

GOVERNMENT CODE

TITLE 9. PUBLIC SECURITIES

SUBTITLE B. PROVISIONS APPLICABLE TO SECURITIES ISSUED BY STATE

GOVERNMENT

CHAPTER 1231. BOND REVIEW BOARD

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1231.001. DEFINITIONS. In this chapter:

(1) "Board" means the Bond Review Board.

(1-a) "Interest rate management agreement" means an agreement that provides for an interest rate transaction, including a swap, basis, forward, option, cap, collar, floor, lock, or hedge transaction, for a transaction similar to those types of transactions, or for a combination of any of those types of transactions. The term includes:

(A) a master agreement that provides standard terms for transactions;

(B) an agreement to transfer collateral as security for transactions; and

(C) a confirmation of transactions.

(2) "State security" means:

(A) an obligation, including a bond, issued by:

(i) a state agency;

(ii) an entity that is expressly created by statute and has statewide jurisdiction; or

(iii) an entity issuing the obligation on behalf of this state or on behalf of an entity described by Subparagraph (i) or (ii);

(B) an installment sale or lease-purchase obligation that is issued by or on behalf of an entity described by Paragraph (A) and that has:

(i) a stated term of more than five years;

or

(ii) an initial principal amount of more than \$250,000; or

(C) an obligation, including a bond, that is

issued under Chapter 53, Education Code, at the request of or for the benefit of an institution of higher education other than a public junior college.

(3) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 991 (S.B. 1332), Sec. 2, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 991 (S.B. 1332), Sec. 3, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1049 (S.B. 5), Sec. 1.05, eff. June 17, 2011.

Sec. 1231.002. CERTAIN RIGHTS OF ISSUERS NOT AFFECTED. This chapter does not affect the right of an issuer of state securities to select its own bond counsel, underwriter, financial advisor, or other service provider in connection with the issuance of state securities.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

#### SUBCHAPTER B. BOND REVIEW BOARD

Sec. 1231.021. BOND REVIEW BOARD; PRESIDING OFFICER. (a) The board is composed of:

- (1) the governor;
- (2) the lieutenant governor;
- (3) the speaker of the house of representatives; and
- (4) the comptroller.

(b) The governor is the presiding officer of the board.

(c) A member of the board may designate another person to act on the member's behalf.

(d) If the speaker of the house of representatives is prohibited by the constitution of this state from serving as a voting member, the speaker serves as a nonvoting member.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.0031, eff. Sept.

1, 2001.

Sec. 1231.022. RULES. The board may adopt rules:

(1) relating to applications for review, the review process, and reporting requirements;

(2) exempting certain state securities from the application of Subchapter C if the board finds that review of the securities is unnecessary or impractical; and

(3) delegating to the director of the bond finance office the authority to approve a state security on behalf of the board.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1231.023. DEBT ISSUANCE POLICIES AND GUIDELINES. (a) The board shall adopt debt issuance policies to guide issuers of state securities and to ensure that state debt is prudently managed. The policies must be sufficiently flexible to allow the state and issuers of state securities to respond to changing economic conditions.

(b) The board shall consult with issuers of state securities in developing the policies.

(c) The board shall adopt policies that:

(1) provide a mechanism for evaluating the amount of state debt that can be managed prudently;

(2) address opportunities to consolidate debt authority;

(3) include guidelines for:

(A) appropriate levels of reserves;

(B) the types of state security that should be issued under various circumstances; and

(C) the terms or structure of a state security;

(4) help the board and issuers of state securities to evaluate:

(A) the potential risks involved in the issuance of a state security or in the execution of an interest rate management agreement; and

(B) the effect that the issuance of a state

security or that the execution of an interest rate management agreement will have on the finances and on the overall debt position of the issuer and of the state; and

(5) recommend other advisable practices related to the issuance of a state security.

Added by Acts 2001, 77th Leg., ch. 530, Sec. 1, eff. June 11, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 991 (S.B. 1332), Sec. 4, eff. September 1, 2007.

#### SUBCHAPTER C. BOARD APPROVAL OF ISSUANCE OF STATE SECURITY

Sec. 1231.041. APPROVAL OF STATE SECURITY. (a) Except as otherwise provided by this section, an entity, including a state agency, may not issue a state security unless:

(1) the board approves the issuance; or

(2) the security is exempted under law, including a board rule adopted under Section 1231.022(2).

