

BILL ANALYSIS

H.B. 4279
By: Harper-Brown
County Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently under Texas law, the definition of credit agreement, for purposes of a governing body's obligation for certain public improvements, does not expressly authorize an issuer of the obligations to use the issuer's revenues, resources, or assets to provide liquidity or credit support for the obligations. Texas law also implies that issuers who purchase their own securities do not extinguish such securities. The bill seeks to clarify the sources available for securing credit agreements.

H.B. 4279 includes in the definition of "credit agreement" a contract or agreement of the governing body of an issuer to provide, use, or pledge any of the issuer's available revenues, resources, or assets. The bill requires the governing body of an issuer of obligations for certain public improvements that intends to purchase an obligation with the issuer's own fund to adopt and include in the obligation authorization a finding that the body is not purchasing the obligation in order to extinguish the obligation. The bill requires an issuer to submit an affidavit to the attorney general stating that the issuer has complied with applicable requirements before the attorney general is authorized to approve the issuer's interest rate management agreement.

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

H.B. 4279 amends the Government Code to require the governing body of an issuer of obligations for certain public improvements that intends to purchase an obligation with the issuer's own funds to adopt and include in the obligation authorization a finding that the body is not purchasing the obligation in order to extinguish the obligation. The bill includes an issuer's available revenues, resources, and assets, to the extent that the issuer has executed a credit agreement consisting solely of the issuer's revenues, resources, and assets as a source from which the cost to the issuer of a credit agreement or payments owed by the issuer under a credit agreement are authorized to be paid and secured. The bill adds a credit agreement that may be paid and secured as described above as an exception to the provision making a credit agreement an agreement for professional services but not a contract subject to provisions relating to the adjudication of claims arising under written contracts with local governmental entities. The bill requires an issuer to submit an affidavit to the attorney general stating that the issuer has complied with applicable requirements before the attorney general is authorized to approve the issuer's interest rate management agreement. The bill includes in the definition of "credit agreement" a contract or agreement of the governing body of an issuer to provide, use, or pledge any of the issuer's available revenues, resources, or assets.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.