

LOCAL GOVERNMENT CODE

TITLE 4. FINANCES

SUBTITLE A. MUNICIPAL FINANCES

CHAPTER 107. OBLIGATIONS FOR CERTAIN LIABILITIES TO PUBLIC PENSION FUNDS OF A MUNICIPALITY

Sec. 107.001. DEFINITIONS. In this chapter:

(1) "Obligation" includes a bond, certificate, note, or book entry obligation.

(2) "Unfunded liability" means an unfunded, accrued liability of a municipality to a public pension fund as determined by actuarial analysis.

Added by Acts 2003, 78th Leg., ch. 1271, Sec. 1, eff. Sept. 1, 2003.

Sec. 107.002. DEFINITION OF "PUBLIC PENSION FUND." In this chapter, "public pension fund":

(1) means a continuing, organized program or plan of service retirement, disability retirement, or death benefits for officers or employees of a municipality;

(2) includes a plan qualified under Section 401(a), Internal Revenue Code of 1986, as amended; and

(3) does not include:

(A) a program that provides only workers' compensation benefits;

(B) a program administered by the federal government;

(C) a plan described by Section 401(d), Internal Revenue Code of 1986, as amended;

(D) an individual retirement account consisting of an annuity contract described by Section 403(b), Internal Revenue Code of 1986, as amended;

(E) an individual retirement account as defined by Section 408(a), Internal Revenue Code of 1986, as amended;

(F) an individual retirement annuity as defined by Section 408(b), Internal Revenue Code of 1986, as amended;

(G) an eligible deferred compensation plan as defined by Section 457(b), Internal Revenue Code of 1986, as

amended; or

(H) a program for which benefits are administered by a life insurance company or for which the only funding agency is a life insurance company.

Added by Acts 2003, 78th Leg., ch. 1271, Sec. 1, eff. Sept. 1, 2003.

Sec. 107.003. PENSION FUND OBLIGATIONS AUTHORIZED. (a) A municipality may issue obligations to fund all or any part of an unfunded liability.

(b) Before authorizing issuance and delivery of an obligation under this section, the governing body of the municipality must enter into a written agreement with the governing body of the public retirement system that:

(1) has fiduciary responsibility for assets of the public pension fund or public pension funds that are to receive the net proceeds of the obligations to be issued; and

(2) has the duty to oversee the investment and expenditure of the assets of the public pension fund.

(c) The written agreement must state the amount of the unfunded liability and the date or dates on which the public pension fund will accept the net proceeds of the obligations to be issued in payment of all or a portion of the unfunded liability.

Added by Acts 2003, 78th Leg., ch. 1271, Sec. 1, eff. Sept. 1, 2003.

Sec. 107.0036. VOTER APPROVAL REQUIRED FOR CERTAIN PENSION FUND OBLIGATIONS. (a) This section applies only to a public pension fund subject to:

(1) Article 6243e.2(1), Revised Statutes;

(2) Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article [6243h](#), Vernon's Texas Civil Statutes); and

(3) Article 6243g-4, Revised Statutes.

(b) A municipality may issue an obligation under Section [107.003](#) to fund all or any part of the unfunded liability of a public pension fund subject to this section only if the issuance is approved by a majority of the qualified voters of the municipality voting at an election held for that purpose.

Added by Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 4.01, eff. July 1, 2017.

Sec. 107.004. PROCEEDS OF OBLIGATIONS ISSUED. The municipality shall deposit the net proceeds of obligations issued under Section 107.003 to the credit of the public pension fund. The amount deposited under this section becomes part of the public pension fund's assets.

Added by Acts 2003, 78th Leg., ch. 1271, Sec. 1, eff. Sept. 1, 2003.

Sec. 107.005. PAYMENT OF OBLIGATIONS. An obligation issued under Section 107.003 may be made payable by the municipality from:

(1) the fund from which compensation is paid to its officers and employees;

(2) its general fund; or

(3) taxes, revenues, both taxes and revenues, or any other source or combination of sources of money that the municipality may use under state law to secure or pay any kind of bond or obligation.

Added by Acts 2003, 78th Leg., ch. 1271, Sec. 1, Sept. 1, 2003.

Sec. 107.006. OBLIGATION AS REFINANCING. An obligation issued under Section 107.003 is a complete or partial refinancing of a commitment of the municipality to fund its unfunded liability.

Added by Acts 2003, 78th Leg., ch. 1271, Sec. 1, eff. Sept. 1, 2003.

Sec. 107.007. SALE OF OBLIGATIONS; MATURITY. Obligations issued under Section 107.003 may be sold at private or public sale and must mature not later than the 30th anniversary of the date of issuance.

Added by Acts 2003, 78th Leg., ch. 1271, Sec. 1, eff. Sept. 1, 2003.

Sec. 107.008. ADDITIONAL AUTHORITY; CREDIT AGREEMENTS.

(a) In this section, "credit agreement" and "obligation" have the meanings assigned by Section 1371.001, Government Code.

(b) The governing body of a municipality that issues obligations under Section 107.003 may exercise any of the rights or

powers of the governing body of an issuer under Chapter 1371, Government Code, and may enter into a credit agreement under that chapter. An obligation issued under Section 107.003 is an obligation under Chapter 1371, Government Code, but is not required to be rated as required by that chapter.

Added by Acts 2003, 78th Leg., ch. 1271, Sec. 1, eff. Sept. 1, 2003.

Sec. 107.009. CHAPTER CONTROLLING. This chapter prevails over any conflict between this chapter and:

(1) another law respecting the issuance of obligations of a municipality; or

(2) a municipal home-rule charter.

Added by Acts 2003, 78th Leg., ch. 1271, Sec. 1, eff. Sept. 1, 2003.