

## CHAPTER 929

## H.B. No. 1273

## AN ACT

relating to the issuance of obligations and the execution of credit agreements by certain governmental entities.

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

SECTION 1. Sections 1(1), (3), (5), and (6), Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes), are amended to read as follows:

(1) "Issuer" means (A) any incorporated city operating under a home-rule charter adopted pursuant to Article XI, Section 5, of the Constitution of Texas having a population according to the latest federal decennial census of 90,000 or more and having outstanding long-term debt secured by the revenues of the public utility for which the obligations are being issued which is rated by a nationally recognized rating agency for municipal securities in one of the four highest rating categories for long-term obligations; (B) any conservation and reclamation district created and organized as a river authority under and pursuant to Article III, Section 52, or Article XVI, Section 59, of the Constitution of Texas and by an act of the legislature of the State of Texas; (C) any joint powers agency organized and operating pursuant to Chapter 166, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1435a, Revised Statutes); (D) any metropolitan rapid transit authority or regional transportation authority created, organized, and operating pursuant to Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Revised Statutes) or Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Revised Statutes); (E) any conservation and reclamation district organized or operating as a navigation district under and pursuant to Article III, Section 52, or Article XVI, Section 59, of the Constitution of Texas; (F) any district organized or operating under and pursuant to Article XVI, Section 59, of the Constitution of Texas which has all or part of two or more incorporated cities within its boundaries; (G) agencies of the State of Texas (including the governing boards of the state institutions of higher education); ~~and~~ (H) any hospital authority in a county with a population of more than 2 million, according to the most recent federal census, that was created or is operating under Chapter 262, Health and Safety Code or Chapter 264, Health and Safety Code; *and (I) any nonprofit corporation organized to exercise the powers of a higher education authority under Subsection (e), Section 53.47, Education Code.*

(3) "Eligible project" means:

(A) the acquisition or construction of and improvements, additions, or extensions to a public utility, one or more, including capital assets and facilities incident and related to the operation, maintenance, and administration thereof, and, with respect to properties and facilities for (1) ~~(A)~~ the generation of electric power and energy, fuel acquisition, or development or facilities for the transportation thereof; (2) ~~(B)~~ a public transportation system, buildings, structures, terminals, rolling stock, garages, shops, equipment, and other facilities (including vehicle parking areas and facilities necessary or convenient for the beneficial use and access of persons and vehicles to stations, terminals, yards, cars, and buses or for the protection and environmental enhancement of such facilities) for mass public transportation; (3) ~~and (C)~~ a port facility, wharves, docks, warehouses, grain elevators, other storage facilities, bunkering facilities, port-related railroads and bridges, floating plants and facilities, lightering facilities, cargo handling facilities, towing facilities, and all other facilities or aids incident to or useful in the operation of a port facility; *and (4) a project for which there exist authorized but unissued obligations approved by a majority of the voters of the issuer, including obligations payable from ad valorem taxes; and*

*(B) a project for which an issuer is authorized to issue revenue bonds secured, in whole or in part, by revenues derived from or related to student loans.*

(5) "Obligations" means notes, warrants, or other special obligations authorized to be issued by an issuer under the provisions of this Act and all "bonds" as defined in the Bond

Procedures Act of 1981 (Article 717k-6, Revised Statutes), which, prior to the delivery thereof, have been rated by a nationally recognized rating agency for municipal securities in either one of the three highest rating categories for short term obligations or one of the four highest rating categories for long term obligations. It is provided, however, that the term "obligations" does not mean or include any obligations payable from ad valorem taxes, *except as specifically permitted by this Act.*

(6) "Credit agreement" means loan agreement, revolving credit agreement, agreement establishing a line of credit, letter of credit, reimbursement agreement, insurance contract, commitments to purchase obligations, purchase or sale agreements, *interest rate swap agreement*, or commitments or other contracts or agreements authorized and approved by the governing body of an issuer *either* in connection with the authorization, issuance, security, exchange, payment, purchase, or redemption of obligations and/or interest thereon, *or as otherwise authorized by this Act.*

