

GOVERNMENT CODE
SUBTITLE H. SPECIFIC AUTHORITY FOR MORE THAN ONE TYPE OF LOCAL
GOVERNMENT TO ISSUE SECURITIES
CHAPTER 1431. ANTICIPATION NOTES

Sec. 1431.001. DEFINITIONS. In this chapter:

(1) "Anticipation note" means a note issued under this chapter.

(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.

(3) "Eligible school district" means an independent school district that has an average daily attendance of 190,000 or more as determined under Section 42.005, Education Code.

(4) "Governing body" means the commissioners court of a county or the governing body of a municipality, eligible school district, or eligible countywide district authorized to issue anticipation notes on behalf of an issuer.

(5) "Issuer" means a county, municipality, eligible school district, or eligible countywide district issuing an anticipation note.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1183, Sec. 1, eff. Sept. 1, 2001.

Sec. 1431.002. AUTHORITY TO ISSUE ANTICIPATION NOTES. (a) The commissioners court of a county by order, on the recommendation of the county auditor or the county budget officer, as applicable, or the governing body of an eligible countywide district may authorize the issuance of an anticipation note.

(b) The governing body of a municipality by ordinance may authorize the issuance of an anticipation note.

(c) The governing body of an eligible school district by order may authorize the issuance of an anticipation note.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1183, Sec. 2, eff. Sept. 1, 2001.

Sec. 1431.003. ADDITIONAL AUTHORITY OF COUNTIES AND CERTAIN MUNICIPALITIES. (a) This section applies only to an issuer that is:

(1) a county;

(2) a municipality with a population of 80,000 or more;

(3) an eligible school district; or

(4) an eligible countywide district.

(b) Notwithstanding anything in this chapter to the contrary, the governing body may exercise the authority granted to the governing body of an issuer with regard to issuance of obligations under Chapter 1371, except that the prohibition in that chapter on the repayment of an obligation with ad valorem taxes does not apply to an issuer exercising the authority granted by this section.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1183, Sec. 3, eff. Sept. 1, 2001.

Sec. 1431.004. USES OF ANTICIPATION NOTE PROCEEDS. (a) An issuer, other than an eligible school district, may use the proceeds of an anticipation note to pay:

(1) a contractual obligation incurred or to be incurred for:

(A) the construction of a public work;

(B) the purchase of materials, supplies, equipment, machinery, buildings, lands, and rights-of-way for the issuer's authorized needs and purposes; or

(C) a professional service, including a service by a tax appraisal engineer, engineer, architect, attorney, mapmaker, auditor, financial advisor, or fiscal agent;

(2) operating or current expenses; or

(3) the issuer's cumulative cash flow deficit.

(b) The governing body of an eligible school district may use the proceeds of an anticipation note to pay an obligation incurred or to be incurred for:

(1) a purpose described by Subsection(a)(1)(C), (2), or (3); or

(2) the purchase of materials, supplies, equipment, or machinery for an issuer's authorized needs and purposes.

(c) For the purposes of this section, the cumulative cash flow deficit is the amount by which the sum of an issuer's anticipated expenditures and cash reserve reasonably required to pay unanticipated expenditures exceeds the amount of the issuer's cash, marketable securities, and money in an account that may be used to pay an issuer's anticipated expenditures, other than:

(1) money in an account the use of which is subject to legislative or judicial action or that is subject to a legislative, judicial, or contractual requirement that the account be reimbursed; or

(2) the proceeds of an anticipation note.

(d) For the purposes of Subsection (c), an amount equal to one month's anticipated expenditures is presumed to be reasonably required as a cash reserve.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1183, Sec. 4, eff. Sept. 1, 2001.

Sec. 1431.005. GENERAL LIMITATION. An issuer may not use proceeds of an anticipation note to repay interfund or other borrowing that occurred earlier than 24 months before the date of the ordinance or order authorizing the issuance of the note.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1431.006. LIMITATION ON NOTES TO PAY EXPENSES. Anticipation notes issued for the purposes described by Section 1431.004(a)(2) may not, in the fiscal year in which the attorney general approves the notes:

(1) for a municipality, exceed 75 percent of the revenue or taxes anticipated to be collected in that year;

(2) for a county or an eligible countywide district, exceed 50 percent of the revenue or taxes anticipated to be collected in that year; or

(3) for an eligible school district, exceed 75 percent of the income of the district for the fiscal year preceding that year.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 1183, Sec. 5, eff. Sept. 1, 2001.

