

## **BILL ANALYSIS**

C.S.H.B. 2436  
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Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The public sale of bonds by certain special purpose districts results in the bonds being sold at a comparatively high interest rate and with high transaction costs, which negatively impacts taxpayers. Evidence suggests that the selling of these bonds through a private sale, as is allowed for other governmental entities such as cities, counties, and independent school districts, should result in a lower interest rate, lower transaction costs, and increased flexibility with respect to determining when to enter the market, all of which subsequently benefits taxpayers. C.S.H.B. 2436 seeks to address this issue by providing for the sale of bonds by certain special purpose districts by both private and public sale.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **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.H.B. 2436 amends the Water Code to specify that the types of bonds for which certain special purpose districts may sell after advertising for and receiving competitive sealed bids that are awarded to the bidder whose bid produces the lowest net effective interest rate to the district and for which an appropriate notice of sale was published are bonds sold by public sale. The bill removes the exception from those requirements for refunding bonds or bonds sold to a state or federal agency or to the North American Development Bank.

C.S.H.B. 2436 gives such a district the option of issuing bonds by private sale as an alternative to issuing bonds by public sale. The bill requires the district's board, before the private sale of bonds issued by the district, to consult with the district's financial advisor to determine whether the private sale will result in a net effective interest rate for the district equal to or less than the projected lowest net effective interest rate for the district if the bonds had been sold by public sale. The bill exempts from its provisions providing for the private sale of bonds, in the same manner as provisions providing for the public sale of bonds, district bonds issued pursuant to statutory provisions relating to obligations for certain public improvements.

C.S.H.B. 2436, regarding bonds sold by private sale, authorizes a district to delegate to any officer or director of the district the authority to carry out the sale of the bonds and authorizes a district to authorize the following terms:

- the principal amount of bonds that may be issued;
- the principal amount to mature each year;

- the maximum rate of interest to be borne by the bonds; and
- any other term the district considers relevant to the issuance of the bonds.

C.S.H.B. 2436 authorizes a district, in exercising such delegated authority with respect to bonds sold by private sale, to establish the terms related to the issuance and sale of the bonds, including the following:

- the form of the bonds;
- the principal amount of the bonds and the amount of the bonds to mature each year;
- the dates, price, interest rates, interest payment dates, principal payment dates, and redemption feature of the bonds; and
- any other term relating to the issuance and sale of the bonds as specified by the district in the proceedings authorizing the issuance of the bonds.

C.S.H.B. 2436 requires a district's board, or the board's authorized representative, and the district's financial advisor, at the time the district enters into a bond purchase agreement for the private sale of bonds issued by the district, to review recently completed sales of bonds issued by districts, including the net effective interest rate and issuance costs for the sale of the bonds, to determine whether the district will receive a fair market price for the private sale of bonds under the agreement. The bill establishes that a finding or determination made by a director or officer acting under the authority delegated to that director or officer has the same force and effect as a finding or determination made by the district.

C.S.H.B. 2436 applies only to the sale of bonds by a special purpose district on or after the bill's effective date.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.

### **COMPARISON OF INTRODUCED AND SUBSTITUTE**

While C.S.H.B. 2436 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

While both the introduced and the substitute provide for the private sale of bonds issued by certain special purpose districts, the versions differ in the following manner:

- the substitute omits a requirement included in the introduced for a district's board to review with its financial advisor, before issuing its bonds by private sale, the process of selling its bonds by public or private sale;
- the substitute includes a provision not in the introduced exempting from its provisions providing for the private sale of bonds, in the same manner as provisions providing for the public sale of bonds, district bonds issued pursuant to statutory provisions relating to obligations for certain public improvements;
- whereas the introduced authorized a director or officer of the district to establish terms and details relating to the issuance and sale of bonds by private sale, the substitute authorizes the district to establish the terms related to such issuance and sale;
- while both the introduced and the substitute require a review of recently completed sales of bonds issued by districts at the time the district enters into an agreement for the sale of bonds by private sale, the substitute includes a specification not in the introduced that the purpose of the review is to determine whether the district will receive a fair market price for the private sale of bonds issued by the district under the bond purchase agreement;
- the substitute omits the provisions included in the introduced specifying that a district's bonds are negotiable instruments within the meaning and purposes of the Business &

Commerce Code and authorizing a district's bonds be issued and bear interest in accordance with the Public Security Procedures Act and certain Government Code provisions relating to interest rates, obligations for certain public improvements, and refunding bonds;

- the substitute omits the provision included in the introduced exempting from the bill's provisions, except for the provision regarding bonds as negotiable instruments, certain special water authorities or districts that are governed by a board of directors appointed in whole or in part by the governor, a state agency, or the governing body or chief elected official of a municipality or county and that do not provide, or propose to provide, water, sewer, drainage, reclamation, or flood control services to residential retail or commercial customers as its principal function; and
- the substitute includes a provision not in the introduced establishing that the bill applies only to the sale of bonds by a special purpose district on or after the bill's effective date.