

BILL ANALYSIS

S.B. 1261
By: Perry
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The bill sponsor has informed the committee that, with continued population growth, the costs and time needed to implement regional water supply projects continue to increase and that large water supply projects may take more than 10 years to plan and construct before the projects deliver water. The bill sponsor has also informed the committee that conventional 30-year financing burdens existing rate payers with shouldering up to one-third of the financing costs before new water for new growth is even online and available, which impedes local investment in future regional water infrastructure and water supplies needed to sustain population growth and economic development. The bill sponsor has further informed the committee that authorizing additional financial tools will enable wholesale customers of regional projects, such as municipalities and local water supply districts, to benefit from lower annual debt payments so that the cost of these projects can be shifted more from the existing rate payers to future customers as growth occurs. S.B. 1261 seeks to provide for optional financing tools to enable affordable implementation of large, regional water supply projects included in the state water plan without adding to the state's debt or funding by providing for the issuance by applicable issuers of obligations for eligible water projects with terms, as applicable, up to 50 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

Government Code Provisions: Obligations for Water Projects

S.B. 1261 amends the Government Code to set out provisions relating to obligations for water projects that are inapplicable to financial assistance provided by the Texas Water Development Board. The bill authorizes obligations to be issued, sold, incurred, and delivered, as authorized and approved by the governing body of an issuer, to do the following:

- finance or refinance an eligible project;
- refund obligations, other indebtedness, or contractual obligations of the issuer issued or incurred in connection with an eligible project; and
- pay the costs of issuance or delivery of the obligations.

The bill defines the following terms:

- "issuer" as an agency, authority, board, body politic, department, district, instrumentality, municipal corporation, political subdivision, public corporation, or subdivision of the state;

- "obligation" as a bond, note, or other obligation, whether payable or secured by taxes other than property taxes, revenues, or a combination thereof;
- "eligible project" as one or more related water supply projects that are identified as recommended water management strategies in the state water plan and the cumulative capital costs of which are not less than \$750 million;
- "state water plan" as the comprehensive water plan for the state adopted under applicable Water Code provisions; and
- "indebtedness" as a bond, note, or other obligation of an issuer issued or incurred pursuant to any statutory authority other than the bill's Government Code provisions.

S.B. 1261 authorizes an obligation to be secured by the following:

- the proceeds from the sale of other obligations or indebtedness of the issuer, including proceeds from the sale of revenue bonds payable from the revenue to be received from an eligible project or a specified user of an eligible project;
- any revenue that the issuer is authorized by the constitution, a statute, or the charter of a home-rule municipality to pledge or pay any kind of general or special indebtedness by or from those revenues, except that an obligation is prohibited from being secured wholly or partly by a pledge of property taxes;
- water supply contracts or water treatment contracts or other similar contracts or the revenue received from those contracts; or
- any combination of these aforementioned sources.

The bill authorizes the governing body of an issuer to secure an obligation and pay the cost of a contract or other agreement executed and delivered in connection with the financing of an eligible project with a pledge of the sources permitted by the bill's Government Code provisions. If an issuer secures an obligation with contracts or the revenue from those contracts, the term of the contracts may not be less than the final maturity or term of such obligations pursuant to provisions of the bill relating to the maturity or terms of obligations.

S.B. 1261 authorizes an issuer to use the proceeds from the issuance or incurrence of an obligation to finance and refinance an eligible project, including certain costs authorized by the Public Security Procedures Act.

S.B. 1261 prohibits the maximum maturity or term of an obligation issued or incurred pursuant to the bill's Government Code provisions from exceeding the lesser of 50 years from the date of the obligation's issuance or incurrence or the reasonably expected weighted average useful life of the eligible project as certified by a licensed professional engineer selected by the issuer. The bill prohibits the determination of reasonably expected weighted average useful life of an eligible project from being contested for any reason.

