

GOVERNMENT CODE

TITLE 9. PUBLIC SECURITIES

SUBTITLE H. SPECIFIC AUTHORITY FOR MORE THAN ONE TYPE OF LOCAL  
GOVERNMENT TO ISSUE SECURITIES

CHAPTER 1431. ANTICIPATION NOTES

Sec. 1431.001. DEFINITIONS. In this chapter:

(1) "Anticipation note" means a note issued under this chapter.

(2) "Eligible countywide district" means a flood control district or a hospital district the boundaries of which are substantially coterminous with the boundaries of a county with a population of three million or more or a hospital district created in a county with a population of more than 800,000 that was not included in the boundaries of a hospital district before September 1, 2003.

(3) "Eligible school district" means an independent school district that has an average daily attendance of 190,000 or more as determined under Section 48.005, Education Code.

(4) "Governing body" means the commissioners court of a county or the governing body of a municipality, eligible school district, or eligible countywide district authorized to issue anticipation notes on behalf of an issuer.

(5) "Issuer" means a county, municipality, eligible school district, or eligible countywide district issuing an anticipation note.

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

Amended by Acts 2001, 77th Leg., ch. 1183, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 164 (S.B. 1107), Sec. 2, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 3.082, eff. September 1, 2019.

Sec. 1431.002. AUTHORITY TO ISSUE ANTICIPATION NOTES. (a) The commissioners court of a county by order, on the recommendation

of the county auditor or the county budget officer, as applicable, or the governing body of an eligible countywide district may authorize the issuance of an anticipation note.

(b) The governing body of a municipality by ordinance may authorize the issuance of an anticipation note.

(c) The governing body of an eligible school district by order may authorize the issuance of an anticipation note.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.  
Amended by Acts 2001, 77th Leg., ch. 1183, Sec. 2, eff. Sept. 1, 2001.

Sec. 1431.003. ADDITIONAL AUTHORITY OF COUNTIES AND CERTAIN MUNICIPALITIES. (a) This section applies only to an issuer that is:

- (1) a county;
- (2) a municipality with a population of 80,000 or more;
- (3) an eligible school district; or
- (4) an eligible countywide district.

(b) Notwithstanding anything in this chapter to the contrary, the governing body may exercise the authority granted to the governing body of an issuer with regard to issuance of obligations under Chapter 1371, except that the prohibition in that chapter on the repayment of an obligation with ad valorem taxes does not apply to an issuer exercising the authority granted by this section.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.  
Amended by Acts 2001, 77th Leg., ch. 1183, Sec. 3, eff. Sept. 1, 2001.

Sec. 1431.004. USES OF ANTICIPATION NOTE PROCEEDS. (a) An issuer, other than an eligible school district, may use the proceeds of an anticipation note to pay:

- (1) a contractual obligation incurred or to be incurred for:
  - (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; or

(C) a professional service, including a service by a tax appraisal engineer, engineer, architect, attorney, mapmaker, auditor, financial advisor, or fiscal agent;

(2) operating or current expenses; or

(3) the issuer's cumulative cash flow deficit.

(b) The governing body of an eligible school district may use the proceeds of an anticipation note to pay an obligation incurred or to be incurred for:

(1) a purpose described by Subsection(a)(1)(C), (2), or (3); or

(2) the purchase of materials, supplies, equipment, or machinery for an issuer's authorized needs and purposes.

(c) For the purposes of this section, the cumulative cash flow deficit is the amount by which the sum of an issuer's anticipated expenditures and cash reserve reasonably required to pay unanticipated expenditures exceeds the amount of the issuer's cash, marketable securities, and money in an account that may be used to pay an issuer's anticipated expenditures, other than:

(1) money in an account the use of which is subject to legislative or judicial action or that is subject to a legislative, judicial, or contractual requirement that the account be reimbursed; or

(2) the proceeds of an anticipation note.

(d) For the purposes of Subsection (c), an amount equal to one month's anticipated expenditures is presumed to be reasonably required as a cash reserve.

(e) An issuer, other than an eligible school district, may use the proceeds of an anticipation note or other obligation issued under Section [1431.015](#):

(1) for purposes described by Subsection (a); or

(2) to pay for:

(A) employee salaries;

(B) the lease of materials, supplies, equipment, machinery, buildings, lands, and rights-of-way for the issuer's authorized needs and purposes;

(C) the demolition of dangerous structures or the restoration of historic structures;

(D) economic development grants made under Chapter 380, Local Government Code; or

(E) the accomplishment of any other purpose the issuer considers necessary in relation to preserving or protecting the public health and safety.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.  
Amended by Acts 2001, 77th Leg., ch. 1183, Sec. 4, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 929 (H.B. 3270), Sec. 1, eff. June 15, 2007.

