SENATE AMENDMENTS

2nd Printing

By: Flynn, Dale, Shaheen, Parker, Capriglione, et al. H.B. No. 114

A BILL TO BE ENTITLED

AN ACT

relating to the issuance of certain capital appreciation bonds by political subdivisions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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 25 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 the projected tax 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 proposed bonds;

(B) the length of maturity of the proposed bonds;

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

(D) the intended use of bond proceeds not spent after completion of the projects identified in Paragraph (C);

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

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

(G) the information received under Subdivision (2) and determined under Subdivision (3).

(c) The governing body of a political subdivision that makes a determination that a personal or financial relationship described by Subsection (b)(3) exists shall submit the determination to the Texas Ethics Commission.

(d) The governing body of a political subdivision shall regularly update the debt information posted on the political subdivision's Internet website under Subsection (b)(4)(F) to ensure that the information is current and accurate.

(e) Capital appreciation bond proceeds may not be used to purchase the following items, unless an item has an expected useful life, determined based on the depreciable life of the asset under the Internal Revenue Code of 1986, that exceeds the bond's maturity date:

(1) items more regularly considered maintenance items, including replacement HVAC units, upgraded plumbing, or similar items; or

(2) transportation-related items, including buses.

(f) Capital appreciation bond proceeds unspent after completion of the project identified as the proceeds' intended use may be used only for a use identified on the political subdivision's website under Subsection (b)(4)(D), unless another use is approved by the voters of the political subdivision at an election held for that purpose.

(g) 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.

(h) Except as provided by Subsection (i), 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.

(i) A political subdivision may extend the maturity date of an issued capital appreciation bond only if:

(1) the extension of the maturity date will decrease the total amount of projected principal and interest to maturity; or

(2) the political subdivision is a school district and:

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

(B) the Texas Education Agency certifies in writing that the solvency of the permanent school fund's bond guarantee program would be threatened without the extension.

(j) Subsection (b) does not apply to the issuance of:

(1) refunding bonds under Chapter 1207; or

(2) 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 3. This Act takes effect September 1, 2015.

ADOPTED

MAY 26 2015

[signature]
Secretary of the Senate

By: J-J. Hinojosa

H.B. No. 114

Substitute the following for H.B. No. 114:

By: J-J. Hinojosa

C.S.H.B. No. 114

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(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 the projected tax 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 proposed bonds;

(B) the length of maturity of the proposed bonds;

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

(D) the intended use of bond proceeds not spent after completion of the projects identified in Paragraph (C);

(E) the total amount of the political subdivision's outstanding bonded indebtedness at the time of the election on the bonds, including the amount of principal and interest to be paid on existing bond indebtedness until maturity;

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

(G) the information received under Subdivision (2) and determined under Subdivision (3).

(c) The governing body of a political subdivision that makes a determination that a personal or financial relationship described by Subsection (b)(3) exists shall submit the determination to the Texas Ethics Commission.

(d) The governing body of a political subdivision shall regularly update the debt information posted on the political subdivision's Internet website under Subsection (b)(4)(F) to ensure that the information is current and accurate.

(e) Capital appreciation bond proceeds may not be used to purchase the following items, unless an item has an expected useful life, determined based on the depreciable life of the asset under the Internal Revenue Code of 1986, that exceeds the bond's maturity date:

(1) items more regularly considered maintenance items, including replacement HVAC units, upgraded plumbing, or similar items; or

(2) transportation-related items, including buses.

(f) Capital appreciation bond proceeds unspent after completion of the project identified as the proceeds' intended use may be used only for a use identified on the political subdivision's website under Subsection (b)(4)(D), unless another use is approved by the voters of the political subdivision at an election held for that purpose.

(g) 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.

(h) Except as provided by Subsection (i), 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.

(i) A political subdivision may extend the maturity date of an issued capital appreciation bond only if:

(1) the extension of the maturity date will decrease the total amount of projected principal and interest to maturity; or

(2) the political subdivision is a school district and:

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

(B) the Texas Education Agency certifies in writing that the solvency of the permanent school fund's bond guarantee program would be threatened without the extension.

(j) Subsection (b) does not apply to the issuance of:

(1) refunding bonds under Chapter 1207; or

(2) 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 3. This Act takes effect September 1, 2015.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 27, 2015

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB114** by Flynn (Relating to the issuance of certain capital appreciation bonds by political subdivisions.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 1201 of the Government Code to prohibit a local governmental entity from issuing capital appreciation bonds (CABs) that are secured by ad valorem taxes, but would establish certain exceptions, including refunding bonds or CABs for transportation projects, as defined by the provisions of the bill. The bill would require a political subdivision that makes a determination that a personal or financial relationship exists, as prescribed in the provisions of the bill, to submit the determination to the Texas Ethics Commission. The bill would require a political subdivision to update and maintain the debt information posted on the political subdivision's website. The bill would provide parameters for the proceeds of CABs and how the proceeds may be used. The bill would permit the extension of the maturity date of a CAB if certain circumstances exist.

The bill would require the Texas Education Agency to certify the solvency of the Permanent School Fund if a school district extended the maturity of a CAB because the district had reached the maximum legally allowable tax rate. TEA indicates that it could absorb the costs associated with the bill within its current resources.

