

PUBLIC COMMENTS

HB 1869

HOUSE COMMITTEE ON WAYS & MEANS

Hearing Date: March 22, 2021 10:00 AM

Rudy Durham, Mayor

City of Lewisville

Lewisville, TX

I am writing to express my city's strong opposition to this bill.

COs are commonly mischaracterized as being just a means to issue debt without voter scrutiny. In fact, COs are a flexible and timely tool commonly used to address immediate needs that exceed a city's operating budget but will not impact the city's property tax rate.

Cities can only hold elections on two dates each year, one in May and one in November. (It used to be four dates, but two dates were taken away by past Legislatures.) The mandatory timeline for public hearings, published notices, and governing body actions required to call an election means voter-supported debt is not viable for capital projects that arise suddenly and require a quick remedy. Certificates of obligation can bridge that gap.

Lewisville primarily uses COs when they are supported by a dedicated funding source. One example is our voter-approved 4B sales tax, which has been used to finance debt for major park construction projects that otherwise would have to wait a decade or longer to accumulate revenue. Voters approved the sales tax with the understanding that it would be used to build park projects, and individual public hearings for each project are held before expending funds, so there is clear direction from the taxpayers to complete these projects.

It is vitally important in all of this to remember that Texas cities are led by elected councils, whose members serve as representatives of the voters. Elected city officials must be highly responsive to residents because they interact with those residents every day. The fact that long-term incumbency is less common at the municipal level than it is at the state or federal level shows that voters can and do express their displeasure when they disagree with decisions.

If the Legislature is concerned about specific perceived misuse of COs, that should be addressed in smartly targeted legislation rather than the broad negating brushstroke of HB-1869.

I encourage you to speak with municipal leaders in cities and towns within your own district to hear the benefits of certificates of obligation and the negative impact on public infrastructure and service delivery that is likely to happen if this bill becomes law. Please assist us in opposing this damaging legislation.

Jim Baxa

Self

Lubbock, TX

I support this bill as cities like Lubbock are using CO bonds to avoid having to get voter approval for tax increases.

Thomas Moore

Self/Law Enforcement

Colorado City, TX

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I am in support of this bill.

Ben Brezina
City of Frisco
Frisco, TX

Cont.

- The issuance of Certificates of Obligation has not slowed the Texas economy; to the contrary, companies and individuals continue to relocate to Texas, including Frisco, largely due to our business-friendly environment, low taxes, and schools.
- There already exists statutory mechanisms that are used to require a council to call an election for the issuance of Certificates of Obligation. Certificates of Obligation also require a public notice and hearing before Council approvals.
- This bill would prohibit municipalities from responding to growth and needs of its communities.

We appreciate your leadership for the great state of Texas and ask you consider the significant job growth, infrastructure construction, and economic development enabled by our ability to issue Certificates of Obligation.
Thank you

Mayor Jeff Cheney

Darrell Newsom, City Manager
City of Wolfforth
Wolfforth, TX

I'd like to take an opportunity to comment on this bill on behalf of the City of Wolfforth, which is currently in a very high growth mode. As our population grows, the city's infrastructure is under TCEQ requirements for certain capacities for water supply, elevated storage, and sewer treatment. As we grow, and approach the limits TCEQ sets, we must issue debt to increase the capacity of our infrastructure. In the past we have used Tax Notes and CofO debt issues to upgrade our facilities. We have also used Tax Notes to support capital projects in the General Fund such as Police cars and Fire apparatus. We have used tax/revenue issues in the past in order for our debt to apply to the effective rate calculation. If we are required to have elections for bonds, it will slow the process down considerably and would face the possibility not passing. If a bond election failed, we would still have to issue debt to meet TCEQs requirements. Our costs to participate in an election with Lubbock Co. starts at about \$12k. We have also been told by our financial council that interest rates on revenue as opposed to tax/revenue will be approximately 1/2% higher if we would be required to go that route, those interest costs could be substantial in a multi-million dollar project. I appreciate the intent of the bill, but am concerned about some of the unintended consequences if it is not modified to cover some of these concerns.