Sec. 1431.005. GENERAL LIMITATION. An issuer may not use proceeds of an anticipation note to repay interfund or other borrowing that occurred earlier than 24 months before the date of the ordinance or order authorizing the issuance of the note.

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

Sec. 1431.006. LIMITATION ON NOTES TO PAY EXPENSES. (a) Anticipation notes issued for the purposes described by Section 1431.004(a)(2) may not, in the fiscal year in which the attorney general approves the notes:

(1) for a municipality, exceed 75 percent of the revenue or taxes anticipated to be collected in that year;

(2) for a county or an eligible countywide district, exceed 50 percent of the revenue or taxes anticipated to be collected in that year; or

(3) for an eligible school district, exceed 75 percent of the income of the district for the fiscal year preceding that year.

(b) This section does not apply to an anticipation note or other obligation issued under Section 1431.015.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.  
Amended by Acts 2001, 77th Leg., ch. 1183, Sec. 5, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 929 (H.B. [3270](#)), Sec. 2, eff. June 15, 2007.

Sec. 1431.007. GENERAL SOURCES OF PAYMENT. (a) Except as provided by Subsection (b), a governing body may:

(1) provide that anticipation notes be paid from and secured by revenue, taxes, a combination of revenue and taxes, or the proceeds of bonds to be issued by the issuer; and

(2) pledge to the payment of anticipation notes revenue, taxes, a combination of revenue and taxes, or the proceeds of bonds to be issued by the issuer.

(b) The governing body of a flood control district operating as a conservation and reclamation district that issues anticipation notes for one or more purposes described in Section [1431.004](#)(a)(1) may:

(1) provide that the anticipation notes be paid from and secured by revenue or the proceeds of bonds to be issued by the issuer; and

(2) pledge to the payment of the anticipation notes revenues or the proceeds of bonds to be issued by the issuer.

(c) A governing body issuing an anticipation note or other obligation under Section [1431.015](#) may:

(1) provide that the anticipation note or other obligation be paid from and secured by any revenue, including sales taxes, other taxes, a combination of nontax and tax revenue, the proceeds of bonds to be issued by the issuer, and reimbursements or other funds to be received from the Federal Emergency Management Agency or any other state or federal agency reimbursing or providing funds to the issuer for costs incurred as a result of the emergency; and

(2) pledge to the payment of the anticipation note or other obligation any revenue, including sales taxes, other taxes, a combination of nontax and tax revenue, the proceeds of bonds to be issued by the issuer, and reimbursements or other funds to be received from the Federal Emergency Management Agency or any other state or federal agency reimbursing or providing funds to the

issuer for costs incurred as a result of the emergency.

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

Amended by Acts 2001, 77th Leg., ch. 1183, Sec. 6, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 270, Sec. 2, eff. June 18, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 929 (H.B. [3270](#)), Sec. 3, eff. June 15, 2007.

Sec. 1431.008. AD VALOREM TAXES AS SOURCE OF PAYMENT. (a) A governing body may not issue anticipation notes that are payable from bonds secured by an ad valorem tax unless the proposition authorizing the issuance of the bonds:

(1) is approved by a majority of the votes cast in an election held by the issuer; and

(2) states that anticipation notes may be issued.

(b) A governing body that pledges to the payment of anticipation notes an ad valorem tax to be imposed in a subsequent fiscal year shall impose the tax in the ordinance or order that authorizes the issuance of the notes.

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

Sec. 1431.009. MATURITY. (a) Except as provided by Subsection (b) or (e), an anticipation note issued for a purpose described by Section [1431.004](#)(a)(1) or (b)(2) must mature before the seventh anniversary of the date that the attorney general approves the note.

(b) An anticipation note issued by a county with a population of three million or more, an eligible countywide district, or an eligible school district for a purpose described by Section [1431.004](#)(a)(1) or (b)(2) must mature before the 15th anniversary of the date that the attorney general approves the note.

(c) Except as provided by Subsection (e), an anticipation note issued for a purpose described by Section [1431.004](#)(a)(2) or (3) must mature before the first anniversary of the date that the attorney general approves the note.

(d) A bond issued under Chapter [1207](#) to refund an

anticipation note issued by a county, municipality, or eligible countywide district for a purpose described by Section 1431.004(a)(1) or by an eligible school district for a purpose described by Section 1431.004(a)(1)(C) or (b)(2) is subject to the limitation on maturity provided by Section 1207.006 and not the limitation provided by Subsection (a).

