

SUBJECT: Enhanced financial reporting for local public entities

COMMITTEE: Appropriations — favorable, without amendment

VOTE: 22 ayes — Pitts, Sylvester Turner, Ashby, Bell, G. Bonnen, Carter, Crownover, Darby, S. Davis, Giddings, Gonzales, Howard, Hughes, Longoria, McClendon, Otto, Patrick, Perry, Price, Raney, Ratliff, Zerwas

0 nays

5 absent — Dukes, S. King, Márquez, Muñoz, Orr

SENATE VOTE: On final passage, May 9 — 29-1 (Zaffirini)

WITNESSES: ***(On introduced version of House companion bill, HB 14)***

For — Alan Hugley, City of Red Oak; James Quintero, Texas Public Policy Foundation; Oscar Rodriguez, Texas Assn of Broadcasters; Peggy Venable, Americans for Prosperity; Duke Burge, Midlothian ISD; Scott Niven, Red Oak ISD; and four others; *(Registered, but did not testify:* Kathy Barber, NFIB/Texas; Konni Burton, Tea Party Caucus Advisory Committee; Brent Connett, Texas Conservative Coalition; Dr Rosemary Edwards, Travis County Republican Party; John Horton, Young Conservatives of Texas; Dustin Matocha, Texans for Fiscal Responsibility; Naomi Narvaiz, San Marcos Area Republican Texans Group; Charley Wilkison, Combined Law Enforcement Associations of Texas, and four individuals

Against — Jim Allison, County Judges and Commissioners Association of Texas; Mark Burroughs, City of Denton; Clayton Chandler, City of Mansfield; Lisa Clark, Texas Association of Builders; Howard Cohen, Schwartz, Page & Harding L.L.P.; James Hernandez, Harris County and Harris County Toll Road Authority; Brad Lancaster, Fast Growth School Coalition and Lake Travis ISD; Donald Lee, Texas Conference of Urban Counties; Bill Longley, Texas Municipal League; David Maxwell, Assoc of Water Board Directors; Peter Phillis, City of Mansfield, Texas; Micki Rundell, City of Georgetown; Danny Scarth, City of Fort Worth; Terry Simpson, San Patricio County; Joy Streater, County District Clerks Assn.; Byron Underwood, Texas Assoc. of Counties; Ed Van Eenoo, City of

Austin; James Wilcox, Texas Association of School Boards, Texas Association of School Administrators, and Texas School Alliance, and 1 other; (*Registered, but did not testify*: David D Anderson, Arlington ISD Board of Trustees; Steve Bresnen, North Harris County Regional Water Authority; Snapper Carr, Andrews County; Mindy Ellmer, Tarrant Regional Water District; Wayne Halbert, Texas Irrigation Council; Angela Hale, City of McKinney; Roger Hord, West Houston Association; Mark Israelson, City of Plano; Jerry James, City of Victoria; Kassandra Kell, City of Irving; Jennifer May, City of Sugar Land; Ken McCraw, Texas Association of Community Schools; Mark Mendez, Tarrant County Commissioners Court; Seth Mitchell, Bexar County Commissioners Court; Terrell Palmer, First Southwest Company; TJ Patterson, City of Fort Worth; Dean Robbins, Texas Water Conservation Association; Karen Rue, Fast Growth School Coalition; Susie Shields, San Antonio Mobility Coalition; Jim Short, Fort Bend County; Jim Short, Houston Real Estate Council; Michelle Smith, Fast Growth School Coalition; Bob Stout, Newland Communities Texas, The Woodlands Development Co.; Frank Sturzl, City of Abilene; Paul Sugg, Texas Association of Counties; Tom Tagliabue, City of Corpus Christi)

On — Susan Combs, Tom Currah and Chance Sampson, Comptroller of Public Accounts; Donnis Baggett, Texas Press Association; Susan Combs, Texas Comptroller of Public Accounts; Deece Eckstein, Travis County Commissioners Court; Shane Fitzgerald, Freedom of Information Foundation of Texas; Robert Kline, Bond Review Board; Stephanie Leibe, Office of the Attorney General; Maureen Milligan, Teaching Hospitals of Texas; Heather Rosas, Texas Bond Review Board; (*Registered, but did not testify*: Lita Gonzalez and Beth Hallmark, Comptroller of Public Accounts; Charles Bailey, Texas Hospital Association; Keith Ingram, Texas Secretary of State, Elections Division; Gary Johnstone, Texas Higher Education Coordinating Board; David Lancaster, Texas Society of Architects; Rob Latsha, Bond Review Board)

**DIGEST:**

CSHB 14 would require most public entities — including counties, municipalities, school and junior college districts, higher education institutions, and other special districts — to post financial, voter, public hearing, and other information in a publicly accessible electronic format.