Brynn Myers, City Manager
City of Temple, Texas
Temple, TX

The City of Temple has recently become aware of HB 1869, which if adopted would change the definition of debt to include Certificate of Obligations (COs) for the purposes of calculating Maintenance and Operating (M&O) in the rollback rate. The City of Temple believes that these changes are unnecessary and could be detrimental to our citizens. As such, I am writing to express our opposition to HB 1869.

This bill would make it difficult for cities and counties to issue COs and other forms of non-voted debt secured with ad valorem taxes by requiring the property tax revenues pledged to the non-voted debt to be included as a M&O expense subject to the property tax cap formula under SB 2, rather than as a debt expense which is excluded from the formula. In addition to COs, this bill would negatively impact tax supported revenue bonds which are commonly used to lower borrowing costs for revenue generating projects such as municipal water and sewer systems.

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The City of Temple delivers critical infrastructure projects at a very responsible and low cost to taxpayers we serve. The City's current Transportation and Mobility Capital Improvement Plan is funded primarily by COs. The plan totals \$172,000,000 and was planned and implemented to minimize and stabilize the tax rate impact with adding only 5.70 cents to the tax rate over a period of nine years. The critical infrastructure projects are necessary to respond to growth in our community.

In summary, the changes proposed by HB 1869 are unnecessary and could be detrimental to our citizens. This bill would make it difficult for us to continue our Transportation and Mobility Capital Improvement program that has and will fund projects that are important to our community. We recommend that HB 1869 NOT be adopted for these reasons.

Thank you for the work you do in service to our State.

Mark McLiney

Self - Banking

San Antonio, TX

I am writing because I have concerns that HB 1869 will hurt City's and County's ability to provide for its residents. The current 3.5% cap on the Maintenance & Operation side of the Tax Rate provides protection for the tax payer from unjust tax increases while giving Municipalities the ability to pay for the ever increasing costs of services. When the I&S rate is included in the calculation, Municipalities will lose the ability to pay for other Capital intensive items that citizens are demanding such as Streets, drainage, parks, etc. or will be forced to choose one over the other when citizens are demanding both. Further Municipalities also often use CO's for Water and Sewer projects, but pay for them through Water and Sewer Revenues. This is a tool that helps lower the borrowing cost and removes other expenses that a Revenue Bond would require.

Many people believe Certificates of Obligation are used as a way to circumvent the voters. I am in a unique position to understand and explain how this is not, and never was, the purpose of the CO Act. My former boss helped write the Certificate of Obligation Act of 1971 and when it was written, they purposely inserted the low petition threshold of 5% of the Qualified Voters to force a Bond Election. Their belief at the time, and I know to be still true, was that if there is a controversial project that is not wanted by the citizens, gathering the necessary signatures is easy to accomplish.

I end with the Principle of Subsidiarity which states "that matters ought to be handled by the smallest, lowest or least centralized competent authority. Political decisions should be taken at a local level if possible, rather than by a central authority". The elected City Council and County Commissioner is elected to make difficult decisions that are best for their constituents. Since they are closer to the voter than a State Congressman or Senator they know what needs a City or County have and can weigh a capital project verse any necessary taxes to pay for it.

In conclusion, i believe HB 1869 is a bad bill and bad policy because it will harm City's and County's ability to timely provide the services that they are being asked to provide their citizens, it will raise the costs of borrowing, through higher interest rates and costs of issuance (due to the high cost of an election) and it removes the ability for an elected official to make decisions that they are elected to make. Citizens retain their ability to prevent controversial projects from being financed through their petition rights and they can demand change through the ballot box when their officials are up for election.

Ryan Adams

City of Denton, TX

Denton, TX

Honorable Chair Meyer,

The City of Denton would like to thank the Committee for this opportunity to provide testimony regarding the impacts of H.B. 1869. The City of Denton believes this bill would drastically impact our ability to provide critical services and negatively impact our residents and ratepayers.

