

CHAPTER 976

H.B. No. 2306

AN ACT

relating to the issuance of refunding bonds.

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

SECTION 1. Subsection (b), Section 2, Chapter 503, Acts of the 54th Legislature, 1955 (Article 717k, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) An issuer shall have the right to deposit, or cause to be deposited to the State Treasurer of the State of Texas a sum of money equal to the principal amount of the bonds, notes, and other evidences of indebtedness which it proposes to refund plus the amount of interest which will accrue thereon calculated to the date on which it is to become due or on which it may be redeemed, together with the amount of contract premium if any, required for redemption; *the State Treasurer may charge reasonable fees and expenses for services performed under this Act.* ~~[and concurrently with such deposit shall pay to the State Treasurer for his services and to reimburse him for his expenses in performing his duties under this Act a sum of money equivalent to one-twentieth ($\frac{1}{20}$) of one per cent (1%) of the principal amount of said bonds and one eighth ($\frac{1}{8}$) of one per cent (1%) of the interest to accrue on all of said underlying obligations, and an additional amount of money sufficient to pay the charges of the bank or trust company at which the principal and interest of said underlying obligations are payable for its services in paying such principal and interest.]~~ The State Treasurer may rely on a certificate by such issuer [city] as to the amount of the charges made by such bank or trust company. At the same time such issuer [city] shall deliver to the State Treasurer a certified copy of the ordinance, order, or resolution authorizing said underlying obligations, or a certified excerpt therefrom, showing clearly the amounts and the date or dates on which interest is due on such underlying obligations, the date when the principal becomes subject to redemption, and the name and address of the bank or trust company at which such principal and interest must be paid. It shall be the duty of the State Treasurer to accept such deposits, payments, and instruments, and safely to keep and use such money for the purposes set forth in this Act and for no other purpose, and no part of such money except that in payment for his services and to reimburse his expenses in performing such services shall be used by or for the State of Texas or for any creditor of the State of Texas, nor shall such money be commingled with any other money.

SECTION 2. Section 7, Chapter 503, Acts of the 54th Legislature, 1955 (Article 717k, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 7. When the deposit of money required hereunder is made with the State Treasurer in accordance with this Act, for any obligations being refunded pursuant hereto, such deposit shall constitute the making of firm banking and financial arrangements for the discharge and final payment or redemption of the obligations being refunded; provided, however, that, at the option of and within the discretion of the issuer, provision may be made in the proceedings authorizing the issuance of such refunding bonds for the subordination thereof to the obligations being refunded, but only in the manner and to the extent specifically provided in said proceedings. ~~[Notwithstanding any provisions of this Act to the contrary, the fees to be paid the State Treasurer for his services and expenses under this Act shall not exceed a maximum of \$1,000.]~~ Immediately after the receipt thereof, and by the most expeditious means, it shall be the duty of the State Treasurer to forward to and deposit with the place of payment (paying agent) for the obligations being refunded all of the money deposited with him pursuant hereto (excepting the fees for his services). If there is more than one place of payment for the obligations being refunded, the State Treasurer shall forward the aforesaid money directly to the one of said places of payment which is located in the State of Texas; provided that if more than one of such places of payment is located in the State of Texas, or if no place of payment is located in the State of Texas and there is more than one place of payment located outside of the State of Texas, then said money shall be forwarded directly to the one of such places of payment having the largest capital and surplus. It shall be the duty of the place of payment to deposit the aforesaid money received from the State Treasurer (excepting the amount thereof representing the charges of the place of payment) into an

interest and sinking fund to be established and maintained in trust and as a trust fund for the payment of the obligations being refunded. Further, it shall be the duty of the place of payment, out of said interest and sinking fund, to pay or redeem the obligations being refunded when duly presented therefor at the maturity, due date, or redemption date thereof. If there is more than one place of payment, the one having the deposit shall make appropriate financial arrangements so that the necessary funds will be available at the other place or places of payment to pay or redeem any of such obligations being refunded when so presented for payment or redemption. The holder or holders of any obligations being refunded by any refunding bonds issued and sold under this Act shall not have the right to demand or receive payment thereof at any time before the scheduled maturity date or dates, due date or dates, or redemption date or dates, respectively, of said obligations being refunded, unless the governing body of the issuer shall have specifically and affirmatively provided for and authorized the earlier payment of said obligations in the proceedings authorizing said refunding bonds.

SECTION 3. 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 23, 1993, by a non-record vote; passed by the Senate on May 30, 1993: Yeas 31, Nays 0.

Approved June 19, 1993.

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