**Website requirement.** A political subdivision with at least 250 registered voters would have to maintain a website to comply with the bill's requirements. For counties or municipalities with a population less than

2,000 that did not maintain a website as of January 1, 2013, notice could be posted on a website where the entity controlled the content of the posting, such as a social media site, provided the information easily could be found by an online search. The bill would provide alternative means of compliance with the website requirements for certain special districts and small counties and municipalities.

***Special districts.*** After September 1, 2014, a political subdivision that had at least 250 registered voters and was classified as a district under Water Code, sec. 49.001(1), could electronically submit required information to the executive director of the Texas Commission on Environmental Quality to be posted on the commission's website on a web page dedicated to the political subdivision, so long as the site was:

- easily located by searching the name of the district; or
- linked or automatically opened from a web address maintained by the district that could be easily located by searching the district's name.

The web address would not be considered a website for the purpose of other law.

***Small counties and municipalities.*** Counties with a population of 10,200 or less (86 counties) and municipalities with a population of 5,000 or less could electronically submit required information to the comptroller to be posted on the comptroller's Internet website, so long as the site was:

- easily located by searching the name of the county or municipality; or
- linked or automatically opened from a web address maintained by the county or municipality and that could be easily located by searching the name of the county or municipality.

The web address would not be considered a website for the purpose of other law.

***Higher education.*** An institution of higher education would have to maintain a website to comply with the bill's annual financial reporting requirement. Each junior college district would have to maintain a website to comply with construction cost reporting requirements.

**Annual financial report.** A political subdivision — except a special district as defined by Water Code, sec. 49.001(1) — would prepare an annual financial report that included specific financial and debt information. An annual financial report would have to be available for inspection by any person, and a political subdivision with more than 250 registered voters would post the financial report on the subdivision's website, subject to the limitations on this requirement in the bill. Alternatively, a subdivision could provide the required information to the comptroller, who would post it on the comptroller's website. The political subdivision would post a link to the location of the report on the comptroller's website.

An institution of higher education would have to ensure that its most recent financial report was posted on its website no later than November 30th of each year. The report would have to show the aggregate outstanding debt of a university system and the outstanding debt for each education institution.

**Public hearing.** A political subdivision would have to conduct a public hearing prior to holding an election to authorize the issuance of bonds. Between 15 and 30 days before a hearing, a local government would take action to ensure that the notice was provided by:

- publication in at least one newspaper of general circulation;
- included in a newsletter mailed or delivered to each registered voter; or
- mailed to each registered voter in the political subdivision.

In addition, the notice would have to be posted on the political subdivision's website subject to the limitations on this requirement in the bill. The bill would impose requirements for a public hearing and associated documentation.

**Voter information.** A voter information document would have to be prepared for each bond proposition under consideration. The document would contain specific information about the political subdivision's debt status, the cost of the proposed debt, the entity's property tax debt rate, the property tax debt levy per residence with a taxable value of \$100,000, and other specific information listed in the bill. A good faith estimate in a voter information document would not be a breach of contract with voters if the estimate was later found to be incorrect.

A political subdivision would have to post a sample of the ballot printed for a bond election on its website, subject to the limitations on this requirement in the bill. The secretary of state would determine the form of a voter information document.

**Certificates of obligation.** A governing body could not authorize a certificate of obligation for payment of a contractual obligation if a bond proposition for the same purpose was submitted within the last three years and failed to gain approval. A governing body could authorize a certificate otherwise prohibited in a case of public calamity, to protect public health, for unforeseen damages to property, or to comply with a state or federal law for which the entity had been officially notified of noncompliance.