This bill would make it more difficult for cities to issue COs and other forms of non-voted debt secured with ad valorem taxes by

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requiring the property tax revenues pledged to the non-voted debt to be included as an M&O expense subject to the property tax cap formula under SB 2, rather than as a debt expense which is excluded from the formula.

COs and other tax-supported debt are critical tools for cities to maintain infrastructure in a fiscally prudent manner. These instruments are crucial in providing projects that, while mundane, are necessary for the health and safety of our community. Examples of projects the City has funded through COs over the past several years include HVAC replacements for City buildings, storm water improvement projects, wastewater detention facilities, electric substation construction and security, and many more. Funding critical and time sensitive projects with these tools does not replace the role of voters and bond elections for significant projects which set the future course of the City. COs allow the city to proceed with projects which are often technical in nature or time sensitive while still following a transparent process which seeks public feedback.

This bill would negatively impact use of COs or other tax-supported revenue bonds which are commonly used to lower borrowing costs for revenue generating projects such as municipal electric, water and sewer systems. The use of revenue only bonds to finance electric, water and sewer infrastructure instead of tax-supported revenue bonds would result in (1) higher interest rates, (2) increased issuance costs, (3) the issuance of additional amounts of debt to fund inefficient debt service reserve funds, and (4) increased electric, water and sewer rates to pay for the higher interest rates, the principal of additional debt and to satisfy dramatically higher debt service coverage ratios required by revenue bondholders. In short, requiring the funding of these financing instruments through the M&O tax rate calculation, would result in higher tax and utility rate costs for Denton residents, and likely residents of all cities.

Critically, the bill would also negatively impact the use of non-voted taxed-backed refunding bonds which have allowed the City to save tax and rate payer money based on market conditions. This fiscally prudent tool ultimately results in reduced tax and utility rates; however, H.B. 1869 would disincentivize its use.

As a result of the issues listed above, and in accordance with the legislative program Denton City Council, we ask that you do not approve H.B. 1869 as presented.

Thank you for time and service to our state.

Mikw Wright, Mayor

City of Wolfforth

Wolfforth, TX

My name is Mike Wright. I am the Mayor of Wolfforth Texas, a small but expanding bedroom community that joins Lubbock on the west side of the county. The City of Wolfforth is in an extremely high growth mode. In this growth mode, two of the major problems we face is with water and sewer and the infrastructure that is needed to sustain the growth. As you should be well aware of, TCEQ (Texas Commission on Environmental Quality) controls and issues certain requirements for the capacities for water supply, elevated storage and sewer treatment. As we follow the requirements of TCEQ, we issue debt to increase the capacity of our infrastructure and we have used Certificates of Obligation and Tax Notes to upgrade our systems and facilities. The City also uses Tax Notes for capital projects in the General Fund such as police vehicles and fire and EMS equipment and those issues have been used for our debt to apply to the effective rate calculation. If we are required to have bond elections, it will slow the process and it would face the possibility of not passing and we would still have to issue debt to meet TCEQ requirements. Then you add the additional cost of an election which in Lubbock County starts at roughly \$12,000. We have also been advised by our financial consultant that interest rates on revenue bonds as opposed to tax notes or CofO debt could be at least ½% higher or more. Those cost could be a substantial part of a multi-million dollar project to satisfy TCEQ requirements. We are highly concerned about the unintended consequences if the bill is not modified for some of these problems.

Csilla Ludanyi, Ms.

Self

League City, TX

Certificates of Obligation have been used successfully by many municipalities since 1979 to fund important projects that improve the quality of life for Texans in many smaller communities across the state. Specifically projects such as road repairs,

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public safety projects, and storm water drainage infrastructure. By moving COs to the M&O part of the tax rate, smaller communities that are providing everyday impactful projects to residents will be detrimentally impacted in their ability to continue to provide needed capital infrastructure for the use of their communities. In a state that prides itself on small government, it seems that the state should trust communities to elect good local people who carry out the wishes of the community to meet the standards and vision of the community. If the best, most-efficient tool for a small community to fund its capital needs is COs, why would the State legislature need to intervene? The tool has been working well for 40 years - if the goal of the legislature is for local communities to thrive, maintain their services, attract businesses, provide support to their residents - Perhaps communities can be trusted to make the choices that are best suited to their individual and unique situations.

