

SUBJECT: Municipal borrowing to pay court settlements

COMMITTEE: Urban Affairs: favorable, without amendment

VOTE: 12 ayes--Pierce, Luna, Wolens, Connelly, Eikenburg,  
English, Hilbert, McKenna, Patrick, Pennington,  
Polumbo, Toomey

0 nays

3 absent--Cain, Colbert, Edwards

WITNESSES: For--Mayor Quentin Rizley, Perryton

Against--None

SENATE (On companion bill, SB 358) 22 ayes, 7 nays  
VOTE: (Blake, Brown, Doggett, Harris, Mauzy, Parmer,  
Vale,); see NOTES

BACKGROUND: The city of Perryton, a general-law city of about 9,000 residents, has been sued by several parties as a result of an explosion involving the city-owned gas system. In one of these suits, a federal judge awarded an injured party damages of almost \$900,000. The city has appealed that case and is hoping to settle the other cases out of court. VACS art. 835r allows cities to sell bonds to pay court judgments. A bond election is required, the interest rate the city can pay is limited to 6.5 percent, and the proceeds can be used only to pay judgments, not out-of-court settlements.

DIGEST: HB 432 would allow general-law cities to issue certificates of indebtedness to pay off court judgments or out-of-court settlements resulting from city operation of a municipal gas system. No voter approval of the debt would be required. However, if 5 percent of the city's qualified voters signed a petition protesting issuance of the certificates, they could not be issued unless approved in an election.

The certificates could be sold publicly or privately, at an interest rate determined by the council. The term of the debt could not exceed 20 years. The debt would be paid off with city property-tax revenue.

SUPPORTERS  
SAY:

The city of Perryton has sold \$1 million in bonds to reconstruct its gas system and has authority to sell another \$1 million for this purpose. But the potential of a large city debt resulting from damage suits against the city casts a cloud over Perryton's finances, making bond buyers wary. The city needs to settle the suits quickly and would like to avoid long trials by settling out of court. There is, however, no statutory authority for borrowing money for such settlements. Art. 835r permits bond sales only to pay off judgments and decrees. And the statute's interest-rate ceiling is unreasonably low in the current market. The proposed statute would give the city the flexibility it needs to deal speedily with its pending lawsuits and get on with the business of rebuilding the gas system.

The proposed statute is narrowly drawn, dealing solely with borrowing funds to pay off settlements or judgments in suits resulting from city ownership or operation of a natural gas system.

This bill would give the city a chance to avoid the trouble and expense of a bond election. Yet the requirement for an election when 5 percent of the voters protest creates ample safeguards of the voters' right to speak on such issues, should they so choose.

OPPONENTS  
SAY:

Cities should have to seek voter approval of debt that will be paid off with tax revenue, not just wait passively to see if voters protest. The procedure outlined in this bill would make it cumbersome for voters to have their say. Certificates of indebtedness are just a back-door approach to increasing municipal debt without having to get approval from the people who will foot the bill. The bill should have an election requirement like the one in art. 835r.

If the city of Perryton has a problem with the existing law on bond sales for judgments, why not just amend the law by raising the interest-rate ceiling and extending the use of bond proceeds to court settlements as well as judgments?

NOTES:

The Senate yesterday passed the companion to this bill, SB 358, by Sarpalius, in a 22-7 vote. Rep. Buchanan said he probably would seek postponement of his bill in the House, to allow time for the Senate bill to be considered in House committee.

The Railroad Commission says there are 86 municipally-owned gas systems in the state.