A notice of a plan to issue a certificate of obligation would have to be posted continuously on the issuer's website for at least 30 days, the same requirement for prior publication that is in current law, before the date tentatively set to hear an ordinance authorizing the issuance. A county or municipality with a population of less than 2,000 could post the plan on a site in which the entity controlled the content of the posting, such as a social media site, provided the information easily could be found by an online search.

The bill would expand the content of notice requirements for certificates of obligation.

**Comprehensive self-evaluation.** Special districts would be required to conduct a comprehensive review at least every six years. Any special district issuing debt after September 1, 2013, would have to conduct a comprehensive review within three years of issuing debt.

Self-evaluation reports would have to include specific elements regarding the district's authority, assessments it imposes, revenue collected, and outstanding debt. The self-evaluation report would be posted on the district's website, subject to the limitations on this requirement in the bill for special districts. The special district would have to make the report available for requests for public information and would have to conduct a public hearing to hear from persons interested in the self-evaluation report.

**State responsibilities.** The comptroller would publish the sales and use tax rate for every political subdivision that imposed such a tax and the tax

rate information reported by counties.

Under the bill, the attorney general, who currently must certify that a public security was issued in accordance with the law, would have to send information collected on local securities to the Bond Review Board. The bond finance office and the attorney general would maintain a noncompliance list of issuers that did not provide the information as required. The attorney general could not approve a local security submitted by an issuer that was included on the noncompliance list.

The Bond Review Board would enter into one or more contracts to procure services to collect and maintain information related to public indebtedness.

**School facilities data.** To provide information to the public on facilities and taxpayer value, a school district or open-enrollment charter school would have to:

- report data elements specified by rule to Texas Education Agency through an approved data management system; and
- provide a direct link on the district or schools website to the Texas Student Data System through which the facilities information relevant to the specific district or school could be readily accessed.

The education commissioner would adopt rules necessary to implement the reporting system and ensure that the system contained the appropriate data elements. Open-enrollment charter schools would have to ensure that an annual financial report was posted on their website online.

The rules would be based on the recommendations of the taxpayer and school facilities usage advisory committee, which the bill would establish. The committee would consist of nine members, including the comptroller and education commissioner, who would jointly appoint the other members from lists of persons recommended by the lieutenant governor and speaker of the House. The committee would submit a report not later than December 31, 2014, with recommendations on the data that should be considered in evaluating a school's usage and taxpayer value with regard to school facility construction and renovation.

The Texas Higher Education Coordinating Board would require each junior college district to report building construction costs and related

information for determining the average cost per square foot for the region of the state and the average cost per full-time student for each junior college district. The report would have to be posted on each entity's website.

**Effective date.** The bill would take effect September 1, 2013.

**SUPPORTERS  
SAY:**

SB 14 would take strides toward improving fiscal transparency among public bodies in the state. While the state has a low share of tax-supported debt, Texas has the second-highest local debt per capita ratio among the 10 most populous states. According to the Bond Review Board, about 83 percent of the state's total debt is local debt. Last decade, local entities more than doubled their debt load to \$7,500 per capita.

While much of this debt is well justified and necessary, it is incumbent on the Legislature to ensure that Texans are able to make informed choices about how much debt governmental entities assume and for what purposes. SB 14 is primarily a response to citizen concerns about debt in the state and the availability of accessible information on that debt.

The current version of SB 14 is the result of an impressive effort among the bill's supporters to work with stakeholders to preserve the intent of increased transparency while making the requirements on local entities reasonable. As a result of the hard work that supporters invested in the bill, stakeholders' concerns have largely been allayed and many who opposed HB 14, the House companion bill that died on the House floor due to a point of order, have withdrawn their opposition to SB 14.

**Reporting.** SB 14 would require all local governments to post online each year revenue and expenditure information, including key information on the bodies' long-term obligations. This would allow Texans to easily find and review financial information for their school district, county, municipality, etc. Currently, some of this information is available and some is not; all of it is scattered in various places that make it difficult for the lay person to locate, assemble, and understand.

Significant changes were made to the bill in the Senate to ensure that small public entities would not be unduly burdened by the reporting and web posting requirement. In recognition that some smaller entities may not have existing web pages — though many do — SB 14 would exempt political subdivisions with fewer than 250 registered voters from website

posting requirements and would carve a path for special districts and small counties and municipalities to easily comply with the requirements.

