

BILL ANALYSIS

C.S.H.B. 2206
By: Howard
Higher Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There have been calls to revise and update certain statutory provisions relating to private activity bonds. It has also been noted that, in the context of rising levels of student loan debt, opportunities to refinance such loans are an important means of reducing the burden on borrowers and may be provided at no cost to the state. C.S.H.B. 2206 seeks to provide the necessary revisions regarding bond issuance and to ensure that qualified alternative education loan lenders are able to offer education loan refinancing.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2206 amends the Education Code to specify that an alternative education loan is made to a student, a former student, or any other person; may be for the benefit of a former student; and may be made for the purpose of refinancing all of or part of a student's or former student's cost of attendance at an accredited institution. The bill includes within the meaning of "alternative education loan" indebtedness that meets the definition of a qualified education loan under certain provisions of the federal Internal Revenue Code of 1986 and indebtedness used to refinance such indebtedness. The bill revises the cap on the amount of an alternative education loan to the amount permitted under certain provisions of the federal Internal Revenue Code of 1986.

C.S.H.B. 2206 amends the Government Code to revise certain statutory provisions relating to specific authority for state and local government to issue private activity bonds and certain other bonds. The bill excludes from the definition of "additional state ceiling" for purposes of those provisions the additional tax-exempt private activity bonds authorized by certain provisions of the federal Housing and Economic Recovery Act of 2008. The bill revises the percentages of the state ceiling available for reservations by certain types of issuers before August 15 of each year, if the state ceiling is computed on the basis of \$75 per capita or a greater amount, by removing the designation of a percentage available exclusively for reservations by issuers of qualified student loan bonds that are nonprofit corporations able to issue a qualified scholarship funding bond, as defined by certain provisions of the federal Internal Revenue Code of 1986, and redistributing that share of the state ceiling among issuers of qualified mortgage bonds, issuers of state-voted issues, and issuers of qualified residential rental project bonds.

C.S.H.B. 2206 increases from eight percent to 10 percent the percentage of the available state ceiling by which the portion of that ceiling available exclusively before August 15 to issuers of state-voted issues may be increased on January 2 and the portion available to other issuers correspondingly reduced, if applications received for reservations for state-voted issues before January 2 exceed the 10 percent of the state ceiling set aside for those reservations.

C.S.H.B. 2206 sets out a schedule of revised caps applicable to the amount of a reservation the Bond Review Board may grant before August 15 for any single project for the year in which the application is made. The bill extends the deadlines for issuers to close on bonds for which a reservation was granted as follows:

- for an issuer of qualified residential rental project bonds, from the 150th day after the reservation date to the 180th day after that date;
- for an issuer of state-voted issues, a qualified nonprofit corporation issuer of qualified student loan bonds, or an issuer of qualified mortgage revenue bonds, from the 180th day after the reservation date to the 210th day after that date; and
- for any other issuer, from the 120th day after the reservation date to the 150th day after that date.

C.S.H.B. 2206 changes the maximum amount of a carryforward designation for which an issuer may apply from \$50 million to the greater of \$50 million or 1.70 percent of the available state ceiling and requires a granted carryforward designation to comply with the federal Internal Revenue Code of 1986.

C.S.H.B. 2206 expands the entities to which the board on the last business day of the year may assign as carryforward any state ceiling that is not reserved or designated as carryforward and for which no carryforward application is pending to include an issuer that was created to act on behalf of the state. The bill authorizes an issuer, after one year from the initial carryforward designation, to elect to reassign all or part of the carryforward designation to a new project if the issuer provides certain specified documentation, applicable fees, and any other information required by the board. The bill requires a new project that is reassigned a carryforward designation under this provision to close within the time period allowed by the federal Internal Revenue Code of 1986. The bill authorizes an unutilized carryforward designation available after a project closes on a carryforward designation to be used by the issuer for other projects, subject to certain conditions.

C.S.H.B. 2206 revises the definition of "project," for purposes of the authority of the state or a local government to issue private activity bonds and certain other bonds, to include the following in connection with an issue of qualified student loan bonds:

- the provision of financial assistance to students, if the issuer is the Texas Higher Education Coordinating Board; and
- the provision of eligible guaranteed student loans or alternative education loans, if the issuer is an entity authorized by state law to issue bonds for that purpose.

The bill removes language including as such a project the providing of financial assistance to students located in all or any part of the jurisdiction of the issuer.

C.S.H.B. 2206 revises certain specifications relating to information the Bond Review Board may require an issuer of qualified student loan bonds to provide with the issuer's application for a reservation. The bill specifies that the annual entitlement to a student loan bond allocation of each qualified nonprofit corporation that applies for such an allocation is prioritized in the order that the application was received by the board for that year, subject to compliance with applicable requirements.

C.S.H.B. 2206, with respect to private activity bonds issued for purposes of certain housing projects:

- raises from 75,000 to 100,000 a county population threshold used to determine whether a residential facility or facilities rehabilitated or constructed in a county and proposed to be financed by an issue of qualified residential rental project bonds constitutes a project for purposes of such bond issuance;
- caps the maximum total fee required to accompany an application for a reservation or an application for a carryforward designation for a project that includes multiple qualified residential rental projects at \$25,000;
- removes and repeals requirements, regarding the amounts of the state ceiling available before August 15 exclusively to the Texas Department of Housing and Community Affairs and to housing finance corporations for the issuance of qualified residential rental project bonds, that the board grant reservations from those set aside amounts in a manner that ensures that not more than 50 percent of each set aside amount is used for proposed projects that are located in certain qualified census tracts;
- changes the period in which the board is required to apportion the amount of the state ceiling set aside for housing finance corporations among the uniform state service regions proportionally by population from before May 1 to before March 1 and repeals certain additional requirements relating to that regional apportionment;
- changes the cap on the allocation a housing finance corporation may receive for the issuance of qualified mortgage bonds from \$40 million to the greater of \$50 million or 1.70 percent of the state ceiling; and
- prohibits a housing finance corporation from being penalized for insufficient utilization of the corporation's allocation of the state ceiling if the application for a reservation is received after July 14.

C.S.H.B. 2206 repeals a provision relating to a cap on a reservation granted to the Texas Water Development Board for a water development issue. The bill's provisions relating to the specific authority of the state or a local government to issue private activity bonds and certain other bonds apply to the allocation of the available state ceiling beginning with the 2020 program year.

C.S.H.B. 2206 repeals the following provisions of the Government Code:

- Section 1372.001(18)
- Sections 1372.0231(c) and (e)
- Section 1372.037(b)

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2206 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute contains revisions and repeals of Government Code provisions relating to the specific authority of the state or a local government to issue private activity bonds and certain other bonds and does not include revisions to those statutory provisions made to conform to the bill's Education Code provisions.

The substitute includes a provision revising the cap on the amount of an alternative education loan and includes a specification regarding the method of prioritizing the entitlements of qualified nonprofit corporations to student loan bond allocations.

The substitute changes from 2019 to 2020 the program year in which the bill's changes to the allocation of the available state ceiling first apply.