

SENATE AMENDMENTS

2nd Printing

By: Flynn

H.B. No. 2679

A BILL TO BE ENTITLED

AN ACT

relating to the powers of a public facility corporation.

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

SECTION 1. Section 303.003(4), Local Government Code, is amended to read as follows:

(4) "Credit agreement" means a loan agreement, revolving credit agreement, agreement establishing a line of credit, letter of credit, reimbursement agreement, insurance contract, commitment to purchase bonds or sponsor obligations, purchase or sale agreement, interest rate or commodities price swap agreement, cap or collar agreement, protection or management agreement, or commitment or other contract or agreement authorized and approved by the board of directors of a corporation in anticipation of, related to, or in connection with the authorization, issuance, incurrence, sale, security, exchange, payment, purchase, remarketing, or redemption of bonds or interest on bonds.

SECTION 2. Section 303.021(a), Local Government Code, is amended to read as follows:

(a) A sponsor may create one or more nonmember, nonstock, nonprofit public facility corporations to:

(1) issue bonds under this chapter, including bonds to purchase sponsor obligations;

(2) finance public facilities on behalf of its

1 sponsor; or

2 (3) loan the proceeds of the obligations to other
3 entities to accomplish the purposes of the sponsor.

4 SECTION 3. Section 303.041, Local Government Code, is
5 amended by amending Subsection (a) and adding Subsection (d) to
6 read as follows:

7 (a) Subject to Section 303.045, a corporation has the rights
8 and powers necessary or convenient to accomplish the corporation's
9 purposes, including the power to:

10 (1) acquire title to a public facility in order to
11 lease, convey, or dispose of the public facility to the
12 corporation's sponsor or, on direction of the sponsor and in
13 furtherance of the sponsor's purposes, to another entity;

14 (2) accept or grant a mortgage or pledge of a public
15 facility financed, refinanced, or provided by the corporation or by
16 sponsor obligations purchased by the corporation and, as security
17 for the payment of any connected bonds or credit agreements that the
18 corporation issues or incurs:

19 (A) assign the mortgage or pledge and the revenue
20 and receipts from the mortgage or pledge or [~~and~~] from the
21 corporation or sponsor obligations; or

22 (B) grant other security;

23 (3) sell, convey, mortgage, pledge, lease, exchange,
24 transfer, and otherwise dispose of all or any part of the
25 corporation's property and other assets, including sponsor
26 obligations;

27 (4) make a contract, including a credit agreement,

1 incur a liability, and borrow money at interest;

2 (5) lend money for its corporate purposes, invest its
3 money, and take and hold security for the payment of money loaned or
4 invested;

5 (6) sue and be sued in its corporate name;

6 (7) appoint agents of the corporation and determine
7 their duties; ~~and~~

8 (8) have a corporate seal and use the seal by having it
9 or a facsimile of it impressed on, affixed to, or reproduced on an
10 instrument required or authorized to be executed by the
11 corporation's proper officers; and

12 (9) exercise any powers that a nonprofit corporation
13 may exercise, to the extent necessary or convenient to accomplish
14 the purpose of the corporation.

15 (d) The authority granted under Subsection (a)(3) includes
16 the authority to grant a leasehold or other possessory interest in a
17 public facility owned by the corporation.

18 SECTION 4. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2015.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 22, 2015

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2679 by Flynn (Relating to the powers of a public facility corporation.), **As Passed
2nd House**

No significant fiscal implication to the State is anticipated.

Subsection 303.041(d), Local Government Code could change the taxable status of property. Property that was exempt as property owned by a taxing unit and used for a public purpose could become a taxable leasehold under Section 23.13 of the Tax Code if it is listed in the name of the owner of the leasehold (Section 25.07 of the Tax Code). This would create a gain to the taxing unit. There are several exceptions in current law.

Section 303.042(f) would create an exception that would prevent the property from becoming taxable, and thereby prevent the gain. It is possible that some property not used for a public purpose would be granted a new exemption, which would create a cost. Without knowing the specifics, the cost cannot be estimated.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: UP, KVe, AG

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 28, 2015

TO: Honorable Eddie Lucio Jr., Chair, Senate Committee on Intergovernmental Relations

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2679 by Flynn (Relating to the powers of a public facility corporation.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code to modify the definition of a "credit agreement". The bill would amend the powers of a public facility corporation to include issuing bonds to purchase sponsor obligations and amend the powers of a corporation to grant a pledge of a public facility financed by the corporation under certain circumstances. The bill would permit the corporation to exercise any powers that a nonprofit corporation may exercise to the extent necessary to accomplish the purpose of the corporation. The bill would permit a public utility corporation to grant leasehold or other possessory interest in a public facility.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, KVe, CL, SD, EK

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

March 31, 2015

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2679 by Flynn (Relating to the powers of a public facility corporation.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code to modify the definition of a "credit agreement". The bill would amend the powers of a public facility corporation to include issuing bonds to purchase sponsor obligations and amend the powers of a corporation to grant a pledge of a public facility financed by the corporation under certain circumstances. The bill would permit the corporation to exercise any powers that a nonprofit corporation may exercise to the extent necessary to accomplish the purpose of the corporation. The bill would permit a public utility corporation to grant leasehold or other possessory interest in a public facility.

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LBB Staff: UP, CL, SD, EK