

By: Tepper

H.B. No. 1453

A BILL TO BE ENTITLED

AN ACT

relating to the issuance of anticipation notes and certificates of obligation by certain local governments.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1431.001(2), Government Code, is amended to read as follows:

(2) "Eligible countywide district" means a flood control district ~~[or a hospital district]~~ the boundaries of which are substantially coterminous with the boundaries of a county with a population of three million or more ~~[or a hospital district created in a county with a population of more than 1.2 million that was not included in the boundaries of a hospital district before September 1, 2003]~~.

SECTION 2. Section 1431.002, Government Code, is amended by adding Subsection (d) to read as follows:

(d) Except as provided by this subsection, the governing body of an issuer may not authorize 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. The governing body of an issuer may authorize an anticipation note that the governing body is otherwise prohibited from authorizing under this subsection in a case described by Section 271.045(a)(1)(B) or (C), Local Government Code.

1 SECTION 3. Sections 271.043(7) and (7-a), Local Government
2 Code, are amended to read as follows:

3 (7) "Issuer" means a municipality or ~~[,]~~ county ~~[, or~~
4 ~~hospital district established under Chapter 281, Health and Safety~~
5 ~~Code]~~.

6 (7-a) "Public work" ~~[for an issuer that is a~~
7 ~~municipality or county]~~:

8 ~~[(A)]~~ means any of the following public
9 improvements as authorized by law:

10 (A) ~~[(i)]~~ a street, road, highway, bridge,
11 sidewalk, or parking structure;

12 (B) ~~[(ii)]~~ a landfill;

13 (C) ~~[(iii)]~~ an airport;

14 (D) ~~[(iv)]~~ a utility system, water supply
15 project, water treatment plant, wastewater treatment plant, or
16 water or wastewater conveyance facility;

17 (E) ~~[(v)]~~ a wharf or dock; or

18 (F) ~~[(vi)]~~ a flood control and drainage
19 project ~~[,~~

20 ~~[(vii)] a public safety facility, including~~
21 ~~a police station, fire station, emergency shelter, jail, or~~
22 ~~juvenile detention facility,~~

23 ~~[(viii)] a judicial facility,~~

24 ~~[(ix)] an administrative office building~~
25 ~~housing the governmental functions of the municipality or county,~~

26 ~~[(x)] an animal shelter,~~

27 ~~[(xi)] a library, or~~

1 ~~[(xii) a park or recreation facility that~~
2 ~~is generally accessible to the public and is part of the municipal~~
3 ~~or county park system;~~

4 ~~[(B) means the rehabilitation, expansion,~~
5 ~~reconstruction, or maintenance of an existing stadium, arena, civic~~
6 ~~center, convention center, or coliseum that is owned and operated~~
7 ~~by the municipality or county or by an entity created to act on~~
8 ~~behalf of the municipality or county; and~~

9 ~~[(C) does not include:~~

10 ~~[(i) a facility for which more than 50~~
11 ~~percent of the average annual usage is or is intended to be for~~
12 ~~professional or semi-professional sports;~~

13 ~~[(ii) a new stadium, arena, civic center,~~
14 ~~convention center, or coliseum that is or is intended to be leased~~
15 ~~by a single for-profit tenant for more than 180 days in a single~~
16 ~~calendar year; or~~

17 ~~[(iii) a hotel].~~

18 SECTION 4. Section [271.045](#), Local Government Code, is
19 amended by amending Subsections (a) and (b) and adding Subsections
20 (f) and (g) to read as follows:

21 (a) The governing body of an issuer may authorize
22 certificates only as necessary to pay a contractual obligation:

23 (1) to be incurred for the construction, renovation,
24 repair, or improvement of a public work that the governing body
25 determines is necessary:

26 (A) to comply with a state or federal law or rule,
27 but only if the issuer has been officially notified of

1 noncompliance with the law or rule [~~(1) construction of any public~~
2 ~~work~~];

3 (B) to mitigate the impact of a public health
4 emergency in the jurisdiction of the issuer that poses an imminent
5 danger to the physical health or safety of the residents of the
6 issuer;

7 (C) to finance the cleanup, mitigation, or
8 remediation of a natural disaster in the jurisdiction of the issuer
9 subject to a state of disaster declared by:

10 (i) the governor under Section 418.014,
11 Government Code, in the fiscal year that the certificates are
12 authorized; or

13 (ii) the presiding officer of the governing
14 body of the issuer under Section 418.108, Government Code, in the
15 fiscal year that the certificates are authorized; or

16 (D) to comply with a court order [~~(2) purchase~~
17 ~~of materials, supplies, equipment, machinery, buildings, land, and~~
18 ~~rights-of-way for authorized needs and purposes~~]; or

19 (2) for professional services necessary for a public
20 work described by Subdivision (1) [~~(3) payment of contractual~~
21 ~~obligations for professional services, including services provided~~
22 ~~by tax appraisers, engineers, architects, attorneys, map makers,~~
23 ~~auditors, financial advisors, and fiscal agents~~].

