

CHAPTER 439

S.B. No. 1282

An Act relating to the issuance of bonds by certain cities to pay current expenses; providing for the levy of a tax to pay the principal of and interest thereon; containing other provisions pertaining to the subject; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. BONDS. (a) Except as provided by Section 4 of this Act, the governing body of an incorporated city that has suffered or is likely to suffer a loss during a fiscal year of the type specified by Subsection (b) of this section may provide for the payment of its current expenses for such fiscal year or a portion of such fiscal year by the issuance of bonds secured by and payable from ad valorem taxes.

(b) This section applies to a city that has lost or is likely to lose, because an entity which has received city funds has sought or acceded to protection under Title 11 of the United States Code, entitled "Bankruptcy," an amount that is:

(1) greater than \$15 million; and
(2) greater than 15 percent of the city's budget for the fiscal year involved, excluding the amount necessary for debt service.

(c) A determination by the governing body of the city that a loss covered by this section has occurred or that it is likely that such a loss will occur, or of the amount of a loss or anticipated loss, is conclusive.

(d) No action by a city under the authority of this Act shall affect or abrogate any claims the city may have with respect to the loss nor shall issuance of bonds pursuant to this Act constitute a waiver of any claims or estop the city from recovering their own or constitute a ratification of any prior action by the city in connection with such loss, and the city may in its action authorizing the bonds reserve all such claims.

SECTION 2. ISSUANCE AND TERMS. Bonds under this Act may be issued without an election, may mature serially or otherwise, not later than five years after their issuance date, may bear interest at any rate or rates permitted by law, and may be sold at public or private sale for any price or prices, all as determined by the governing body in the ordinance authorizing the issuance and sale of the bonds.

SECTION 3. TAXES. The governing body may levy and pledge, and cause to be assessed and collected, annual ad valorem taxes sufficient to pay the principal of and interest on the bonds as they come due.

SECTION 4. PROHIBITION. A city may not issue bonds under this Act in a principal amount in excess of loss sustained or anticipated by the city and the cost of issuing the bonds or to the extent that the aggregate principal amount of tax bond indebtedness of the city outstanding after the issuance would exceed 10 percent of the assessed valuation of taxable property in the city according to most recent ad valorem tax rolls of the city.

SECTION 5. APPROVAL AND REGISTRATION. The city shall submit bonds issued under this Act and the proceedings authorizing the bonds to the attorney general for review before their delivery to the purchasers. If the attorney general finds that the bonds have been authorized in accordance with this Act, the attorney general shall approve them and deliver them to the comptroller of public accounts who shall register them. After approval and registration, the bonds are incontestable for any cause.

SECTION 6. NEGOTIABLE INSTRUMENTS; INVESTMENT SECURITIES. Bonds issued under this Act are negotiable instruments and investment securities governed by Chapter 8, Business & Commerce Code.

SECTION 7. AUTHORIZED INVESTMENT; SECURITY FOR PUBLIC FUNDS. Bonds issued under this Act are legal and authorized investments for banks, trust companies, savings and loan associations, and insurance companies and may secure the deposit of public funds of the state or of cities, towns, villages, counties, school districts, or other political subdivisions of the state. The bonds may provide this security to the extent of their principal amount.

SECTION 8. REDEMPTION. On recovery of a loss covered by this Act or failure of an anticipated loss covered by this Act to occur, the governing body shall promptly redeem bonds issued to cover the loss or anticipated loss in a principal amount equal to the amount recovered or the amount of anticipated loss not occurring.

SECTION 9. CUMULATIVE PROVISION. This Act is cumulative of all existing laws of the State of Texas that are applicable, but this Act is wholly sufficient authority within itself for the actions authorized herein, notwithstanding the provisions of any general or special law or charter to the contrary, and when any action is taken under this Act, to the extent that such existing laws or charter provisions may be in conflict with the provisions of this Act, the provisions of this Act shall govern and prevail.

SECTION 10. LIBERAL CONSTRUCTION. This Act shall be construed liberally to effectuate the legislative intent and purposes of this Act, and all powers herein granted shall be broadly interpreted to effectuate such intent and purposes and not as a limitation of powers.

SECTION 11. SEVERABILITY. In case any one or more of the sections, provisions, clauses, or words of this Act or the application of such sections, provisions, clauses, or words to any situation or circumstance shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other sections, provisions, clauses, or words of this Act or the applications of sections, provisions, clauses, or words to any other situation or circumstance, and it is intended that this Act shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, provision, clause, or word had not been included herein.

SECTION 12. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on April 1, 1985, by the following vote: Yeas 28, Nays 0; Senate concurred in House amendments on May 16, 1985, by the following vote: Yeas 31, Nays 0; passed the House, with amendments, on May 15, 1985, by the following vote: Yeas 120, Nays 7, one present not voting.

Approved: June 11, 1985

Effective: Immediately