

CHAPTER 827

S.B. No. 1271

AN ACT

relating to the establishment of an intercept program to increase the credit rating of certain local

government debt and authorizing the comptroller of public accounts to withhold local government funds to pay such obligations under certain circumstances.

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

SECTION 1. Chapter 271, Local Government Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. STATE INTERCEPT TO INCREASE CREDIT RATING

Sec. 271.091. **DEFINITIONS.** *In this subchapter:*

(1) "Local government" means a municipality, county, or hospital district of the State of Texas.

(2) "Payment" means the local sales and use tax authorized by the Municipal Sales and Use Tax Act (Chapter 321, Tax Code), the County Sales and Use Tax Act (Chapter 323, Tax Code), and Subchapter E, Chapter 285, Health and Safety Code.

(3) "Paying agent" means the financial institution that is designated by a local government as its agent for the payment of the principal of and interest on the obligation.

(4) "Obligation" means bonds, notes, certificates of obligation, and other obligations authorized to be issued by the local government.

(5) "Agreement" means the document referred to in Section 271.092 and Section 271.093.

(6) "Board" means the bond review board created by Chapter 1078, Acts of the 70th Legislature, Regular Session, 1987 (Article 717k-7, Vernon's Texas Civil Statutes).

(7) "Comptroller" means the comptroller of public accounts.

Sec. 271.092. **AGREEMENT WITH TEXAS BOND REVIEW BOARD AND COMPTROLLER.** *Prior to the issuance of any obligation, the governing body of any local government may notify the board of the proposed issuance of an obligation and enter into an agreement with the board to authorize and direct the comptroller to withhold from such local government sufficient money from any payment to which such local government may be entitled and apply so much as shall be necessary to pay the principal of and interest on such obligation then due and to continue withholding additional payments until an amount sufficient to satisfy the amount then due has been met.*

Sec. 271.093. **FORM OF AGREEMENT; CONDITIONS.** (a) *The agreement shall set forth the following:*

(1) *the proposed date of issuance of the obligation and the name and series of the proposed obligation;*

(2) *each payment date with respect to the obligation and the principal of and interest on the obligation coming due on each such date; and*

(3) *the name and address of the financial institution serving as paying agent for the obligation to whom any payment by the comptroller should be made.*

(b) *This subchapter does not require or permit the state to make an appropriation to any local government and shall not be construed as creating an indebtedness of the state. Any agreement made pursuant to this subchapter shall contain a statement to that effect.*

(c) *The agreement terminates at the time the final payment of the principal of and interest on the obligation is made or the obligation is refunded.*

Sec. 271.094. **NOTICE, DEPOSIT OF DEBT SERVICE, AUTHORIZATION, AND TRANSMITTAL.** (a) *If a local government enters into an agreement with the board under Section 271.092, the board on notification from the local government, the custodian bank, or the paying agent for the local government that the local government is unable or has failed to pay amounts as required by the agreement or to pay principal of or interest on the obligation when due, shall notify the comptroller, who shall withhold sufficient money from any payment to which such local government may be entitled and apply so much thereof as shall be necessary to pay the amounts then due as provided in this section.*

(b) *The local government may in the agreement agree to make monthly deposits of one-sixth of the semiannual debt service requirement, or such other amount at such other times*

as specified in the agreement, into an interest and sinking fund in a custodian bank. If a bank agrees to serve as custodian for the interest and sinking fund, it shall be the duty of the bank to notify the board if the agreed upon amount of funds is not deposited each month or other specified time on a timely basis as specified in the agreement.

(c) On receiving notification and direction from the board, the comptroller is authorized to withhold from any payment an amount equal to the amount to have been deposited by the local government pursuant to the agreement. The comptroller shall continue to withhold payments until the required amounts have been deposited in the interest and sinking fund with the custodian bank or with the paying agent. If the required amounts have not been deposited at the time interest on or principal of the obligation of the local government is required to be deposited pursuant to the agreement, the comptroller shall transmit, from payments withheld, the appropriate amount to the custodian bank or to the paying agent, as directed by the board.

(d) The board shall cause a copy of any notice given pursuant to this section to be promptly given to the local government.

Sec. 271.095. RIGHT TO PLEDGE PAYMENTS. (a) The local government may pledge payments to secure any obligation only if the amount of payments received by the local government in the fiscal year of the state preceding the proposed issuance equals or exceeds the amount required in each year to pay the sum of an amount equal to two times (i) the maximum annual principal and interest requirements for the obligation, and (ii) the maximum annual principal and interest requirements on any additional obligation for which payments have been pledged. The local government shall provide evidence that these requirements are met.

(b) A pledge of payments pursuant to this subchapter is a first priority for application of payments and the comptroller shall apply such payments as provided by this subchapter prior to applying such payments pursuant to any other authorization to withhold or intercept such payments.

(c) While obligations which are the subject of an agreement remain outstanding, the local government may not repeal the sales tax or reduce the rate of the sales tax below the rate that would provide the amount required by Subsection (a), except as provided by this subsection. If at an election duly held in accordance with law a majority of the qualified voters approve the repeal of the sales tax, the local government shall, at the earliest practicable time, refund or defease the obligations, and after such defeasance or refunding the repeal shall become effective in accordance with law. If the qualified voters vote to reduce the rate of the sales tax, if such is provided for by law, below that which is required to provide the amount required by Subsection (a), the local government shall, at the earliest practicable time, refund or defease the obligations, and after such defeasance or refunding the reduction in rate shall become effective in accordance with law.

Sec. 271.096. ADMINISTRATION, RULES, FEES. The board shall administer the implementation of this subchapter and may adopt rules and set fees necessary for its administration.

SECTION 2. 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 March 31, 1993: Yeas 31, Nays 0; the Senate concurred in House amendment on May 27, 1993: Yeas 31, Nays 0; passed the House, with amendment, on May 26, 1993, by a non-record vote.

Approved June 19, 1993.

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