24 (b) If necessary because of a change order for a contractual
25 obligation incurred for the construction, renovation, repair, or
26 improvement of a public work [~~orders~~], the governing body of an
27 issuer may authorize the issuance of certificates [~~may be~~

1 ~~authorized~~] in an amount not to exceed 15 [~~25~~] percent of the [~~a~~]
2 contractual obligation [~~incurred for the construction of public~~
3 ~~works~~], but certificates may be delivered only in the amount
4 necessary to discharge the contractual obligation [~~obligations~~].

5 (f) The governing body of an issuer that authorizes the
6 issuance of a certificate shall enter into a contract for the
7 construction, renovation, repair, or improvement of the public work
8 for which the issuance is authorized not later than the 180th day
9 after the date the governing body authorizes the issuance.

10 (g) The governing body of an issuer that authorizes a
11 certificate to pay a contractual obligation under Subsection
12 (a)(1)(B) shall adopt a resolution describing the conditions and
13 circumstances of the public health emergency and making a
14 determination that the emergency exists.

15 SECTION 5. Section 271.0461, Local Government Code, is
16 amended to read as follows:

17 Sec. 271.0461. ADDITIONAL PURPOSE FOR CERTIFICATES:
18 DEMOLITION OF DANGEROUS STRUCTURES [~~OR RESTORATION OF HISTORIC~~
19 ~~STRUCTURES~~]. Certificates may be issued by any municipality for
20 the payment of contractual obligations to be incurred in
21 demolishing dangerous structures [~~or restoring historic~~
22 ~~structures~~] and may be sold for cash, subject to the restrictions
23 and other conditions of Section 271.050.

24 SECTION 6. Sections 271.047(c) and (d), Local Government
25 Code, are amended to read as follows:

26 (c) A certificate may not mature over a period greater than
27 30 [~~40~~] years from the date of the certificate and may not bear

1 interest at a rate greater than that allowed by Chapter 1204,
2 Government Code.

3 (d) Except as provided by this subsection, the governing
4 body of an issuer may not authorize a certificate to pay a
5 contractual obligation to be incurred if a bond proposition to
6 authorize the issuance of bonds for the same purpose was submitted
7 to the voters during the preceding five [~~three~~] years and failed to
8 be approved. A governing body may authorize a certificate that the
9 governing body is otherwise prohibited from authorizing under this
10 subsection[+]

11 [~~(1)~~] in a case described by Section 271.045(a)(1)(B)
12 or (C) [~~Sections 271.056(1)-(3); and~~

13 [~~(2) to comply with a state or federal law, rule, or~~
14 ~~regulation if the political subdivision has been officially~~
15 ~~notified of noncompliance with the law, rule, or regulation]~~.

16 SECTION 7. Sections 271.049(c) and (d), Local Government
17 Code, are amended to read as follows:

18 (c) If before the date tentatively set for the authorization
19 of the issuance of the certificates or if before the authorization,
20 the municipal secretary or clerk if the issuer is a municipality,
21 or the county clerk if the issuer is a county, receives a petition
22 signed by at least two [~~five~~] percent of the registered [~~qualified~~]
23 voters of the issuer protesting the issuance of the certificates,
24 the issuer may not authorize the issuance of the certificates
25 unless the issuance is approved at an election ordered, held, and
26 conducted in the manner provided for bond elections under Chapter
27 1251, Government Code.

1 (d) This section does not apply to certificates issued for
2 the purposes described by Section 271.045(a)(1)(B) or (C) [~~Sections~~
3 ~~271.056(1)-(4)~~].

4 SECTION 8. Section 271.0525(c), Local Government Code, is
5 amended to read as follows:

6 (c) A petition to protest the issuance of refinancing
7 certificates under this section must be signed by at least two
8 percent of the registered [~~a number of qualified~~] voters of the
9 county [~~, residing in the county, equal to at least five percent of~~
10 ~~the number of votes cast in that county for governor in the most~~
11 ~~recent general election at which that office was filled~~].

12 SECTION 9. Section 271.057(a), Local Government Code, is
13 amended to read as follows:

14 (a) Except as provided by Subsection (b), a contract let
15 under this subchapter for the construction, renovation, repair, or
16 improvement of public works or the purchase of materials,
17 equipment, supplies, or machinery and for which competitive bidding
18 is required by this subchapter must be let to the lowest responsible
19 bidder and, as the governing body determines, may be let on a
20 lump-sum basis or unit price basis.

21 SECTION 10. Section 271.059, Local Government Code, is
22 amended to read as follows:

23 Sec. 271.059. CONTRACTOR'S BONDS. If a contract is for the
24 construction, renovation, repair, or improvement of public works
25 and is required by this subchapter to be submitted to competitive
26 bidding, the successful bidder must execute a good and sufficient
27 payment bond and performance bond. The bonds must each be:

1 (1) in the full amount of the contract price; and
2 (2) executed, in accordance with Chapter 2253,
3 Government Code, with a surety company authorized to do business in
4 this state.

5 SECTION 11. Section 271.046, Local Government Code, is
6 repealed.

7 SECTION 12. The changes in law made by this Act apply only
8 to an anticipation note or certificate of obligation issued on or
9 after the effective date of this Act. An anticipation note or
10 certificate of obligation issued before the effective date of this
11 Act is governed by the law in effect on the date the anticipation
12 note or certificate was issued, and the former law is continued in
13 effect for that purpose.

14 SECTION 13. This Act takes effect September 1, 2025.