To address concerns about smaller entities, the bill would provide an option to send documents electronically to TCEQ or the comptroller, as applicable, purchase a domain (available for a modest fee from a variety of distributors) and then set up the domain to automatically redirect to the documents on the state site. This would be feasible with minimal cost for the entity and would give the public an option for finding the materials with a simple web search.

**Voter information.** SB 14 would require local entities to make available key information on the entity's debt status and the cost of the proposed debt prior to an election for a new bond issuance. This would ensure that local entities provide the information necessary for voters to make informed decisions.

Voters are routinely asked to approve large bond packages that commit public entities, and hence taxpayers and ratepayers, to paying debt service for decades. Yet the voters who are so often asked to pledge their taxes to the payment of debt service are seldom provided the information necessary to make informed decisions about their money. Relatively small bond issuances, completed with frequency, can amount to an unsupportable debt burden. This is hard for voters to keep in check, since, all too often, they have no real way of knowing an entity's current debt status and the financial implications of the proposal on the table. The requirements of SB 14 would provide this necessary context.

Arguments that the information could be misleading underestimate voters' ability to look at comparative information and draw their own conclusions. If there is a reason that a particular local entity has a higher debt load than similar entities, then that reason naturally becomes part of the discussion on whether additional bond revenue is necessary. Voters are perfectly capable of taking into account unique circumstances when making judgments. The data required would provide a starting point for a more salient discussion.

**Certificates of obligation.** SB 14 would limit the issuance of debt commonly completed through certificates of obligation (COs) without voter approval. COs now account for 16.6 percent of all debt issued by entities with this authority. SB 14 would put an end to some evasive



practices by prohibiting local entities from issuing a CO to pay for capital projects that voters recently rejected. The bill would improve taxpayers' ability to act as an effective check on spending by arming them with the resources necessary to make informed decisions.

OPPONENTS  
SAY:

While changes in the Senate to SB 14 made significant improvements over previous iterations, the bill would persist in imposing additional requirements upon local entities without providing them with any additional resources to comply with the expanded requirements. The bill would create additional administrative burdens for local entities without necessarily adding value for taxpayers.

**Reporting.** SB 14 would place additional requirements on thousands of local entities to comply with reporting and posting requirements. The bill also would impose time-intensive annual financial reporting that would have to be done on a yearly basis as well as costly self-evaluation reports for special districts every six years. Many local entities would be hard pressed to take on additional reporting with existing limited staff resources. In addition, many cities with minimal or nonexistent debt loads would be tasked to complete the report without a clear advantage to taxpayers.

Overall, the reporting requirements in the bill would provide a solution for a non-existent problem. There is no documentation of a lack of transparency in fiscal matters on a local level. The extra reporting would create additional costs and yet would provide little added value.

**Voter information.** In addition to the administrative burden, it is not clear that the information requirements would increase the public's ability to make informed judgments. Bonds and finances are a very complicated subject and each capital project is subject to a unique set of factors. A simple apples-to-apples comparison of construction costs, for example, is dangerous, as it does not account for those unique factors.

Providing voter information prior to a bond election could put local entities in a difficult position, as they are not allowed to take a position on any propositions in front of voters.

OTHER  
OPPONENTS  
SAY:

Website maintenance requirements for local entities that issue COs differ from those for other requirements in the bill. The bill would not provide a separate path to link a domain to a public site for small counties and

municipalities that propose the issuance of certificates of obligation.

NOTES:

**Amendment.** The author plans to offer some amendments, one of which would conform web maintenance requirements for local entities that issued a certificate of obligation to make them equivalent to other requirements in the bill.

**Fiscal note.** The Legislative Budget Board estimates SB 14 would have a negative impact on general revenue of \$915,314 for fiscal 2014-15, and \$790,740 in fiscal 2016-17. The cost would stem from a Bond Review Board increase of four full-time-equivalent employees and other expenses necessary to meet requirements in the bill.

**Companion bill.** The House companion bill, HB 14 by Pitts, died on the House floor due to a sustained point of order on May 3.