BILL ANALYSIS

C.S.S.B. 449
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Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Capital appreciation bonds defer the payment of principal and interest until the bond matures, typically many years after the issuance of the bond. The bonds are typically used by school districts that have limited financing options but in which immediate development is needed due to a rapidly expanding population. Interested parties note that the rationale for the bonds is that the number of taxpayers will increase and the anticipated tax base growth will enable repayment of the obligation. The parties contend that these bonds are increasingly used in Texas and other states in which the school-aged population is expanding faster than can be supported by the current tax base.

However, the parties assert that this buy-now, pay-later approach often results in crippling repayment obligations, with the repayment costs being greater than the benefits derived from the bond, and that the repayment ratio of these bonds is much higher than that of other types of bonds. For example, it has been reported that in certain school districts, taxpayers will have to repay around nine times the amount the school district originally borrowed and that statewide during the last few years, Texas municipalities issued capital appreciation bonds sufficient to receive more than $2 billion in immediate funding, but in doing so committed to future repayment obligations of more than $20 billion. C.S.S.B. 449 seeks to address these concerns.

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. 449 amends the Government Code to prohibit a county, municipality, special district, school district, junior college district, or other political subdivision from issuing capital appreciation bonds that are secured by property taxes unless the bonds have a scheduled maturity date that is not later than 20 years after the date of issuance; the governing body of the political subdivision has received a written estimate of the cost of the issuance; the governing body of the political subdivision has determined in writing whether any personal or financial relationship exists between the members of the governing body and any financial advisor, bond counsel, bond underwriter, or other professional associated with the bond issuance; and the governing body of the political subdivision posts prominently on the political subdivision's Internet website and enters in the minutes of the governing body certain information regarding the bonds, bond projects, the political subdivision's bonded indebtedness, the estimate of the cost of the issuance, and any such relationships. The bill exempts the issuance of refunding bonds and the issuance of capital appreciation bonds for the purpose of financing transportation projects from this prohibition.

C.S.S.B. 449 caps the total amount of capital appreciation bonds at 25 percent of the political subdivision's total outstanding bonded indebtedness at the time of the issuance, including the amount of principal and interest to be paid on the outstanding bonds until maturity. The bill prohibits a county, municipality, special district, school district, junior college district, or other political subdivision from extending the maturity date of an issued capital appreciation bond, including through the issuance of refunding bonds that extend the maturity date, except that the bill authorizes a school district to extend that date only if the maximum legally allowable tax rate for indebtedness has been adopted and the attorney general certifies in writing that the solvency of the permanent school fund's bond guarantee program would be threatened without the extension.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.S.B. 449 may differ from the engrossed version in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Subchapter B, Chapter 1201, Government Code, is amended by adding Section 1201.0245 to read as follows: Sec. 1201.0245. CAPITAL APPRECIATION BONDS BY LOCAL GOVERNMENTS PROHIBITED. (a) In this section, "capital appreciation bond" means a bond that accrues and compounds interest from its date of delivery, the interest on which by its terms is payable only upon maturity or prior redemption. (b) A county, municipality, special district, school district, junior college district, or other political subdivision of the state may not issue capital appreciation bonds that are secured by ad valorem taxes.	SECTION 1. Subchapter B, Chapter 1201, Government Code, is amended by adding Section 1201.0245 to read as follows: Sec. 1201.0245. CAPITAL APPRECIATION BONDS BY POLITICAL SUBDIVISIONS. (a) In this section, "capital appreciation bond" means a bond that accrues and compounds interest from its date of delivery, the interest on which by its terms is payable only upon maturity or prior redemption. (b) A county, municipality, special district, school district, junior college district, or other political subdivision may not issue capital appreciation bonds that are secured by ad valorem taxes unless: (1) the bonds have a scheduled maturity date that is not later than 20 years after the date of issuance; (2) the governing body of the political subdivision has received a written estimate of the cost of the issuance, including: (A) the amount of principal and interest to be paid until maturity; (B) the amount of fees to be paid to outside vendors, including vendors who sell products to be financed by the bond issuance; (C) the amount of fees to be paid to each financing team member; and (D) the projected tax impact of the bonds and the assumptions on which the calculation of that impact is based; (3) the governing body of the political

subdivision has determined in writing whether any personal or financial relationship exists between the members of the governing body and any financial advisor, bond counsel, bond underwriter, or other professional associated with the bond issuance; and

(4) the governing body of the political subdivision posts prominently on the political subdivision's Internet website and enters in the minutes of the governing body:

(A) the total amount of the bonds to be voted on;

(B) the length of maturity of the bonds;

(C) the projects proposed to be financed with bond proceeds;

(D) the amount of the political subdivision's total bonded indebtedness at the time of the election, including the amount of principal and interest to be paid until maturity;

(E) the information received under Subdivision (2) and determined under Subdivision (3); and

(F) the political subdivision's total amount of outstanding bonded indebtedness, updated quarterly, including the amount of principal and interest to be paid until maturity.

(c) The total amount of capital appreciation bonds may not exceed 25 percent of the political subdivision's total outstanding bonded indebtedness at the time of the issuance, including the amount of principal and interest to be paid on the outstanding bonds until maturity.

(d) Except as provided by Subsection (e), a county, municipality, special district, school district, junior college district, or other political subdivision may not extend the maturity date of an issued capital appreciation bond, including through the issuance of refunding bonds that extend the maturity date.

(e) A school district may extend the maturity date of an issued capital appreciation bond only if:

(1) the maximum legally allowable tax rate for indebtedness has been adopted; and

(2) the attorney general certifies in writing that the solvency of the permanent school fund's bond guarantee program would be threatened without the extension.

(c) Subsection (b) does not apply to the issuance of refunding bonds under Chapter	(f) Subsection (b) does not apply to the issuance of refunding bonds under Chapter

1207, Government Code. (d) Subsection (b) does not apply to the issuance of capital appreciation bonds for the purpose of financing transportation projects.	1207. (g) Subsection (b) does not apply to the issuance of capital appreciation bonds for the purpose of financing transportation projects.
SECTION 2. The change in law made by this Act does not affect the validity of capital appreciation bonds issued before the effective date of this Act.	SECTION 2. Same as engrossed version.
SECTION 3. This Act takes effect September 1, 2013.	SECTION 3. Same as engrossed version.