

ISSUING MUNICIPAL DEBT IN TEXAS

Presented to the City of Nacogdoches
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John Martin and Michael Martin
Hilltop Securities
john.martin@hilltopsecurities.com
michael.martin@hilltopsecurities.com



COMMON MUNICIPAL DEBT IN TEXAS

Types of Debt Obligations Issued by Cities

- GENERAL OBLIGATION BONDS
 - Voted; secured by ad valorem taxes
- CERTIFICATES OF OBLIGATION
 - Unvoted; secured by ad valorem taxes (and revenues)
- TAX NOTES
 - Unvoted; secured by ad valorem taxes
- UTILITY SYSTEM REVENUE BONDS
 - Unvoted; secured by enterprise revenues (water, sewer, drainage, electric, etc)
- Others beyond today's discussion: Contract Revenue Bonds; Assessment Revenue Bonds; HOT bonds; Sales Tax Bonds; etc.

COMMON MUNICIPAL DEBT IN TEXAS

General Overview of Debt Obligations Issued by Cities

	General Obligation Bonds	Certificates of Obligation	Tax Notes	Utility System Revenue Bonds
Public Approval	Bond Election (only in May or Nov.)	Council Approval of Notice of Intent	None Required	None Required
Security/Pledge	Taxes Only	Taxes and/or Revenues	Taxes and/or Revenues	Utility System Revenues Only
Other Considerations	Longer issuance process & pricier due to election; some financing restrictions if proposition fails	Subject to Petition by 5% of Registered Voters	Maximum Maturity of 7 Years	Coverage Requirements, Additional Bonds Test, Debt Service Reserve Fund
Ratings	Highest Rated Credit for a City Based on Ad Valorem Tax Pledge			Typically 1 to 2 Notches Lower than a City's Tax Credit

TYPES OF MUNICIPAL DEBT IN TEXAS

Considering Which Debt to Utilize

TAX NOTES

- Ch. 1431, Texas Government Code:
- Single city council meeting required; approximate issuance timing is 45 days
- Purposes include: (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; (c) a professional service, including a service by a tax appraisal engineer, engineer, architect, attorney, mapmaker, auditor, financial advisor, or fiscal agent; (d) operating or current expenses; or (e) the issuer's cumulative cash flow deficit
- Maximum maturity of seven years (Notes issued for purposes in (a), (b) and (c) can be refinanced for a longer term.

TYPES OF MUNICIPAL DEBT IN TEXAS

Considering Which Debt to Utilize

CERTIFICATES OF OBLIGATION (Subchapter C of Ch. 271, Texas Local Government Code)

- Two city council meetings required; approximate issuance timing is 90 days
- Council approves “notice of intent to issue COs” which is published twice and posted on city website 46 days before CO approval by council
- No election requirement (which reduces costs of issuance) unless City receives petition signed by at least 5% of its qualified voters
- Purposes include: (a) construction of any public work; (b) purchase of materials, supplies, equipment, machinery, buildings, land, and rights-of-way for authorized needs and purposes; or (c) payment of contractual obligations for professional services, including services provided by tax appraisers, engineers, architects, attorneys, map makers, auditors, financial advisors, and fiscal agents
 - Note: HB1869 does not limit the types of projects that can be financed with COs, but rather limits the portion of the tax rate that can be considered on the I&S side of the tax rate calculation.
 - HB1869 requires that certain projects financed with non-voted debt, like COs, requires the repayment be made through M&O and subject to “rollback” or “tax caps”
 - Example: COs may be issued to finance a convention center, but if ad valorem tax is the source of repayment, must be repaid from the M&O side and not I&S side; therefore, subject to the tax cap computation
- Maximum maturity of forty years
- Secured by ad valorem taxes (requires revenue pledge to be able to sell the COs for cash except for limited circumstances)
- Cannot issue COs for the same purpose that was voted down by the voters within 3 years of the issuance of the certificates

TYPES OF MUNICIPAL DEBT IN TEXAS

Considering Which Debt to Utilize

GENERAL OBLIGATION BONDS

- Ch . 1251, Texas Government Code, relating to Bond Elections; other statutes authorize issuance of general obligation bonds for variety of purposes:
- Bond Election required – may be only held on a May or November uniform election date
- Ballot must state:
 - plain language description of the single specific purposes for the bonds;
 - the total principal amount of the bonds; and
 - that taxes sufficient to pay the bonds will be imposed.
- Two or more separate and distinct propositions cannot be combined into one and submitted to the voters as a single question “so as to have one expression of the voter answer all of them”
- Each single specific purpose must be printed on the ballot as a separate proposition.
- A proposition may include as a specific purpose one or more structures or improvements serving the substantially same purpose and may include related improvements and equipment necessary to accomplish the specific purpose
- Maximum maturity of 40 years

TYPES OF MUNICIPAL DEBT IN TEXAS

Considering Which Debt to Utilize

UTILITY SYSTEM REVENUE BONDS

- Authorized by various chapters throughout Texas Government Code
- Purposes include capital improvements and repairs for that enterprise system
- Revenue Bonds contain the most restrictive bond covenants
 - Additional Bond Tests
 - Reserve Fund Covenants
 - Flow-of-Funds Covenants
 - Rate Covenants
 - Insurance Coverage Requirements
- Rating usually lower than tax-supported debt, resulting in higher interest rates

VOTED VS NON-VOTED?

