

BILL ANALYSIS

S.B. 14
By: Williams
Appropriations
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The comptroller of public accounts recently issued a series of reports on local debt in Texas, and the reports have generated concerns regarding the growth of such debt in the last decade. Interested parties believe that taxpayers have been asked to approve billions of dollars in debt without sufficient context and often with little idea of existing debt loads or annual debt service payments. S.B. 14 seeks to provide financial accountability and transparency by, among other provisions, requiring certain public entities to post revenue and expenditure information online along with details on long-term debt obligations, requiring public hearings and the provision of voter information documents before elections for new debt, revising local government use of certificates of obligation, and requiring the reporting of certain information about school facilities to better reflect the information voters need in deciding whether to undertake new debt.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of education in SECTION 1, the Texas Higher Education Coordinating Board in SECTION 3, the secretary of state in SECTION 13, the comptroller of public accounts in SECTION 15, and the executive director of the Texas Commission on Environmental Quality in SECTIONS 22 and 24 of this bill.

ANALYSIS

School Facilities Information

S.B. 14 amends the Education Code to require a school district or open-enrollment charter school, for the purpose of providing information to the public regarding district or school facilities usage and taxpayer value, to report data elements specified by commissioner of education rule to the Texas Education Agency (TEA) through the Texas Student Data System (TSDS) or a successor data management system maintained by TEA and to provide a direct link on the district's or school's Internet website to the applicable data system through which the facilities information relevant to the specific district or school may be readily accessed. The bill requires the commissioner to adopt rules necessary to implement these provisions, including rules ensuring that the TSDS or a successor data management system maintained by TEA includes appropriate data elements regarding school facilities usage and taxpayer value. The bill adds a temporary provision, set to expire September 1, 2017, to require the commissioner to adopt such rules based on the recommendations of the Taxpayer Value and School Facilities Usage Advisory Committee established by the bill. These provisions apply to a school district or charter school beginning on the effective date of the rules adopted by the commissioner.

S.B. 14 establishes the Taxpayer Value and School Facilities Usage Advisory Committee; sets out its composition; and requires the lieutenant governor and speaker of the house of representatives to submit to the commissioner and comptroller of public accounts lists of persons recommended for appointment to the committee, including recommended persons for each applicable position, not later than October 15, 2013. The bill requires the commissioner and the

comptroller to make the necessary committee appointments not later than December 1, 2013. The bill requires the committee to meet to develop recommendations regarding the data that should be considered in evaluating a school district's or charter school's facility usage and taxpayer value with regard to school facility construction and renovation and to hold its initial meeting as soon as possible after the committee members are selected, but not later than January 15, 2014. The bill requires the committee, not later than December 31, 2014, to develop its final recommendations and submit a report to the governor, lieutenant governor, and speaker of the house of representatives and to make the report available electronically to members of the legislature. The bill requires the commissioner, based on the recommendations, to ensure that the TSDS or a successor data management system maintained by TEA includes appropriate data elements regarding school facilities and to adopt rules for purposes of reporting information regarding facilities usage and taxpayer value. The bill establishes that a committee member is not entitled to reimbursement of expenses or to compensation and exempts the committee from Government Code provisions regulating state agency advisory committees. The bill's provisions relating to the committee expire September 1, 2017.

Institution of Higher Education Annual Financial Report

S.B. 14 amends the Education Code to require each institution of higher education to take action to ensure that the institution's most recent annual financial report is posted continuously on the institution's Internet website and to require each institution, not later than November 30 of each year, to take action to ensure that a report showing the amount and a description of the institution's outstanding debt on the last day of the preceding state fiscal year is posted on the institution's Internet website. The bill requires the report for a university system to show the aggregate outstanding debt for the system and, to the extent that the debt is attributable to a specific institution, the outstanding debt for each system institution. The bill requires each institution of higher education to maintain or cause to be maintained an Internet website to comply with these requirements.