(b) A state security issued by an institution of higher education, or issued at the request of or for the benefit of an institution of higher education, is not subject to board approval if:

(1) the institution or the university system of which the institution is a component has an unenhanced long-term debt rating of at least AA- or its equivalent; and

(2) the general revenue of this state is not pledged to the payment of the security.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1049 (S.B. 5), Sec. 1.06, eff. June 17, 2011.

Sec. 1231.042. APPLICATION FOR APPROVAL OF ISSUANCE OF STATE SECURITY. To obtain the approval of the board to issue a state security, a state agency or other entity must:

(1) apply to the board, in the manner prescribed by the board; and

(2) file with the application any information, including documents, required by the board.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1231.043. APPROVAL OF ISSUANCE. The board shall approve the issuance of a state security if, after examining the application and documents or items of information required by the board, the board determines that the issuance is advisable.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1231.044. STATE AUDITOR REVIEW OF STATE SECURITY PROCEEDS; REPORT. (a) On the board's request, the state auditor shall review the disposition of state security proceeds.

(b) The state auditor shall prepare a report of the review and file a copy of the report with:

- (1) the board;
- (2) the governor;
- (3) the lieutenant governor;
- (4) the speaker of the house of representatives;
- (5) the secretary of state; and
- (6) each member of the legislature.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 12, eff. Sept. 1, 1999.

#### SUBCHAPTER D. REPORTS TO LEGISLATURE

Sec. 1231.061. REVIEW OF CERTAIN UNISSUED STATE SECURITIES; BIENNIAL REPORT TO LEGISLATURE. (a) The board shall review all state securities, including general obligation and revenue bonds, that have been authorized but are unissued.

(b) Not later than October 31 of each even-numbered year, the board shall submit to the legislature a report that recommends whether the authorization for a state security should be revoked.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.004, eff. Sept. 1, 2001.

Sec. 1231.062. BIENNIAL DEBT STATISTICS REPORT. (a) Not later than December 31 of each even-numbered year, the board shall submit to the legislature a statistical report relating to:

- (1) state securities; and
- (2) bonds and other debt obligations issued by local governments.

(b) A report must include:

- (1) total debt service as a percentage of total expenditures;
- (2) tax-supported debt service as a percentage of general revenue expenditure;
- (3) per capita total debt;
- (4) per capita tax-supported debt;
- (5) total debt and tax-supported debt as a percentage of personal income;
- (6) total personal income per capita;
- (7) total debt per capita as a percentage of total personal income per capita;
- (8) total debt and tax-supported debt as a percentage of real property valuations;
- (9) total debt and tax-supported debt as a percentage of annual revenues and expenditures;
- (10) principal required to be repaid in five years and principal required to be repaid in 10 years;
- (11) growth rates of total debt per capita and total debt per dollar of personal income;
- (12) recent trends in the issuance of short-term notes;
- (13) recent trends in issuance costs;
- (14) savings from recent refundings;
- (15) recent trends in capitalized interest use;
- (16) debt service coverage ratios, if applicable; and
- (17) other information the board considers relevant.

(c) The attorney general, each state agency, and each local government shall provide to the board, at the times required by the board, information that the board determines to be necessary to

prepare the statistical report.

(d) The board may enter into a contract for the procurement of services related to the collection and maintenance of information on the indebtedness of local governments and state agencies necessary to prepare the statistical report.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1416 (S.B. 2064), Sec. 1, eff. June 19, 2009.

Sec. 1231.063. DEBT AFFORDABILITY STUDY. (a) The board, in consultation with the Legislative Budget Board, shall annually prepare a study regarding the state's current debt burden by:

(1) analyzing the state's historical debt use and financial and economic resources to determine the amount of additional not self-supporting debt the state can accommodate; and

(2) monitoring how annual changes and new debt authorizations affect the mechanism described in Subsection (b).

(b) The study must include a mechanism that can be used to determine, at a minimum, the state's debt affordability and serve as a guideline for debt authorizations and debt service appropriations. The mechanism must be designed to calculate:

(1) the not self-supporting debt service as a percentage of unrestricted revenues;

(2) the ratio of not self-supporting debt to personal income;

(3) the amount of not self-supporting debt per capita;

(4) the rate of debt retirement; and

(5) the ratio of not self-supporting debt service to budgeted or expended general revenue.

