

BILL ANALYSIS

Senate Research Center

S.B. 2035
By: Bettencourt
Local Government
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Across the state over the past few years, voters have rejected bond ballot measures to build various types of structures. The elected officials in these jurisdictions followed the rules and procedures to place these items on the ballot for voters to approve or reject. Unfortunately, sometimes elected officials do not always follow the will of the voters and will use an alternative method of finance to fund the project voters previously rejected.

S.B. 2035 will extend the length of time from the current three years to five years that a taxing entity is prohibited from using certificates of obligation (COs) to fund a voter-rejected project. Additionally, this bill will prohibit the issuance of tax anticipation notes (TANs) for five years if the voters reject a proposed bond project. Under current law, there is no restriction of time to issue a TAN, if a taxing entity wanted to fund a voter-rejected project.

S.B. 2035 seeks to protect the will of voters if they reject a proposed bond project by prohibiting a taxing entity from issuing COs or TANs to pay for the same project for a period of five years.

S.B. 2035 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 Subsection (d), as follows:

(d) Prohibits the governing body of an issuer from authorizing an anticipation note 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 and failed to be approved, except as provided by this subsection. Authorizes the governing body of an issuer to authorize an anticipation note that the governing body is otherwise prohibited from authorizing under this subsection:

(1) in a case described by Section 271.056(1) (relating to providing that the provisions of Subchapter C (Certificate of Obligation Act) do not apply to the advertisement for competitive bids in a case of public calamity if it is necessary to act promptly to relieve the necessity of the resident or to preserve the property of the issuer), (2) (relating to providing that the provisions of Subchapter C do not apply to the advertisement for competitive bids in a case in which it is necessary to preserve or protect the public health of the residents of the issuer), or (3) (relating to providing that the provisions of Subchapter C do not apply to the advertisement for competitive bids in a case of unforeseen damage to public machinery, equipment, or other property), Local Government Code; and

(2) to finance the cleanup, mitigation, or remediation of a natural disaster;

(3) to comply with a federal court order; and

(4) 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. Authorizes a governing body to authorize a certificate that the governing body is otherwise prohibited from authorizing under this subsection:

(1) in a case described by Section 271.056(1), (2), or (3), rather than Sections 271.056(1)-(3); and

(2) makes no changes to this subdivision.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2023.