Local Government Impact

Based on the Texas Bond Review Board's (BRB) 2014 Local Government Annual Report, capital appreciation bonds (CABs) amounts issued by local governments in fiscal year 2014 totaled $476.7 million. School Districts utilize CABs more frequently than other issuers of local debt, issuing 99% of total CABs issued in 2014.

The Texas Municipal League indicated that based on the BRB's report, cities did not issue CABs very often in fiscal year 2014. Based on the BRB's report, counties did not issue CABs very often in fiscal year 2014.

Maturity dates of CABs would be limited to 20 years and could not be extended with refunding issues unless the maximum legally allowable tax rate for indebtedness had been reached and the TEA certified that the PSF BGP would be in jeopardy without extending the maturity date. CABs would be limited to 25 percent of total indebtedness for the school district at the time of issuance. Excess CAB amounts could not be used for other projects unless the purpose was posted on the

district website or another election was held.

School districts would have limits and reporting requirements related to the issuance of CABs. School districts may incur administrative costs related to the notice requirements of the bill. Costs are not expected to be significant.

Source Agencies: 356 Texas Ethics Commission, 701 Central Education Agency, 592 Soil and Water Conservation Board

LBB Staff: UP, CL, SD, EK, KKR, JBi

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 21, 2015

TO: Honorable Jane Nelson, Chair, Senate Committee on Finance

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB114** by Flynn (relating to the issuance of certain capital appreciation bonds by political subdivisions.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 1201 of the Government Code to prohibit a local governmental entity from issuing capital appreciation bonds (CABs) that are secured by ad valorem taxes, but would establish certain exceptions, including refunding bonds or CABs for transportation projects, as defined by the provisions of the bill. The bill would require a political subdivision that makes a determination that a personal or financial relationship exists, as prescribed in the provisions of the bill, to submit the determination to the Texas Ethics Commission. The bill would require a political subdivision to update and maintain the debt information posted on the political subdivision's website. The bill would provide parameters for the proceeds of CABs and how the proceeds may be used. The bill would permit the extension of the maturity date of a CAB if certain circumstances exist.

The bill would require the Texas Education Agency to certify the solvency of the Permanent School Fund if a school district extended the maturity of a CAB because the district had reached the maximum legally allowable tax rate. TEA indicates that it could absorb the costs associated with the bill within its current resources.

Local Government Impact

Based on the Texas Bond Review Board's (BRB) 2014 Local Government Annual Report, capital appreciation bonds (CABs) amounts issued by local governments in fiscal year 2014 totaled $476.7 million. School Districts utilize CABs more frequently than other issuers of local debt, issuing 99% of total CABs issued in 2014.

The Texas Municipal League indicated that based on the BRB's report, cities did not issue CABs very often in fiscal year 2014. Based on the BRB's report, counties did not issue CABs very often in fiscal year 2014.

Maturity dates of CABs would be limited to 20 years and could not be extended with refunding issues unless the maximum legally allowable tax rate for indebtedness had been reached and the TEA certified that the PSF BGP would be in jeopardy without extending the maturity date. CABs would be limited to 25 percent of total indebtedness for the school district at the time of issuance. Excess CAB amounts could not be used for other projects unless the purpose was posted on the

district website or another election was held.

School districts would have limits and reporting requirements related to the issuance of CABs. School districts may incur administrative costs related to the notice requirements of the bill. Costs are not expected to be significant.

Source Agencies: 356 Texas Ethics Commission, 701 Central Education Agency, 592 Soil and Water Conservation Board

LBB Staff: UP, CL, SD, EK, KKR, JBi

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 19, 2015

TO: Honorable Jane Nelson, Chair, Senate Committee on Finance

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB114** by Flynn (Relating to the issuance of certain capital appreciation bonds by political subdivisions.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 1201 of the Government Code to prohibit a local governmental entity from issuing capital appreciation bonds (CABs) that are secured by ad valorem taxes, but would establish certain exceptions, including refunding bonds or CABs for transportation projects, as defined by the provisions of the bill. The bill would require a political subdivision that makes a determination that a personal or financial relationship exists, as prescribed in the provisions of the bill, to submit the determination to the Texas Ethics Commission. The bill would require a political subdivision to update and maintain the debt information posted on the political subdivision's website. The bill would provide parameters for the proceeds of CABs and how the proceeds may be used. The bill would permit the extension of the maturity date of a CAB if certain circumstances exist.

The bill would require the Texas Education Agency to certify the solvency of the Permanent School Fund if a school district extended the maturity of a CAB because the district had reached the maximum legally allowable tax rate. TEA indicates that it could absorb the costs associated with the bill within its current resources.

Local Government Impact

Based on the Texas Bond Review Board's (BRB) 2014 Local Government Annual Report, capital appreciation bonds (CABs) amounts issued by local governments in fiscal year 2014 totaled $476.7 million. School Districts utilize CABs more frequently than other issuers of local debt, issuing 99% of total CABs issued in 2014.