Sec. 1431.007. GENERAL SOURCES OF PAYMENT. (a) Except as provided by Subsection (b), a governing body may:

(1) provide that anticipation notes be paid from and secured by revenue, taxes, a combination of revenue and taxes, or the proceeds of bonds to be issued by the issuer; and

(2) pledge to the payment of anticipation notes revenue, taxes, a combination of revenue and taxes, or the proceeds of bonds to be issued by the issuer.

(b) The governing body of a flood control district operating as a conservation and reclamation district that issues anticipation notes for one or more purposes described in Section 1431.004(a)(1) may:

(1) provide that the anticipation notes be paid from and secured by revenue or the proceeds of bonds to be issued by the issuer; and

(2) pledge to the payment of the anticipation notes revenues or the proceeds of bonds to be issued by the issuer.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 1183, Sec. 6, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 270, Sec. 2, eff. June 18, 2003.

Sec. 1431.008. AD VALOREM TAXES AS SOURCE OF PAYMENT. (a) A governing body may not issue anticipation notes that are payable from bonds secured by an ad valorem tax unless the proposition authorizing the issuance of the bonds:

(1) is approved by a majority of the votes cast in an election held by the issuer; and

(2) states that anticipation notes may be issued.

(b) A governing body that pledges to the payment of anticipation notes an ad valorem tax to be imposed in a subsequent fiscal year shall impose the tax in the ordinance or order that authorizes the issuance of the notes.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1431.009. MATURITY. (a) Except as provided by Subsection (b), an anticipation note issued for a purpose described by Section 1431.004(a)(1) or (b)(2) must mature before the seventh anniversary of the date that the attorney general approves the note.

(b) An anticipation note issued by a county with a

population of three million or more, an eligible countywide district, or an eligible school district for a purpose described by Section 1431.004(a)(1) or (b)(2) must mature before the 15th anniversary of the date that the attorney general approves the note.

(c) An anticipation note issued for a purpose described by Section 1431.004(a)(2) or (3) must mature before the first anniversary of the date that the attorney general approves the note.

(d) A bond issued under Chapter 1207 to refund an anticipation note issued by a county, municipality, or eligible countywide district for a purpose described by Section 1431.004(a)(1) or by an eligible school district for a purpose described by Section 1431.004(a)(1)(C) or (b)(2) is subject to the limitation on maturity provided by Section 1207.006 and not the limitation provided by Subsection (a).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1183, Sec. 7, eff. Sept. 1, 2001.

Sec. 1431.010. SALE OF NOTES. A governing body may sell an anticipation note at public or private sale for cash.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1431.011. ATTORNEY GENERAL APPROVAL OF CERTAIN NOTES. Chapter 1371 governs approval by the attorney general of anticipation notes issued under Section 1431.003.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1431.012. RESTRICTION ON CERTAIN CONTRACTS PAYABLE FROM PROCEEDS OF NOTES. A county must comply with the competitive bidding requirements of Subchapter C, Chapter 271, Local Government Code, in connection with a contract to be paid from the proceeds of anticipation notes issued for a purpose described by Section 1431.004(a)(1)(A).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1431.013. CONFLICT WITH OTHER LAWS. If there is a conflict between this chapter and another statute:

(1) an issuer may act under either; and

(2) the governing body is not required to specify the law under which the action is taken.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1431.014. CERTAIN NOTES FOR RURAL ECONOMIC DEVELOPMENT. (a) Notwithstanding any other provision of this chapter, an issuer participating in a rural economic development program established by the Texas Agricultural Finance Authority may sell to the authority an anticipation note issued for a purpose described by Section 1431.004(a)(1), provided that the note matures before the 30th anniversary of the date the note is issued.

(b) Anticipation notes issued by a single issuer under this section in an aggregate original principal amount of not more than \$500,000 are not subject to the approval requirements of Section 1431.011 or Chapter 1202.

(c) An issuer may issue anticipation notes under this section for the same purpose not more than once in any 12-month period.

Added by Acts 2001, 77th Leg., ch. 152, Sec. 1, eff. May 16, 2001.