(e) An anticipation note or other obligation issued under Section 1431.015 for any authorized purpose must mature before the 10th anniversary of the date the attorney general approves the note or other obligation.

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

Amended by Acts 2001, 77th Leg., ch. 1183, Sec. 7, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 929 (H.B. 3270), Sec. 4, eff. June 15, 2007.

Sec. 1431.010. SALE OF NOTES. A governing body may sell an anticipation note at public or private sale for cash.

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

Sec. 1431.011. ATTORNEY GENERAL APPROVAL OF CERTAIN NOTES. Chapter 1371 governs approval by the attorney general of anticipation notes issued under Section 1431.003.

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

Sec. 1431.012. RESTRICTION ON CERTAIN CONTRACTS PAYABLE FROM PROCEEDS OF NOTES. (a) Except as provided by Subsection (b), a county must comply with the competitive bidding requirements of Subchapter C, Chapter 271, Local Government Code, in connection with a contract to be paid from the proceeds of anticipation notes issued for a purpose described by Section 1431.004(a)(1)(A).

(b) Competitive bidding requirements do not apply to an anticipation note or other obligation issued under Section 1431.015 for any authorized purpose.

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

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 929 (H.B. 3270), Sec. 5, eff. June 15, 2007.

Sec. 1431.013. CONFLICT WITH OTHER LAWS. If there is a conflict between this chapter and another statute:

- (1) an issuer may act under either; and
- (2) the governing body is not required to specify the law under which the action is taken.

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

Sec. 1431.014. CERTAIN NOTES FOR RURAL ECONOMIC DEVELOPMENT. (a) Notwithstanding any other provision of this chapter, an issuer participating in a rural economic development program established by the Texas Agricultural Finance Authority may sell to the authority an anticipation note issued for a purpose described by Section 1431.004(a)(1), provided that the note matures before the 30th anniversary of the date the note is issued.

(b) Anticipation notes issued by a single issuer under this section in an aggregate original principal amount of not more than \$500,000 are not subject to the approval requirements of Section 1431.011 or Chapter 1202.

(c) An issuer may issue anticipation notes under this section for the same purpose not more than once in any 12-month period.

Added by Acts 2001, 77th Leg., ch. 152, Sec. 1, eff. May 16, 2001.

Sec. 1431.015. CERTAIN NOTES OR OTHER OBLIGATIONS FOR EMERGENCY FINANCING. (a) In this section, "emergency" means the occurrence of widespread or severe damage, injury, or loss of life or property affecting an area in the jurisdiction of an issuer and resulting from a hurricane or tropical storm, including wind damage, fire damage, damage from wave action, or flood damage resulting from the hurricane or tropical storm.

(b) Notwithstanding any other provision of this chapter, an issuer located within 70 miles of the Gulf of Mexico or of a bay or inlet of the gulf may authorize the issuance of an anticipation note or other obligation in the event of an emergency.



(c) The issuer shall deliver to the attorney general, in accordance with Section 1431.017, a transcript of proceedings related to the issuance of an anticipation note or other obligation issued under this section. However, before delivery of an anticipation note or other obligation issued under this section:

(1) the governor must have issued an executive order or proclamation under Chapter 418 declaring a state of disaster and designating the area affected by the emergency;

(2) the governing body acting through its presiding officer under Chapter 418 must have declared a local state of disaster designating the area affected by the emergency; or

(3) the governor must have proclaimed under Chapter 433 a state of emergency designating the area affected by the emergency.

Added by Acts 2007, 80th Leg., R.S., Ch. 929 (H.B. 3270), Sec. 6, eff. June 15, 2007.

Sec. 1431.016. CONFLICTS WITH MUNICIPAL CHARTER. To the extent of a conflict between a municipal charter and any provision of this chapter relating to an anticipation note or other obligation issued under Section 1431.015, this chapter controls.

Added by Acts 2007, 80th Leg., R.S., Ch. 929 (H.B. 3270), Sec. 6, eff. June 15, 2007.

Sec. 1431.017. ATTORNEY GENERAL REVIEW. Following authorization of an anticipation note or other obligation under Section 1431.015, the issuer shall submit to the attorney general a transcript of proceedings related to issuance of the anticipation note or other obligation and provide preliminary approval and fulfill other requirements relating to the issuance of the anticipation note or other obligation. On the occurrence of an emergency affecting the issuer, the attorney general shall expeditiously review and approve delivery of the anticipation note or other obligation subject to the issuer's compliance with preliminary approval requirements.

Added by Acts 2007, 80th Leg., R.S., Ch. 929 (H.B. 3270), Sec. 6, eff. June 15, 2007.