The Texas Municipal League indicated that based on the BRB's report, cities did not issue CABs very often in fiscal year 2014. Based on the BRB's report, counties did not issue CABs very often in fiscal year 2014.

Maturity dates of CABs would be limited to 25 years and could not be extended with refunding issues unless the maximum legally allowable tax rate for indebtedness had been reached and the TEA certified that the PSF BGP would be in jeopardy without extending the maturity date. CABs would be limited to 25 percent of total indebtedness for the school district at the time of issuance. Excess CAB amounts could not be used for other projects unless the purpose was posted on the

district website or another election was held.

School districts would have limits and reporting requirements related to the issuance of CABs. School districts may incur administrative costs related to the notice requirements of the bill. Costs are not expected to be significant.

Source Agencies: 356 Texas Ethics Commission, 701 Central Education Agency, 592 Soil and Water Conservation Board

LBB Staff: UP, CL, SD, EK, KKR, JBi

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 13, 2015

TO: Honorable Tan Parker, Chair, House Committee on Investments & Financial Services

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB114** by Flynn (Relating to the issuance of certain capital appreciation bonds by political subdivisions.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 1201 of the Government Code to prohibit a local governmental entity from issuing capital appreciation bonds (CABs) that are secured by ad valorem taxes, but would establish certain exceptions, including refunding bonds or CABs for transportation projects, as defined by the provisions of the bill. The bill would require a political subdivision that makes a determination that a personal or financial relationship exists, as prescribed in the provisions of the bill, to submit the determination to the Texas Ethics Commission. The bill would require a political subdivision to update and maintain the debt information posted on the political subdivision's website. The bill would provide parameters for the proceeds of CABs and how the proceeds may be used. The bill would permit the extension of the maturity date of a CAB if certain circumstances exist.

The bill would require the Texas Education Agency to certify the solvency of the Permanent School Fund if a school district extended the maturity of a CAB because the district had reached the maximum legally allowable tax rate. TEA indicates that it could absorb the costs associated with the bill within its current resources.

Local Government Impact

Based on the Texas Bond Review Board's (BRB) 2014 Local Government Annual Report, capital appreciation bonds (CABs) amounts issued by local governments in fiscal year 2014 totaled $476.7 million. School Districts utilize CABs more frequently than other issuers of local debt, issuing 99% of total CABs issued in 2014.

The Texas Municipal League indicated that based on the BRB's report, cities did not issue CABs very often in fiscal year 2014. Based on the BRB's report, counties did not issue CABs very often in fiscal year 2014.

Maturity dates of CABs would be limited to 25 years and could not be extended with refunding issues unless the maximum legally allowable tax rate for indebtedness had been reached and the TEA certified that the PSF BGP would be in jeopardy without extending the maturity date. CABs would be limited to 25 percent of total indebtedness for the school district at the time of issuance. Excess CAB amounts could not be used for other projects unless the purpose was posted on the

district website or another election was held.

School districts would have limits and reporting requirements related to the issuance of CABs. School districts may incur administrative costs related to the notice requirements of the bill. Costs are not expected to be significant.

Source Agencies: 356 Texas Ethics Commission, 701 Central Education Agency, 592 Soil and Water Conservation Board

LBB Staff: UP, CL, SD, EK, KKR, JBi

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

March 17, 2015

TO: Honorable Tan Parker, Chair, House Committee on Investments & Financial Services

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB114** by Flynn (Relating to the issuance of certain capital appreciation bonds by political subdivisions.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend Chapter 1201 of the Government Code to prohibit a local governmental entity from issuing capital appreciation bonds (CABs) that are secured by ad valorem taxes, but would establish certain exceptions, including refunding bonds or CABs for transportation projects, as defined by the provisions of the bill.

According to the Texas State Soil and Water Conservation Board, no fiscal impact to the state is anticipated.

According to the Texas Education Agency (TEA), the bill would have no direct fiscal implications for the Foundation School Program or the operations of TEA.

Local Government Impact

Based on the Texas Bond Review Board's (BRB) 2014 Local Government Annual Report, capital appreciation bonds (CABs) amounts issued by local governments in fiscal year 2014 totaled $476.7 million. School Districts utilize CABs more frequently than other issuers of local debt, issuing 99% of total CABs issued in 2014.

The Texas Municipal League indicated that based on the BRB's report, cities did not issue CABs very often in fiscal year 2014. Based on the BRB's report, counties did not issue CABs very often in fiscal year 2014.

The TEA indicated that school districts could issue CABs secured by ad valorem taxes under certain conditions, including expanded reporting requirements related to the bonds. School districts could issue refunding bonds for cost savings, if the refunding bonds did not extend the original maturity date of the bonds unless the district had adopted the maximum legal tax rate for indebtedness, and the attorney general certifies that the solvency of the Permanent School Fund Bond Guarantee Program would be threatened without the extension. Presumably, school districts that have debt service rates of $0.50 per $100 of assessed valuation at the time it issues refunding bonds would be eligible to use CABs. School districts may incur administrative costs related to the notice requirements of the bill. Costs are not expected to be significant.

Source Agencies: 592 Soil and Water Conservation Board, 701 Central Education Agency
LBB Staff: UP, CL, SD, EK, KKR, JBi