(c) Not later than February 15 of each year, the board shall submit the annual study to:

(1) the governor;

(2) the comptroller;

(3) the presiding officer of each house of the legislature; and

(4) the Senate Committee on Finance and House

Appropriations Committee.

(d) The annual study submitted under Subsection (c) must include a target and limit ratio for not self-supporting debt service as a percentage of unrestricted revenues.

Added by Acts 2007, 80th Leg., R.S., Ch. 991 (S.B. 1332), Sec. 5, eff. September 1, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1416 (S.B. 2064), Sec. 2, eff. June 19, 2009.

#### SUBCHAPTER E. SECURITY TRANSACTION REPORTS

Sec. 1231.081. GENERAL REQUIREMENTS. (a) Each entity that issues a state security shall report to the board its security transactions.

(b) A report must:

(1) be itemized;

(2) state in dollars the information required by Subsection (c) or Sections 1231.082-1231.085 for money paid to each business and classify each of the businesses that money was paid to according to:

(A) the race, ethnicity, and gender of the controlling ownership of each business; and

(B) whether the business is domestic or foreign;  
and

(3) be made in compliance with board rule.

(c) For any security transaction, the report must state each issuance cost, including the cost of:

(1) bond counsel;

(2) financial advisor;

(3) rating agencies;

(4) official statement preparation;

(5) official statement printing;

(6) bond printing;

(7) paying agent or registrar;

(8) escrow agent;

(9) escrow verification agent;



- (10) trustee;
- (11) attorney general;
- (12) dealer fee;
- (13) remarketing fee; and
- (14) credit enhancement.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1231.082. REPORT OF STATE SECURITY SOLD COMPETITIVELY. A report concerning a state security that is sold competitively must state:

- (1) the components of the gross spread, including:
  - (A) gross takedown;
  - (B) expenses; and
  - (C) syndicate profit and loss;
- (2) a summary of obligation orders and allotments by maturity, firm, and order type; and
- (3) each syndicate firm's gross takedown and share of syndicate profit or loss.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1231.083. REPORT OF STATE SECURITY SOLD THROUGH NEGOTIATION. A report concerning a state security sold through negotiation must state:

- (1) the components of the spread, including:
  - (A) management fee;
  - (B) structuring fee;
  - (C) underwriting risk;
  - (D) takedown; and
  - (E) spread expenses;
- (2) each firm's share of underwriting risk;
- (3) the underwriter's counsel;
- (4) a summary of obligation orders and allotments by maturity, firm, and order type; and
- (5) each syndicate firm's share of management fee, structuring fee, underwriting risk fee, and takedown.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1231.084. REPORT OF STATE SECURITY SOLD THROUGH PRIVATE PLACEMENT. A report concerning a state security sold through private placement must state:

(1) each component of the private placement fee, including the:

- (A) management fee;
- (B) placement agent fee; and
- (C) expenses; and

(2) the placement agent's counsel's fee.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1231.085. REPORT OF REFUNDING OR ESCROW-RELATED TRANSACTION. A report concerning a refunding or escrow-related transaction must state the spread paid on the purchase or sale of an escrow security.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1231.086. ANNUAL BOARD REPORTS. (a) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(68), eff. June 17, 2011.

(b) On November 15 of each year, the board shall send to the lieutenant governor, the speaker of the house, and each member of the legislature a report of the information received under this subchapter for the fiscal year ending August 31 of that year.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. [1179](#)), Sec. 25(68), eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. [59](#)), Sec. 47, eff. September 1, 2013.

#### SUBCHAPTER F. BOND FINANCE OFFICE

Sec. 1231.101. BOND FINANCE OFFICE. (a) The board shall appoint a director to:

- (1) manage the bond finance office; and
- (2) select the staff of the office.

(b) When practical, the office shall make use of:

(1) the resources of the Legislative Budget Board;  
and

(2) the offices of the governor and the comptroller.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1231.102. ANNUAL REPORT. Not later than 90 days after the end of each state fiscal year, the bond finance office shall publish a report listing:

(1) the amount of state securities outstanding;

(2) applicable repayment schedules; and

(3) other information the office considers relevant.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1231.103. PROVISION OF INFORMATION RELATING TO OTHER BONDS. The bond finance office may provide information for inclusion in a prospectus related to any bond issued under authority of state law or municipal ordinance.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.