

## **BILL ANALYSIS**

Senate Research Center

H.B. 1882  
By: Averitt (Ogden)  
Criminal Justice  
5-16-97  
Engrossed

### **DIGEST**

In the past, some municipalities and counties in the State of Texas financed new jails for local inmates and state inmates. A common financing structure was established in which the municipality or county contracts with a nonprofit corporation created to act on behalf of the governmental unit, whereby the governmental unit lease-purchases, or leases with an option to purchase, the facilities from the nonprofit corporation. In return, the nonprofit corporation issues certificates of participation representing a "pass through" of the lease payments of the governmental unit. Proceeds from the sale of the certificates of participation are then applied to build the jail facility. Typically, the obligation of the municipality or the county to make lease payments under the lease has been subject to annual appropriations made by the governing body. In addition, most of the financing arrangements have included a deed of trust and security agreement entered into by the nonprofit corporation, with a trustee to secure, for the benefit of the purchasers of the certificates of participation, a mortgage on the financed facility. This bill set forth provisions regarding the financing of certain eligible projects for criminal justice purposes.

### **PURPOSE**

As proposed, H.B. 1882 sets forth provisions regarding the financing of certain eligible projects for criminal justice purposes.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 361.051, Local Government Code, to redefine "lease obligation" to mean an obligation incurred by the Texas Board of Criminal Justice under Section 495.021, Government Code, rather than an obligation incurred by the Texas Department of Corrections. Provides that corrections of the nature contemplated by Article 6166g-4, V.T.C.S. Redefines "obligations" to mean certificates of obligation of an entity issued pursuant to this subchapter in the manner prescribed by the Certificate of Obligation Act of 1971 (Subchapter C, Chapter 271) including contractual obligations incurred by an entity under certain acquisitions of title to an eligible project. Makes conforming changes.

SECTION 2. Amends Section 361.052, Local Government Code, to provide that this subsection applies regardless of when an obligation is due or title to the project is transferred to the entity. Authorizes money to be paid pursuant to lease obligations and revenues derived by an entity from the operation of an eligible project constitute revenues to an entity that may be pledged to secure or pay any obligations, and the entity's obligations may be made payable from and secured by, in whole or in part, those revenues. Makes conforming and nonsubstantive changes.

SECTION 3. Amends Section 361.053(d), Local Government Code, to authorize the bonds to be secured additionally by a trust indenture or a deed of trust granting a security interest in an eligible project, under which the trustee may serve in a certain capacity.

SECTION 4. Emergency clause.  
Effective date: upon passage.