Junior College District Construction Cost Reporting

S.B. 14 amends the Education Code to require the Texas Higher Education Coordinating Board to require each junior college district to report building construction costs and related information to the coordinating board for the purpose of determining certain costs. The bill requires the coordinating board to prescribe the form, manner, and times of the reports in consultation with the governing boards of the state's junior college districts and to compile the information reported for all junior college districts and periodically report its findings to the districts. The bill requires the coordinating board and each junior college district to take action to ensure that the coordinating board's findings are posted on each respective entity's Internet website. The bill requires the coordinating board to adopt rules for the administration of these provisions and requires the coordinating board, in administering these provisions, to attempt to avoid duplicating other reporting requirements applicable to junior college districts. The bill requires each junior college district to maintain or cause to be maintained an Internet website to comply with these construction cost reporting provisions.

Local Sales and Use Tax Information

S.B. 14 amends the Government Code to require the comptroller to publish, and to update at least annually, on the comptroller's Internet website, listed by county, the name of each political subdivision that imposes a sales and use tax, the corresponding tax rate, and certain tax rate information reported to the comptroller by each county assessor-collector.

Securities Information

S.B. 14 amends the Government Code to require the bond finance office at the Bond Review Board, not later than the 180th day after the last day of each state fiscal year, to publish a local

securities report listing certain information and requires the office, not later than the 150th day after the last day of each state fiscal year, to publish on the office's Internet website a report that includes certain statistical information for all local securities for the preceding fiscal year.

S.B. 14 redesignates the public securities issued by a municipal corporation or political subdivision of the state to be reviewed by the attorney general as local securities and defines "local security" as a public security other than a state security. The bill requires, rather than authorizes, the attorney general in conducting such a review to collect certain information on each local security. The bill requires the attorney general to send the local securities information to the board not later than the fifth day before the date the attorney general approves the local security. The bill requires the bond finance office, if an issuer has not provided the information, to notify the person listed as the contact for the issuer and sets out requirements relating to the notice. The bill requires an issuer to provide the information described in the notice to the office not later than the 90th day after the date the issuer receives it and requires the office and the attorney general to maintain a noncompliance list of issuers that do not provide the information in such a manner. The bill prohibits the attorney general from approving a local security submitted by an issuer that is included on the noncompliance list until the attorney general receives written notification from the office that the office has received the required information or has agreed to a later date for the submission of the information. The bill revises the information included in the biennial debt statistics report submitted to the legislature by the Bond Review Board relating to state securities and debt obligations issued by local governments.

S.B. 14 authorizes the board to enter into one or more contracts to procure services to collect and maintain information regarding the indebtedness of state agencies and local governments.

Public Hearing and Voter Information Document for the Issuance of Bonds

S.B. 14 amends the Government Code to require the governing body of a political subdivision, before the subdivision may hold an election on or after January 1, 2014, to authorize the issuance of bonds, to conduct a public hearing at which persons interested in the issuance of the bonds are given the opportunity to be heard, with the hearing held not earlier than the day the governing body adopts the election order or later than the first day before the date the period for early voting by personal appearance begins for the election. The bill requires the political subdivision, not earlier than the 30th day or later than the 15th day before the date of the hearing, to provide in the manner as provided by the bill the notice of the hearing and each voter information document as described by the bill. The bill requires the political subdivision to prepare a separate voter information document containing certain distinct statements for each proposition to be discussed at the hearing. The bill sets out the statements, including the manner in which they are to appear, and procedures for printing the documents. The bill establishes that a good faith estimate or projection and a good faith assumption made to determine the estimate or projection of certain information in the documents does not constitute a breach of contract with the voters solely because the assumption, estimate, or projection is later determined to be incorrect. The bill requires the governing body of the political subdivision to make a copy of each voter information document available to each hearing attendee, requires the secretary of state by rule to prescribe the form of such a document, and requires the secretary of state to make the form available on the secretary of state's Internet website not later than January 1, 2014.

S.B. 14 requires the Texas Ethics Commission to provide guidelines for political subdivisions regarding how to conduct a hearing with regard to these provisions and how to provide additional information on the form of a voter information document prescribed by the secretary of state without violating electioneering and political advertising laws and requires the commission to make the guidelines available on the commission's Internet website not later than January 1, 2014.

