BILL ANALYSIS

Senate Research Center

S.B. 1810
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Local Government
4/6/2023
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Along with general obligation bonds, revenue bonds, and certificates of obligation (COs), tax anticipation notes (TANs) are short-term debt securities issued by a state or local government to raise money for public projects and to assist local governments bridge short-term revenue gaps. Tax anticipation notes are useful for funding capital expenditures such as city vehicle purchases or initial start-up costs for larger construction projects. Unlike general obligation bonds, TANs are not subject to voter approval.

Since their codification in 1993, TANs were used effectively and for legitimate purposes. Recently, however, concerns have been raised that these instruments are subject to abuse. These concerns are not completely unfounded. The City of Amarillo's actions relating to TANs over the last few years is the most egregious example of this abuse. The saga that led to the filing of this bill is depicted below.

In November 2020, Amarillo voters rejected a $275 million plan to update an aging convention center. Several months later, however, the city government used a TAN to finance the complex and, in effect, overturned the will of the voters. The city government authorized the issuance of $260.5 million in anticipation notes for the center. The largest anticipation note package prior to that was just $60 million.

A concerned taxpayer filed a lawsuit against the city, and after spending half a million dollars of his own money and a several-days long trial, a judge ruled that the city failed to properly notify the public about various details related to the TANs. The court found that the actions of the city were done "in furtherance of a plan by the city to ultimately issue TANs with the intent to do so with as little notice and discussion as possible."

S.B. 1810 reins in the abuse of TANs by imposing similar restrictions to those of COs currently in statute.

- Prohibits the issuance of TANs if a bond proposition for a similar purpose was voted down in the preceding five years.
- Prohibits issuance of a TAN if it exceeds five percent of the governing body's total outstanding bond indebtedness.
- Allows voters to petition against issuance of TANs with petition of five percent of registered voters.

As proposed, S.B. 1810 amends current law relating to the issuance of certain anticipation notes and certificates of obligation.

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 Section 1431.002, Government Code, by adding Subsections (d) and (e), as follows:

(d) Prohibits the governing body of an issuer, except as provided by Subsection (e), from authorizing an anticipation note to pay a contractual obligation to be incurred if:

(1) a bond proposition to authorize the issuance of bonds for the same purpose was submitted to the voters during the preceding five years and failed to be approved;

(2) the total amount of the anticipation note exceeds five percent of the governing body's total outstanding bonded indebtedness at the time of the issuance, including the amount of principal and interest to be paid on the outstanding bonds until maturity; or

(3) the municipal secretary or clerk or person with similar authority receives a petition signed by at least five percent of the registered voters of the issuer that protests the issuance of the anticipation note before the later of the date tentatively set for the adoption of the order or ordinance to authorize the anticipation note or the date the order or ordinance is adopted.

(e) Authorizes the governing body of an issuer to authorize an anticipation note that the governing body is otherwise prohibited from authorizing under Subsection (d):

(1) in a case described by certain statutes; and

(2) to comply with a state or federal law, rule, or regulation if the issuer has been officially notified of noncompliance with the law, rule, or regulation.

SECTION 2. Amends Section 1431.003(b), Government Code, to create an exception under Section 1431.002(d).

SECTION 3. Amends Section 271.047(d), Local Government Code, as follows:

(d) Prohibits the governing body of an issuer, except as provided by this subsection, from authorizing a certificate to pay a contractual obligation to be incurred if a bond proposition to authorize the issuance of bonds for the same purpose was submitted to the voters during the preceding five years, rather than three years, and failed to be approved. Makes a nonsubstantive change.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2023.