Pat Hallisey, Mayor

City of League City

League City, TX

Dear Honorable Representatives:

I submit the following comments and testimony in opposition of HB 1869. This bill if enacted into law would result in certain consequences that would be extremely detrimental to our shared constituents, consequences that I believe have been either overlooked or underestimated. I will leave it to others to explain how HB 1869 would effectively curtail the use of certificates of obligation (“COs”) as a viable funding mechanism for Texas cities. Whether this is the result you intend or one you had not contemplated, I offer the following points for your consideration.

COs allow cities to be more responsive to its citizens and their needs. While thoughtful planning is a cornerstone of effective government, unexpected capital expenditures can and do arise. When this happens, our constituents look to their local government—the government closest to them—for immediate response. General obligation bonds (“GO bonds”) require an election at one of two uniform election dates per calendar year. Going through the process of having a GO bond election adds easily twelve months to a project delivery schedule. Tying cities’ hands thusly would result in voters who need nimble government response to address a life, health, or safety concern complaining of lumbering government bureaucracy too slow to adequately serve its citizens.

League City is a city of roughly 107,000 population. Over the last five years, we have utilized COs to finance the following projects:

2016: three wastewater projects, one water project, one street project, a fire training building

2017: two water projects, and two wastewater projects

2018: two street projects, one water project, two wastewater projects

2019: one street project

2020: two street projects, two water projects, three wastewater projects, a new fire station, a new animal control center

Like you, I and my colleagues on the City Council believe in fiscal conservatism, in being good stewards of public dollars. But unless you can look at the list of the projects we have accomplished using COs and decide that one or more were NOT needed, should NOT have been done, then the only savings to be realized for our taxpayers is by ensuring that these projects are achieved in the most cost-effective way possible. As explained in the March 2021 Edition of Texas Town and City magazine (see article entitled “What if Certificates of Obligation Go Away?”), COs are not just more efficient, they are also often significantly cheaper to issue than other types of bonds.

Taking away our ability to use COs will not remove the need for the types of projects listed above. Instead, HB 1869 would simply make the costs of delivering such needed projects higher, constituting a heavier tax burden on Texans all across the state. I have faith that this is not the result that the members of this body seek to achieve.

Nick Dixion, Mayor

City of Mont Belvieu

Mont Belvieu, TX

The City of Mont Belvieu is providing written testimony opposing HB 1869. The City of Mont Belvieu tuned into the livestream this morning, and we echo the sentiments of Mr. Masterson and the City of Conroe. We do not want to waste any of your valuable time belaboring points already made, but we do believe that refinancing debt, seeking out the lowest available interest rates, and being able to operate nimbly as it supports economic development are all in the best interest of the taxpayers.

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We are opposed to the bill because we believe the argument that COs are a mechanism to end around SB2 are not valid. COs have been effectively used to finance infrastructure across the state responsibly for many years. We provide ample opportunity for public input and direction above and beyond what is required by the State. We disagree that the voting public is unaware on how their municipalities issue debt. As an example, constituents of Chambers County led a successful initiative to have COs removed for the construction of a new judicial center and jail. Water parks, public art, city halls and other projects were used as poor examples of tax payer funded debt. Those projects may be viewed dimly by the persons providing testimony, but there is nothing to say that those projects were not widely supported in the communities that they were constructed. As you aware, elected officials are held responsible for their actions at election time. Should an elected official haphazardly manage the taxes of the public, the public always has the final say in whether they get to continue in their duties.

Certificates of Obligation have historically been issued annually to fund infrastructure and quality of life projects within the City of Mont Belvieu: Langston Boulevard, Perry Avenue extension, Hackberry Park, extending water lines, Street Resurfacing, and Wastewater Treatment Plant enhancements and extensions. We believe the economic miracle that has been Texas is dependent on strong infrastructure projects such as these. We have been able to build this without tax rate increases due to being a destination city for oil and gas projects.