S.B. 14 requires the governing body of a political subdivision that has at least 250 registered voters to take action to ensure that a sample of the ballot printed for an election to authorize a

political subdivision to issue bonds is posted or submitted in a manner required by the bill as soon as practicable after the official ballots have been prepared and remains posted until the day following the election. The bill requires a political subdivision that has at least 250 registered voters, with certain specified exceptions as set out in the bill, to maintain or cause to be maintained an Internet website to comply with the bill's provisions relating to certain bond matters affecting more than one type of political subdivision.

S.B. 14 requires a political subdivision that has at least 250 registered voters, except for a county or municipality with a population of more than 2,000 or a school district or a junior college district, that did not maintain an Internet website or cause a website to be maintained on January 1, 2013, to either post information relating to the public hearing and the voter information documents on the political subdivision's website, if the political subdivision chooses to maintain the website or cause the website to be maintained, or post such information on a website in which the political subdivision controls the content of the posting, including a social media site, provided that the information is easily found by searching the name of the political subdivision on the Internet.

S.B. 14 provides alternative posting requirements available to certain water districts that have at least 250 registered voters, to a county with a population of 10,200 or less, and to a municipality with a population of 5,000 or less. The bill adds a temporary provision, set to expire September 1, 2015, and applicable only to certain water districts, to establish that a requirement of these provisions that a political subdivision post on a website or electronically submit to the executive director of the Texas Commission on Environmental Quality (TCEQ) a notice, voter information document, or ballot applies to an election called by the governing body of the political subdivision on or after September 1, 2014. The bill specifies that certain alternative websites and web addresses as described by the bill are not websites maintained by a political subdivision for the purpose of other law.

Open-Enrollment Charter School Annual Financial Statement

S.B. 14 transfers the Local Government Code provision relating to the annual financial statement required of an open-enrollment charter school, school district, junior college district, and certain constitutionally organized districts and authorities to the Education Code and limits its applicability to a charter school. The bill requires the governing body of a charter school to take action to ensure that the school's annual financial statement is made available in the manner provided by state public information law and is posted continuously on the charter school's Internet website. The bill requires a charter school to maintain or cause to be maintained a website to comply with these provisions.

Political Subdivision Annual Financial Report or Statement

S.B. 14 amends the Local Government Code to require a political subdivision, but not certain water districts, to prepare an annual financial report that includes certain financial and debt obligation information. The bill authorizes such a political subdivision, instead of replicating information that is posted separately online, to provide in the report a direct link to, or a clear statement describing the location of, the separately posted information. The bill authorizes the political subdivision, as an alternative to preparing an annual financial report, to provide to the comptroller the financial and debt obligation information and any other related information required by the comptroller in the form and in the manner prescribed by the comptroller, to be posted on the comptroller's Internet website in the format the comptroller determines appropriate. The bill requires the political subdivision to provide a link from the political subdivision's website, or on a website as authorized by the bill, to the location on the comptroller's website where the political subdivision's financial information may be viewed and requires the comptroller to adopt rules necessary to implement this alternative reporting option.

S.B. 14 requires the governing body of a political subdivision to take action to ensure that the

annual financial report is made available for inspection by any person and, if the political subdivision has at least 250 registered voters, is either posted continuously on the political subdivision's Internet website until the political subdivision posts the next annual financial report or is posted continuously on a website as otherwise authorized by the bill until the political subdivision posts the next annual financial report, along with specified contact information for the main office of the political subdivision. The bill requires a political subdivision that has at least 250 registered voters, with certain exceptions, to maintain or cause to be maintained an Internet website to comply with these provisions relating to an annual financial report.

S.B. 14 requires a political subdivision that has at least 250 registered voters, except for a county or municipality with a population of more than 2,000 or a school district or a junior college district, that did not maintain an Internet website or cause a website to be maintained on January 1, 2013, to either post the financial and debt obligation information on the political subdivision's website, if the political subdivision chooses to maintain the website or cause the website to be maintained or post such information on a website in which the political subdivision controls the content of the posting, including a social media site, provided that the information is easily found by searching the name of the political subdivision on the Internet. The bill provides alternative posting requirements available to a county or municipality required to prepare an annual financial report and post financial and debt obligation information on an Internet website. The bill specifies that certain alternative websites and web addresses as described by the bill are not websites maintained by a political subdivision for the purpose of other law.

