

BILL ANALYSIS

C.S.H.B. 4853
By: Jetton
Pensions, Investments & Financial Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

A county's pension obligations and liabilities are typically reflected in the county's annual operating budget. However, some county pension systems are not adequately funded to cover liabilities in an annual operating budget. The most direct recourse available under current law for a county to cover this liability is by increasing its property tax rate to generate additional revenue, which would be a concern to many taxpayers. C.S.H.B. 4853 seeks to provide an alternative option for counties to fund their pension systems by authorizing the issuance of bonds or other obligations to spread the costs of the system's unfunded liability over multiple years.

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. 4853 amends the Government Code to authorize a county with a population of 800,000 or more that is located adjacent to a county with a population of four million or more to issue obligations, including a bond, certificate, note, or book entry obligation, to fund all or any part of an unfunded, accrued liability of the county to a public retirement system as determined by actuarial analysis.

C.S.H.B. 4853 requires the county commissioners court, before authorizing issuance and delivery of such an obligation, to enter into a written agreement with the governing body of the public retirement system that has the following:

- a fiduciary responsibility for assets of the trust fund that is to receive the net proceeds of the obligations to be issued; and
- the duty to oversee the investment and expenditure of the fund's assets.

The bill requires the written agreement to state the amount of the unfunded liability and the date or dates on which the public retirement system will accept the net proceeds of the obligations to be issued in payment of all or a portion of the unfunded liability.

C.S.H.B. 4853 authorizes an obligation to be made payable by the county from the following sources:

- the fund from which compensation is paid to its officers and employees;
- its general fund; or
- taxes, revenues, both taxes and revenues, or any other source or combination of sources of money that the county may use under state law to secure or pay any kind of bond or

obligation, except that the obligation is prohibited from being made payable from property taxes.

The bill limits the duration of the period during which a county may pledge anticipated revenue from the imposition of sales and use taxes to secure the payment of an obligation to 30 years. The bill requires the county to deposit the net proceeds of obligations to the credit of the public retirement system and establishes that the amount deposited becomes part of the public retirement system's assets.

C.S.H.B. 4853 conditions the authority of a county to issue an obligation to fund all or any part of the unfunded liability of the public retirement system associated with the county to which the bill applies on the issuance being approved by a majority of the qualified voters of the county voting at an election held for that purpose.

C.S.H.B. 4853 establishes that an issued obligation is a complete or partial refinancing of a county's commitment to fund its unfunded liability. An issued obligation may be sold at private or public sale and must mature not later than the 30th anniversary of the date of issuance. The bill authorizes the governing body of a county that issues obligations under the bill to exercise any right of the rights or powers of the governing body of an issuer under statutory provisions relating to obligations for certain public improvements, including by entering into a credit agreement. The bill establishes that an obligation issued under the bill is an obligation under those statutory provisions, but it is not required to be rated as such. The bill specifies that its provisions prevail to the extent of any conflict with another law.

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. 4853 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.

The substitute does not include the introduced version's provision defining "public pension fund." Instead, the substitute includes a provision defining "public retirement system" by reference.

Whereas the introduced applied to a county with a population of more than 800,000 that borders a county with a population of more than three million, the substitute applies to a county with a population of 800,000 or more that is located adjacent to a county with a population of four million or more.

While both the introduced and the substitute require the county commissioners court to enter into a written agreement before authorizing the issuance and delivery of an obligation, the introduced required the agreement to be entered into with the governing body of the public retirement system that has fiduciary responsibility for assets of the public pension fund or public pension funds that are to receive the net proceeds of the obligations to be issued and that has the duty to oversee the investment and expenditure of the assets of the public pension fund. The substitute instead requires such an agreement to be entered into with the governing body of the public retirement system that has fiduciary responsibility for assets of the trust fund that is to receive the net proceeds of the obligations to be issued and that has the duty to oversee the investment and expenditure of the assets of the fund.

While both the introduced and the substitute require voter approval for the issuance of obligations, the substitute omits provisions that were in the introduced specifying the public pension funds to which that requirement applied.

While both the introduced and the substitute permit the use of revenue from sales and use taxes for the payment of obligations, the substitute includes a provision that was not in the introduced limiting the duration of the period during which a county may pledge anticipated revenue from those taxes to secure the payment of an obligation to 30 years.

The substitute includes provisions absent from the introduced that do the following with respect to statutory provisions relating to obligations for certain public improvements:

- authorizes the governing body of a county that issues obligations under the bill to exercise any of the rights or powers of the governing body of an issuer under those statutory provisions;
- authorizes the county's governing body to enter into a credit agreement under those statutory provisions; and
- establishes that an obligation issued under the bill is an obligation for purposes of those statutory provisions, though it is not required to be rated as such.