We believe in Texas it's more common for cities to transfer revenue from enterprise funds like water and sewer into the general fund. 80% of our property tax value is attributed to mid-stream oil and gas business and natural gas liquid storage. As a result, we have taken the opposite approach in the City of Mont Belvieu to benefit the residential taxpayer. We have historically run a deficit in our water and sewer fund that are made whole by transferring out of the general fund. The average water and sewer bill for a resident is \$60. Should we issue revenue bonds that have to be supported by necessary coverage in the fund, we would have to increase our rates significantly and immediately.

Patrick Brophy

North Texas Commission

Irving, TX

Opposed - it is costly to local taxpayers and not necessary for a public vote on Certificates of Obligation. COs are important to the economic development process to grow tax bases and provides local governments with flexibility when they need to finance projects quickly due to circumstances beyond their control (i.e., weather-related)

Charles Starnes, Mayor

City of Plainview

Plainview, TX

Certificates of Obligation have existed since passage of the original Certification of Obligation Act of 1971. The City of Plainview has utilized this financing tool to support many public projects in our community. In fact, this debt instrument has financed thousands of public infrastructure projects state-wide that help support the State of Texas's robust economy. These types of public projects typically are associated with the necessary water, sewer and solid waste infrastructure needed to support our local economies as well as the ability to meet federal and state drinking water standards and other regulatory requirements passed on to the local level.

Below are the most recent examples of Certificates of Obligation issued by the City of Plainview:

- In 2010, the locally elected City Council approved the issuance Certificates of Obligations for several water and sewer related projects including the construction of two 1-million gallon elevated water storage tanks improving regulated water storage capacity and pressures in the community while removing 5 elevated storage tanks in need of major repairs that ultimately saved the City thousands in operational costs; the relocation of water and sewer utilities along U.S. Highway 70 as a part of a TXDOT Road Reconstruction Project; and, the construction a new gravity flow sewer line and lift station to improve wastewater operations while removing two lift stations that had reached their useful life.

- In 2020, the City Council had an opportunity with the historically low interest rate environment to refund two debt instruments that financed water and sewer projects. This resulted in reduced interest rates that ranged from 3.0% to 3.8% on the

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current bond debt to an interest rate of 1.65% and annual savings of \$47,750 every year (or \$482,703 over the life of the remaining bond debt).

The Texas Tax Code provides regulations on the issuance of Certificates of Obligations including approval by the locally elected governing body and are subject to a notice and petition process. The two previous issuances by the City could have delayed the projects and our ability to take advantage of market rates under the current draft of this bill. The unintended consequences of H.B. 1869 could result in higher debt issuance costs and increased water and sewer rates to support the higher debt service payments. This will ultimately pass the burden to the current utility customers.

The City of Plainview strongly supports the ability to use Certificates of Obligations to meet the infrastructure needs that support our local economy. As the Committee evaluates changes to how this debt instrument can be used by local governments, we encourage the Committee to look at the overall benefits of having this tool available to timely meet the infrastructure demands of our city and other cities in our State.

Micah Grau, Deputy City Manager

City of Buda

Buda, TX

The City of Buda is opposed to House Bill 1869. The bill, as filed, would require a City to conduct an election for the issuance of any debt instrument including certificates of obligations or COs. COs are often used by municipalities to finance projects. Many times, the projects are not associated with the city's ad valorem tax rate. For example, the City of Buda uses CO bonds to finance water and wastewater capital improvements. The repayment of the bonds are through the utility user fees and service rates, not the City's property tax rate. Because the City's water and wastewater system boundaries are different than the city limits, the utility system users that would help pay back the CO principal and interest may not even live in the city limits and could be ineligible to vote in the election. The requirement of an election adds unnecessary costs and time to the process. Furthermore, a mechanism is already in place to notify residents and allow public comment on a proposed certificate of obligation bond issuance. Residents can then petition the city government to conduct an election for the certificates of obligation if desired by the people. I hope that the Texas Legislature will continue to employ a process that works and not add undue burden and costs to cities to issue debt to finance routine infrastructure improvements.