SECTION 2. Section 2, Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes), is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The governing body of an issuer is hereby authorized and empowered to issue, sell, and deliver obligations and to execute *and deliver* credit agreements [~~in relation thereto~~] to finance project costs of an eligible project, or to refund obligations issued in connection with an eligible project *as may be authorized and approved by the governing body*, subject to the limitations contained herein. Obligations shall be secured solely by (A) the proceeds of sale of other obligations; (B) the proceeds of sale of revenue bonds payable from the revenue to be received from a public utility or a specified user of a public utility; (C) any revenues which the issuer is authorized by any statute, city home-rule charter, or constitutional provision to pledge to the payment of any obligations; or (D) any one or more of such sources, including credit agreements, all as the governing body of the issuer shall provide in the resolution, order, or ordinance authorizing the issuance of the obligations. Obligations shall be repaid from the source or sources securing the payment thereof, funds received from a credit agreement, or from any other revenues otherwise legally available for the payment thereof, except funds derived from ad valorem taxation *unless the use of ad valorem taxes is in accordance with Subsection (c) of this section.* *An issuer may execute a credit agreement in relation to the issuance, payment, sale, resale, or exchange of obligations at any time, without regard to whether a credit agreement was contemplated, authorized, or executed in relation to the initial issuance, sale, and delivery of obligations.*

(c) *The governing body of an issuer may secure obligations and pay the cost of credit agreements executed and delivered in connection with financing the project costs of eligible projects with ad valorem taxes or with other sources permitted by this Act.*

SECTION 3. Section 4, Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4. The governing body of an issuer may enter into credit agreements in conjunction with the issuance, payment, sale, resale, or exchange of obligations to enhance the security for or provide for the payment, redemption, or remarketing of the obligations and interest on the obligations [er] to reduce the interest payable on the obligations *or in conjunction with the interim financing of eligible projects of the issuer.* A credit agreement is an agreement for professional services and shall contain the terms and conditions and be for the period that the governing body of the issuer approves. The cost to the issuer of the credit agreement may be paid from the proceeds of the sale of the obligations to which the credit agreement relates or from any other source, including:

- (1) revenues of the issuer that are available for the purpose of paying the obligations;
- (2) [~~and~~] the interest on the obligations or that may otherwise be legally available to make those payments; *and*
- (3) *ad valorem taxes to the extent permitted by this Act.*

SECTION 4. Section 5, Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5. Obligations (including accrued interest) *and credit agreements* may from time to time be refinanced, renewed, or refunded by the issuance of other obligations *or credit agreements*.

SECTION 5. Section 6, Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6. Preliminary to the issuance and delivery of obligations *or a credit agreement executed under this Act, the proceedings of the issuer*, ~~the resolution, order, or ordinance~~ authorizing the issuance, *execution, and delivery of any obligations, any* ~~thereof, together with any~~ credit agreements, and any contracts providing revenues or security to pay the obligations *or credit agreements*, shall be submitted to the attorney general for his review. If the attorney general shall find that such credit agreement or agreements, if any, contracts, if any, and other authorizing proceedings conform to the requirements of the Texas Constitution and this Act, the attorney general shall approve them. Thereafter, the obligations *and the credit agreements* authorized therein may be executed and delivered, exchanged, or refinanced from time to time in accordance with the authorizing proceedings. Upon such approval by the attorney general and initial delivery of any obligations so authorized, any such credit agreements, any such contracts providing revenues or security, such initial obligations and all other obligations thereafter issued pursuant to the authorizing proceedings, shall be incontestable for any cause in any court or other forum and shall be valid and binding obligations enforceable in accordance with their respective terms and provisions.

SECTION 6. 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 by the House on April 19, 1993, by a non-record vote; the House concurred in Senate amendments to H.B. No. 1273 on May 24, 1993, by a non-record vote; passed by the Senate, with amendments, on May 20, 1993: Yeas 31, Nays 0.

Approved June 19, 1993.

Effective Aug. 30, 1993, 90 days after date of adjournment.