

BILL ANALYSIS

Senate Research Center
86R13276 NC-F

S.B. 1689
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Intergovernmental Relations
4/13/2019
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Chapter 303, Local Government Code (Public Facility Corporation Act) authorizes a variety of local governments to sponsor and create a public facility corporation (PFC) for the purpose of providing public facilities and financing such facilities on behalf of the local government sponsor. The PFC Act was adopted in the 1990s and over the years has been used by sponsors such as school districts to lease purchase school buildings. Other authorized sponsors include cities, counties, housing authorities and special districts (conservation and reclamation districts, river authorities, navigation districts, water districts, hospital districts, and junior college districts).

Under current law a local government sponsor may create and sponsor more than one PFC, but it is not expressly authorized to create a PFC jointly with another local government. Allowing a PFC to be created jointly by more than one local government and to be able to contract with another local government that is not its sponsor would promote such collaboration and result in greater efficiencies and cost savings.

S.B. 1689 allows such joint sponsorships and contracting with non-sponsors to provide and finance public facilities. No additional local governments would be permitted to create PFCs. No additional powers would be given to PFCs (other than contracting with non-sponsors). Financing through a PFC does not bypass any regulatory controls, including approval of PFC bonds by the Texas attorney general and public facilities by other state agencies, as may be required.

As proposed, S.B. 1689 amends current law relating to the creation and use of public facilities corporations.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 303, Local Government Code, by adding Section 303.0225, as follows:

Sec. 303.0225. CREATION BY MULTIPLE SPONSORS. (a) Authorizes two or more sponsors to create a corporation under this chapter (Public Facility Corporation) to accomplish the corporation's purposes with respect to each of the sponsors.

(b) Requires the governing body of each sponsor to follow the procedures described by Section 303.023 (Procedure) to create the corporation.

(c) Authorizes the articles of incorporation or the bylaws of the corporation to provide any terms that are mutually acceptable to the corporation's sponsors, including terms allowing sponsors to be added or removed from the corporation or terms allowing one or more sponsors to be delegated the authority or duty to take actions under this chapter.

(d) Provides that, subject to the terms of the corporation's articles of incorporation and bylaws, if a corporation is created under this section, each sponsor is authorized to use the corporation in any manner in which a sponsor is authorized to use a corporation under this chapter, each sponsor is treated for purposes of this chapter as a sponsor of the corporation, the corporation is authorized to issue bonds or refunding bonds or incur other obligations to finance, refinance, or provide one or more public facilities on behalf of one or more of the corporation's sponsors, and the corporation is authorized to loan the proceeds of an obligation to any entity to accomplish the purposes of one or more of the corporation's sponsors.

SECTION 2. Amends Subchapter B, Chapter 303, Local Government Code, by adding Section 303.048, as follows:

Sec. 303.048. USE OF CORPORATION BY NON-SPONSORING ENTITIES. (a) Defines "non-sponsoring entity" for purposes of this section.

(b) Authorizes a corporation, with the consent of a corporation's sponsor, to agree to be used by one or more non-sponsoring entities in any manner in which a sponsor is authorized to use a corporation. Authorizes the agreement to contain any terms mutually acceptable to the corporation and the non-sponsoring entity. Authorizes the sponsor of the corporation used in accordance with this section to be a party to the agreement.

(c) Authorizes a corporation used by a non-sponsoring entity under this section to exercise the corporation's powers in the same manner that the corporation is authorized with respect to the corporation's sponsor, including:

(1) issuing bonds or refunding bonds or incurring other obligations to finance, refinance, or provide one or more public facilities on behalf of the non-sponsoring entity, the corporation's sponsor, or both; and

(2) loaning the proceeds of the obligations to any entity to accomplish the purposes of the non-sponsoring entity, the corporation's sponsor, or both.

SECTION 3. Effective date: September 1, 2019.