  
1-36 government;

1-37 (C) a plan described by Section 401(d), Internal  
1-38 Revenue Code of 1986, as amended;

1-39 (D) an individual retirement account consisting  
1-40 of an annuity contract described by Section 403(b), Internal  
1-41 Revenue Code of 1986, as amended;

1-42 (E) an individual retirement account as defined  
1-43 by Section 408(a), Internal Revenue Code of 1986, as amended;

1-44 (F) an individual retirement annuity as defined  
1-45 by Section 408(b), Internal Revenue Code of 1986, as amended;

1-46 (G) an eligible deferred compensation plan as  
1-47 defined by Section 457(b), Internal Revenue Code of 1986, as  
1-48 amended; or

1-49 (H) a program for which benefits are administered  
1-50 by a life insurance company or for which the only funding agency is  
1-51 a life insurance company.

1-52 Sec. 107.004. PENSION FUND OBLIGATIONS AUTHORIZED. (a) A  
1-53 municipality may issue obligations to fund all or any part of an  
1-54 unfunded liability.

1-55 (b) Before authorizing issuance and delivery of an  
1-56 obligation under this section, the governing body of the  
1-57 municipality must enter into a written agreement with the governing  
1-58 body of the public retirement system that:

1-59 (1) has fiduciary responsibility for assets of the  
1-60 public pension fund or public pension funds that are to receive the  
1-61 net proceeds of the obligations to be issued; and

1-62 (2) has the duty to oversee the investment and  
1-63 expenditure of the assets of the public pension fund.

2-1 (c) The written agreement must state the amount of the  
2-2 unfunded liability and the date or dates on which the public pension  
2-3 fund will accept the net proceeds of the obligations to be issued in  
2-4 payment of all or a portion of the unfunded liability.

2-5 Sec. 107.005. PROCEEDS OF OBLIGATIONS ISSUED. The  
2-6 municipality shall deposit the net proceeds of obligations issued  
2-7 under Section 107.004 to the credit of the public pension fund. The  
2-8 amount deposited under this section becomes part of the public  
2-9 pension fund's assets.

2-10 Sec. 107.006. PAYMENT OF OBLIGATIONS. An obligation issued  
2-11 under Section 107.004 may be made payable by the municipality from:

2-12 (1) the fund from which compensation is paid to its  
2-13 officers and employees;

2-14 (2) its general fund; or

2-15 (3) taxes, revenues, both taxes and revenues, or any  
2-16 other source or combination of sources of money that the  
2-17 municipality may use under state law to secure or pay any kind of  
2-18 bond or obligation.

2-19 Sec. 107.007. OBLIGATION AS REFINANCING. An obligation  
2-20 issued under Section 107.004 is a complete or partial refinancing  
2-21 of a commitment of the municipality to fund its unfunded liability.

2-22 Sec. 107.008. SALE OF OBLIGATIONS; MATURITY. Obligations  
2-23 issued under Section 107.004 may be sold at private or public sale  
2-24 and must mature not later than the 30th anniversary of the date of  
2-25 issuance.

2-26 Sec. 107.009. ADDITIONAL AUTHORITY; CREDIT AGREEMENTS.  
2-27 (a) In this section, "credit agreement" and "obligation" have the  
2-28 meanings assigned by Section 1371.001, Government Code.

2-29 (b) The governing body of a municipality that issues  
2-30 obligations under Section 107.004 may exercise any of the rights or  
2-31 powers of the governing body of an issuer under Chapter 1371,  
2-32 Government Code, and may enter into a credit agreement under that  
2-33 chapter. An obligation issued under Section 107.004 is an  
2-34 obligation under Chapter 1371, Government Code, but is not required  
2-35 to be rated as required by that chapter.

2-36 Sec. 107.010. CHAPTER CONTROLLING. This chapter prevails  
2-37 over any conflict between this chapter and:

2-38 (1) another law respecting the issuance of obligations  
2-39 of a municipality; or

2-40 (2) a municipal home-rule charter.

2-41 SECTION 2. This Act takes effect immediately if it receives  
2-42 a vote of two-thirds of all the members elected to each house, as  
2-43 provided by Section 39, Article III, Texas Constitution. If this  
2-44 Act does not receive the vote necessary for immediate effect, this  
2-45 Act takes effect September 1, 2003.

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