

**SUBJECT:** Registration of financial advisors obtained by bond issuers

**COMMITTEE:** Financial Institutions — committee substitute recommended

**VOTE:** 4 ayes — Solomons, Flynn, Anderson, Orr  
0 nays  
3 absent — Chavez, Anchia, McCall

**WITNESSES:** For — Michael Bartolotta, First Southwest Company  
Against — William Bingham, Public Financial Management, Inc.; Ladd Pattillo

**BACKGROUND:** The Texas Legislature created the Securities Act in Vernon's Texas Civil Statutes in 1957 and established the State Securities Board. Among other provisions, the Securities Act requires that certain persons selling securities or providing investment advice be registered with the State Securities Board.

**DIGEST:** CSHB 3282 would require financial advisors to register as dealers or investment advisors in accordance with the Securities Act if they advised issuers of public bonds. These provisions would not apply to issuers who had more than \$3 billion in outstanding obligations or to a non-profit corporation investing funds on behalf of such an issuer.

The registration requirement would apply to a financial advisor who was not an employee of an issuer of public bonds that provided financial advice regarding:

- interest rate management agreements;
- execution or delivery of a public security; or
- the investment of public security proceeds.

The financial advisor also would have to have relevant experience in providing advice to issuers in connection with these issues. The financial advisor would acknowledge in writing that the advisor was acting as the

issuer's agent and had complied with the requirement to register with the State Securities Board.

By January 1, 2008, the State Securities Board would adopt rules relating to public securities, interest rate management agreements, and investment of bond proceeds as these issues pertained to financial advisors and investment advisors. The board would base the rules on principles adopted in the Municipal Securities Rulemaking Board's rules.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

**SUPPORTERS  
SAY:**

CSHB 3282 would authorize the State Securities Board to create standards of conduct for financial advisors providing services to issuers of public bonds. Structuring and negotiating interest rate management agreements or executing or delivering a public security can be highly complex. Financial advisors often act as a fiduciary on behalf of the issuer for such arrangements which, if not properly carried out, could have an adverse impact on public funds and projects. Given the import of the financial advisor's role, such an individual should be registered and abide by fair dealing rules and ethical standards set forth by the Securities Board.

There were concerns that the original version of the bill could have had unintended consequences such as an independent financial advisor having to join a brokerage firm. The committee substitute addressed these concerns by requiring that the registration rules be adapted specifically for financial advisors and investment advisors.

**OPPONENTS  
SAY:**

No apparent opposition.

**NOTES:**

HB 3282 as filed would have subjected financial advisors that registered as dealers or investment advisors to the Municipal Securities Rulemaking Board's rules. CSHB 3282 instead would provide that the State Securities Board adopt rules that in principle reflected Municipal Securities rules yet were adapted specifically for financial advisors and investment advisors.