S.B. 14 repeals a provision relating to the publication of an annual financial statement of certain districts and requires the governing body of a school district or junior college district required to publish an annual financial statement under this repealed provision to publish an annual financial statement for the last fiscal year ending before the bill's effective date for which the district has not published an annual financial statement.

Certificates of Obligation

S.B. 14 amends the Local Government Code, in provisions relating to the authorization of a certificate of obligation by ordinance or order as set out in the Certificate of Obligation Act of 1971, to prohibit the governing body of an issuing municipality, county, or hospital district established under Health and Safety Code provisions relating to hospital districts in counties of at least 190,000 from authorizing a certificate of obligation to pay a contractual obligation to be incurred if a bond proposition to authorize the issuance of bonds for the same purpose was submitted to the voters during the preceding three years and failed to be approved. The bill authorizes a governing body to authorize a certificate that the governing body is otherwise prohibited from authorizing in certain specified cases and to comply with a state or federal law, rule, or regulation if the political subdivision has been officially notified of noncompliance with the law, rule, or regulation.

S.B. 14 requires a notice of intention to issue certificates of obligation to be published continuously on the issuer's Internet website, or on a website authorized by the bill, for at least 30 days before the date tentatively set for the passage of the order or ordinance authorizing the issuance of the certificates and until the first day after the date the issuer adopts the order or ordinance. The bill removes a provision requiring the notice to state the maximum amount of the certificates to be authorized and sets out additional information required to be included in the notice. The bill makes the notice requirements applicable to certificates issued for the purposes of a contract for personal or professional services that are otherwise exempt from advertisement requirements for competitive bids. The bill requires an issuer, with certain exceptions, to maintain an Internet website to comply with these provisions.

S.B. 14 requires an issuer of certificates of obligation, except for a county or municipality with a population of more than 2,000, that did not maintain an Internet website or cause a website to be maintained on January 1, 2013, to either post the applicable information on the issuer's website,

if the issuer chooses to maintain the website or cause the website to be maintained, or post such information on a website in which the issuer controls the content of the posting, including a social media site, provided that the information is easily found by searching the name of the issuer on the Internet.

Comprehensive Review of Special Districts

S.B. 14 amends the Local Government Code to require the governing body of a special district that has outstanding debt or imposes a tax, assessment, or fee to conduct a comprehensive review of the district at least once every six years and defines "special district" as a political subdivision of Texas that has a limited geographic area, is created by local law or under general law for a special purpose, and is authorized to impose a tax, assessment, or fee. The bill excludes from that term a school district, a junior college district, or a political subdivision that receives financial assistance through the state water implementation fund created by the 83rd Legislature, Regular Session, 2013. The bill requires the governing body of a special district that issues debt or imposes a tax, assessment, or fee for the first time on or after September 1, 2013, to conduct the first comprehensive review not later than the third anniversary of the date the governing body issues the debt or imposes the tax, assessment, or fee. The bill requires the governing body, after conducting the review, to prepare a written self-evaluation report within a specified period and sets out the required elements of the report. The bill requires the governing body that has issued debt or imposed a tax, assessment, or fee before the bill's effective date to prepare the self-evaluation report for the first comprehensive review cycle not later than September 1, 2014.

S.B. 14 authorizes the district, instead of replicating in the self-evaluation report certain information that is posted separately online, to provide in the report a direct link to, or a clear statement describing the location of, the separately posted information. The bill requires the special district to make the report available for inspection in the manner provided by state public information law and requires a special district that has at least 250 registered voters to ensure that the report is posted continuously on the district's Internet website or a website authorized by the bill, beginning not later than the 30th day before the date of the public hearing regarding consideration of the self-evaluation report as required by the bill and until the first anniversary of the date the public hearing is held.