S.B. 1261 requires the governing body of an issuer to adopt or approve an obligation authorization, defined by the bill as the order, ordinance, or resolution of the issuer authorizing the obligation, before an obligation may be issued or incurred. The bill requires the obligation authorization to establish the following:

- the maximum amount of the obligation to be issued or incurred or, if applicable, the maximum principal amount that may be outstanding at any time;
- subject to the bill's provisions relating to the maturity or terms of obligations, the maximum term for which the obligation issued or incurred under the authorization may be outstanding;
- the maximum interest rate the obligation may bear;
- subject to a certain bill provision regarding the obligation authorization, the manner of sale of the obligation, which may be by public or private sale, the price of the obligation, the form of the obligation, and the terms, representations, and covenants of the issuer made in connection with the issuance or incurrence of the obligation, if applicable; and
- each source pledged or to be pledged to the payment of the obligation.

The bill authorizes the obligation authorization to do the following:

- provide for the designation of a paying agent and registrar for the obligation; and

- authorize one or more designated officers or employees of the issuer to act on behalf of the issuer from time to time in selling, incurring, and delivering obligations and setting the dates, price, interest rates, interest payment periods, redemption features, and other procedures relating to the issuance, sale, incurrence, and delivery of obligations, as specified in the obligation authorization.

S.B. 1261 establishes that a finding or determination made by an officer or employee acting under the authority delegated to the officer or employee by an obligation authorization adopted or approved under the bill's Government Code provisions has the same force and effect as a finding or determination made by the governing body.

S.B. 1261 requires a record of the proceedings of an issuer authorizing the issuance, execution, incurrence, and delivery of an obligation and any contract providing revenue or security pledged to the payment of the obligation to be submitted to the attorney general for review before the obligation may be issued or incurred. The bill requires the attorney general, if the attorney general finds that the proceedings authorizing an obligation conform to the requirements of the Texas Constitution and the bill's Government Code provisions, to approve it and deliver to the comptroller of public accounts a copy of the attorney general's legal opinion stating that approval and the record of proceedings. The bill authorizes the obligation, after approval, to be executed and delivered, exchanged, or refinanced from time to time in accordance with those authorizing proceedings. The bill requires the comptroller, on receipt of these documents, to register the record of the proceedings relating to the issuance of an obligation.

S.B. 1261 establishes that, if proceedings to authorize an obligation are approved by the attorney general and registered by the comptroller, each obligation and any contract that provides revenue or security included in or executed and delivered according to the authorizing proceedings and pledged to the payment of the obligation is incontestable in a court or other forum and is valid, binding, and enforceable according to its terms. The bill establishes that an obligation authorized by the bill's Government Code provisions is not valid, binding, or enforceable unless the obligation is approved by the attorney general and registered by the comptroller in accordance with statutory provisions relating to the examination and registration of public securities.

S.B. 1261 requires its Government Code provisions to be liberally construed to achieve the legislative intent and purposes of those provisions. The bill requires a power granted by such provisions to be broadly interpreted to achieve the intent and purposes.

S.B. 1261 establishes that its Government Code provisions control to the extent of any conflict or inconsistency between those provisions and another law or a municipal charter. The bill authorizes an issuer to use any provision of another law that does not conflict with such bill provisions to the extent convenient or necessary as determined by the issuer to carry out any power or authority, express or implied, granted by such bill provisions, without reference to any other laws or any restrictions or limitations contained in those laws. The bill makes statutory provisions relating to refunding bonds applicable to the refunding of obligations issued or incurred under the bill's Government Code provisions.

Water Code Provisions: Eligible Projects

S.B. 1261 amends the Water Code, with respect to the authorization for the Texas Water Development Board (TWDB) to direct the Texas Treasury Safekeeping Trust Company, if the trust company enters into an applicable bond enhancement agreement, to make disbursements from the State Water Implementation Fund for Texas to another fund or account for the support of bonds the proceeds of which are used to provide financial assistance in the form of a loan to finance a facility under repayment terms similar to the terms of debt customarily issued by the entity requesting assistance but not to exceed the lesser of the expected useful life of the facility or 30 years, to include as an alternative to that 30 year term a term of 40 years for an eligible project as defined by the bill's Government Code provisions.

S.B. 1261 includes such an eligible project among the projects for which money in the State Water Implementation Revenue Fund for Texas may be used by the TWDB to provide financing or refinancing. The bill specifies that the term "project," as applicable to the revenue bond program, includes such eligible projects. The bill includes such eligible projects among the projects for which money on deposit in the Texas Water Development Fund II state participation account may be used by the TWDB.

EFFECTIVE DATE

September 1, 2025.