

BILL ANALYSIS

C.S.S.B. 1535
By: Fraser
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law authorizes a municipality to annex and abolish a municipal utility district and authorizes the municipality to issue municipal bonds in an amount voted, but not issued by the district; however, current statutes do not address the specific situation of annexation and abolition of a municipal utility district authorized to issue bonds payable from the proceeds of a tax levied on only a part of the district. C.S.S.B. 1535 authorizes a municipality which annexes and abolishes a municipal utility district, which has voted but not issued bonds payable from ad valorem taxes on a part of the district, to issue municipal bonds in the amount voted but not issued by the district, with the municipal bonds payable from the proceeds of an ad valorem tax levied on only the part of the district where the original tax was authorized. This bill also authorizes a municipality, as an alternative to the issuance of such bonds, to establish on its own motion a public improvement district for the purpose of issuing and selling municipal bonds in the amount not to exceed the amount of the bonds not issued by the district for the purpose of carrying out the purposes for which the district bonds were voted.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 1535 amends Subtitle A, Title 4, Local Government Code, to add Chapter 108, relating to the authority of certain municipalities to issue bonds for defined areas. The bill applies to a municipality that annexes and abolishes a municipal utility district created under Section 59, Article XVI, Texas Constitution, that contains a defined area.

The bill authorizes a municipality that has abolished a municipal utility district that has voted, but not issued bonds payable from ad valorem taxes on a defined area within the district as designated by the district pursuant to Section 54.806, Water Code, to issue municipal bonds in the amount voted but not issued by the district for the purpose of carrying out the purposes for which the district bonds were voted, with the municipal bonds payable from the proceeds of an ad valorem tax levied on only the defined area within the district where the original tax was authorized. The bill provides that the municipal bonds are issued under the authority under which they were voted, particularly Section 59, Article XVI, Texas Constitution. The bonds must be authorized by ordinance of the governing body of the municipality. The ordinance must provide for the levy of taxes on all taxable property in the defined area of the abolished district to pay the principal of and interest on the bonds when due.

As an alternative to the issuance of such bonds payable from the proceeds of any ad valorem tax levied on only the defined area within the district, the bill authorizes the governing body of a municipality, on its own motion, to establish a public improvement district under Subchapter A, Chapter 372, Local Government Code, for the purpose of issuing and selling municipal bonds. The bonds may be issued in an amount not to exceed the amount of the unissued district bonds approved by the voters, and may be issued for the purpose of carrying out the purposes for which the district bonds were voted, including the cost of facilities constructed after creation of the defined area in accordance with the plan of improvements adopted by the board of directors of the abolished municipal utility district.

A municipality that establishes such a public improvement district under the chapter may enter into agreements with developers of property in the public improvement district for the construction, acquisition, expansion, improvement, or extension of improvements in the public improvement district; reimburse a developer for the costs of the improvements through assessments payable in installments on property in the public improvement district; and pledge any type of assessment, including installment assessments, levied against property in the public improvement district as security for bonds and agreements. In structuring the assessments, the municipality may include in the assessment a coverage factor, any prepayment dates, terms or amounts, and any other methodology or amounts determined necessary or convenient by the governing body of the municipality.

Any such bonds issued by a municipality that establishes a public improvement district must be authorized by ordinance of the governing body of the municipality and is required to provide for the collection of the assessments as authorized by Subchapter A, Chapter 372, and Chapter 108, Local Government Code. The bonds may be payable in installments, as determined by the governing body of the municipality, against the property in the defined area. The municipality may use the bonds to pay or reimburse a developer for public improvements in the public improvement district under a development or other agreement with the developer; pay the principal of and interest on the bonds when due; or for any combination of these purposes. The municipality may further pledge any available funds to secure the bonds, including taxes or other revenue.

A municipality may issue bonds payable from the proceeds of any ad valorem tax levied on only the defined area within the district, or may create a public improvement district, but may not do both. The bill also provides that a municipality that issues such bonds or creates a public improvement district is not required to provide payment to a developer under Section 43.0715, Local Government Code.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

Language clarifying the applicability of the chapter was added.

A statement providing that the chapter controls in the event of a conflict between it and any other law was added.

Language clarifying that a municipality that issues bonds payable from the proceeds of any ad valorem tax levied on only the defined area within the abolished district issues such bonds under the authority under which they were voted, particularly Section 59, Article XVI, Texas Constitution, was added. The original's provisions relating to the terms and approval of the municipal bonds were deleted since these requirements are already addressed under the general laws of the State of Texas.

Provisions allowing for the creation of a public improvement district by a municipality for the purpose of issuing and selling municipal bonds as an alternative to the issuance of bonds payable from the proceeds of any ad valorem tax levied on only the defined area were added. Language addressing the maximum amount of such bonds and the purpose for which such bonds may be issued was added. Provisions allowing a municipality that establishes such a public improvement district to enter into agreements with developers of property in the public improvement district, and allowing such a municipality to reimburse a developer for the costs of the improvements through assessments, were added. Language regarding the terms of such assessments was also added.

Language clarifying that any bonds issued by a municipality that establishes a public improvement district must be authorized by ordinance of the governing body of the municipality was added. Provisions were also added regarding the payment of the bonds, purposes for which the bonds may be used, and security for the bonds.

Language was added providing that a municipality may elect to issue bonds payable from the proceeds of any ad valorem tax levied on only the defined area within the abolished district, or may create a public improvement district, but may not do both.

Language was also added clarifying that a municipality that issues bonds payable from the proceeds of any ad valorem tax levied on only the defined area, or that creates a public improvement district under the chapter, is not required to provide payment to a developer under Section 43.0715, Local Government Code.