S.B. 14 requires certain water districts that have at least 250 registered voters to either post the self-evaluation in the manner provided by the bill or electronically submit the report to TCEQ's executive director not later than the 30th day before the date of the required public hearing. The bill requires the executive director, as soon as practicable, to post a self-evaluation report submitted in that manner continuously on TCEQ's Internet website until the first anniversary of the date the public hearing is held. The bill requires the governing body of a special district to conduct a public hearing to give persons interested in the self-evaluation report the opportunity to be heard and sets out the notice requirements for such a hearing. The bill requires a special district that has at least 250 registered voters, not later than the 10th day after the date its governing body adopts the minutes for the public hearing, to post certain information about the hearing on the special district's website or on a website authorized by the bill or submit the information electronically to TCEQ in the manner provided and requires such a special district to maintain or cause to be maintained an Internet website to comply with these provisions.

S.B. 14 requires a special district that has at least 250 registered voters, if the special district did not maintain an Internet website or cause a website to be maintained on January 1, 2013, to either post the comprehensive review information on the special district's website, if the special district chooses to maintain the website or cause the website to be maintained, or post such information on a website in which the special district controls the content of the posting, including a social media site, provided that the information is easily found by searching the name of the special district on the Internet. The bill provides an alternative posting requirement available to certain water districts that have at least 250 registered voters. The bill specifies that certain alternative websites and web addresses as described by the bill are not websites

maintained by a special district for the purpose of other law. The bill adds a temporary provision, set to expire September 1, 2015, and applicable to such districts, to establish that a requirement of these provisions that a special district post information on a website or electronically submit information to TCEQ's executive director applies beginning on September 1, 2014.

County Assessor-Collector Information

S.B. 14 amends the Tax Code to require the county assessor-collector for each county, including those that do not participate in the assessment or collection of property taxes, with certain exceptions, to maintain or cause to be maintained an Internet website. The bill requires the county assessor-collector to post certain tax rate information on that website, as an alternative to the county's website, or to provide on at least one of those websites a link to the location on the comptroller's website where the information may be viewed. The bill requires the county assessor-collector for each county to report the tax rate information for the current tax year to the comptroller. The bill requires the comptroller by rule to prescribe both the time and manner in which such information is required to be reported and published, rather than only prescribing the manner in which such information is required to be presented.

S.B. 14 requires a county assessor-collector for a county with a population of 2,000 or less, if the county assessor-collector or the county served by the assessor-collector did not maintain or cause to be maintained an Internet website on January 1, 2013, to provide on at least one website a link to the tax rate information on the comptroller's website, provided that the link is easily found by searching the name of the county or the assessor-collector on the Internet. The bill, as an alternate to that method, requires such an assessor-collector in such a county to either post the tax rate information on the assessor-collector's or county's website, if the assessor-collector or county chooses to maintain the website or cause the website to be maintained, or to post such information on a website in which the assessor-collector or county controls the content of the posting, including a social media site, provided that the information is easily found by searching the name of the county or the assessor-collector on the Internet.

Texas Commission on Environmental Quality

S.B. 14 amends the Water Code to require TCEQ to require an audit of certain water districts or an annual financial report of districts exempt from audit requirements to include the financial and debt obligation information required by the bill for a political subdivision's annual financial report. The bill requires TCEQ to update the accounting and auditing manuals required for its auditing of districts to include the required information not later than March 1, 2014.

S.B. 14 requires the executive director of TCEQ to establish and maintain a separate dedicated web page on TCEQ's Internet website for each district that submits information required or authorized by the bill. The bill requires the executive director to post the following information as soon as practicable on the dedicated web page of the applicable district: each audit, financial dormancy affidavit, or annual financial report filed with TCEQ as part of its auditing of districts and each notice or other document electronically submitted to the executive director by a district as required or authorized by the bill. The bill adds a temporary provision, set to expire September 1, 2015, to establish that a requirement that the executive director post such information applies beginning on September 1, 2014. The bill authorizes the executive director to adopt rules necessary to implement these provisions regarding a separate dedicated web page, but requires that they be adopted not later than March 1, 2014.

Repealed Law

S.B. 14 repeals Section 140.006, Local Government Code.

EFFECTIVE DATE

September 1, 2013.