- Political Coverage / Political Ideology of City Council
 - i.e. Do you “let the voters decide” or is the City Council elected to represent the people in these decisions?
 - What happens if a critical project, like Public Safety, is voted down?
- Year after year, Texas Legislature is pushing increasingly harder for ALL debt to be voted
- You may not have a choice but to submit bonds to voters
 - Economic Development Projects (typically stadiums, amusement venues, etc.)
 - Tex. Const. Art. III, Sec. 52-a: “...the legislature may provide for the creation of programs and the making of loans and grants of public money...for the public purposes of development and diversification of the economy of the state.... Any bonds or other obligations of a county, municipality, or other political subdivision of the state that are issued for the purpose of making loans or grants in connection with a program authorized by the legislature under this section and that are payable from ad valorem taxes must be approved by a vote of the majority of the registered voters of the county, municipality, or political subdivision voting on the issue.”
 - H.B. 1869 (2021 Reg. Leg. Sess.)
- Typically non-voted debt is issued for “health, safety and welfare” projects. Or, financing “needs” rather than “wants”
- CO Petition (bundling of projects)

HOW MUCH DEBT SOLD BY TEXAS CITIES IS VOTER APPROVED?

According to the Municipal Advisory Council of Texas, Texas cities issued debt in 2021 as follows:

- Total number of ALL issues sold by Texas cities: 674
 - Total **Voted** debt sold by Texas cities: 42
 - % of **Voted** debt sold to total number of issues: 6.23%
- Total dollar volume ALL of issues sold by Texas cities: \$16,731,968,678
 - Dollar volume of **Voted** debt sold by Texas cities: \$1,213,685,000
 - % of **Voted** debt sold to total dollar volume: 7.25%

HB 1869 IN BRIEF

2021 Reg. Leg. Session

- HB 1869 tightens up what can be financed with “debt” secured with ad valorem taxes
- “Debt service” payments *not exempt from 1869* are included on the M&O side “No New Revenue Rate” when calculating the voter approval tax rate.
- Exceptions:
 - Voted Debt
 - Self-supporting debt
 - Loan under State (e.g., TWDB) or Federal (e.g., USDA RUS) program
 - Designated Infrastructure
 - Refunding Bonds
 - Emergency Borrowing
 - Renovating, improving or equipping existing buildings or facilities
 - Vehicles or equipment
 - Project located in a TIRZ

HB 1869 IN BRIEF

“Designated Infrastructure”

- streets, roads, highways, bridges, sidewalks, parks, landfills, parking structures, or airports
- telecommunications, wireless communications, information technology systems, applications, hardware, or software
- cybersecurity
- any utility system, water supply project, water plant, wastewater plant, water and wastewater distribution or conveyance facility, wharf, dock, or flood control and drainage project
- police stations, fire stations, or other public safety facilities, jails, juvenile detention facilities, or judicial facilities and any facilities that are physically attached to these facilities
- as part of any school district
- as part of any hospital district created by general or special law that includes a teaching hospital

HB 1869 IN BRIEF

“Self-Supporting Debt”

- The portion of the [bonds] designated by the governing body of a political subdivision as being repaid from a source other than property taxes
- This is not tested at time of issuance
- Tested during each budget cycle
- Can apply any other source of revenues

GO Bond Election Calendar

_____, 2023	Citizens Advisory Committee Kick of Meeting
Jan to June, 2023	Needs and Projects Overview
_____, 2023	Community Meeting / Prioritization of Projects
_____, 2023	Citizen Advisory Committee present recommended projects to City Council
_____, 2023	Community Open House Meetings
August 9, 2023	First day for City Council to adopt an ordinance calling for a Bond Election (90 days per Tx. Govt. Code. 1251.003(c).)
August 15, 2023	ONLY COUNCIL MEETING IN THE TIME WINDOW FOR CALLING A BOND ELCTION
August 21, 2023	Last day to call bond election. (78 days per Tx. Elec. Code 3.005(c).)
October 10, 2023	Last day to register to vote
October 23, 2023	First day of early voting (times and locations)
November 3, 2023	Last day of early voting
November 7, 2023	Election day