HOUSE RESEARCH ORGANIZATION bill analysis | 5/10/95

HB 2490
Patterson, Black, Giddings et al.
(CSHB 2490 by Black)

SUBJECT: Creating the Texas Development Bank and an audit of state loan funds

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 12 ayes — Seidlits, S. Turner, Black, Bosse, Carter, Danburg, Hilbert, Hochberg, B. Hunter, D. Jones, McCall, Ramsay

1 nay — Craddick

2 absent — Alvarado, Wolens

WITNESSES: For — Kelly Rogers, Texas Bankers Association; Karen Neeley, Independent Bankers Association of Texas; David Pinkus, Small Business United of Texas.

Against — None

On — Garry Mauro, land commissioner; Keith Jones, Comptroller's Office; Anne L. Schwartz, Texas Public Finance Authority; Kenneth Ashworth, Texas Higher Education Coordinating Board

DIGEST: CSHB 2490 would create the Texas Development Bank as a state agency. The development bank would have exclusive authority to administer state agency loan and loan guarantee programs, including approving and servicing loans. The bill would require that all powers vested in other agencies to administer a loan or loan guarantee program be transferred to the development bank. The transfer would be governed by memorandum of understanding between the agency and the development bank.

**Development Bank board.** The 11-member board would consist of the agriculture commissioner, land commissioner, state comptroller, higher education commissioner, chair of the Texas Water Development Board and four members appointed by the governor — one representing a community bank and one representing agricultural producers, both selected from a list supplied by the speaker of the House, one representing a financial institution, and one representing the business community. The lieutenant governor would appoint two members — a small business owner and a person from a historically underutilized business (HUB).

The unpaid board would be required to meet monthly and would be subject to the open meetings and open records acts. The board would be authorized to appoint unpaid advisory committees to aid in determining the needs the bank should address.

**Bank administration.** The board would be required to hire an chief operating officer and could delegate its powers and duties to that person. The board would make rules to establish lending authority within the bank. The bank would be allowed to form subsidiary banks.

The board and the comptroller would be required conduct a cost-benefit analysis of the state agency loan and loan guarantee programs every two years and report its findings to the Legislature beginning with the 1999 legislative session.

The auditor, along with the comptroller and banking department, would be required to audit the agency programs to be transferred to the bank before they are transferred. The audit would be paid for by the transferring agency. The development bank would have to be audited by the state auditor or a private auditing firm each year.

The development bank could set up a program to sell into the secondary market. The board would be required to have a written cash management policy that would be reviewed annually.

The banking department would be required to examine loans administered by the bank annually to determine the credit quality and value of the loans and recommend loan underwriting standards.

The bill would authorize the Texas Public Finance Authority to issue all bonds relating to Texas Development Bank programs. The bank and the Texas Public Finance Authority would be required to execute a memorandum of understanding regarding the earnings exceeding the costs of retiring the bonds and the authority's costs.

The bill would require agencies from which programs have been transferred to provide technical services related to the transferred programs if asked by the development bank.

The bank would be allowed to accept gifts and grants from any source. The bank's earnings could be pooled and used for any program administered by the bank.

**Capital access and availability.** Twice a year the bank would be required to conduct a statewide needs appraisal study to obtain economic data concerning capital access and availability. The information from the study would be used in planning and budgeting the bank's program activities. The bank would be required to coordinate activities related to the study with appropriate public and private financial service organizations.

**Loan and loan guarantee transfers.** The bill would require that loan and loan guarantee programs located in other agencies be transferred to the development bank. The transfer phase-in would begin September 1, 1996, and be complete by September 1, 1999. Programs to be transferred would include Texas Agricultural Finance Authority loan guarantee program, Texas Small Business Development Corporation, the public school facilities funding program, the Texas Growth Fund, the first-time home buyer program, the Texas capital fund, 12 programs from the Texas Water Development Board, the Texas Veterans' land program, and the Hinson-Hazelwood college student loan program.

The bill would require that the auditor, comptroller and banking department to audit by January 1, 1997, all the loan and loan guarantee programs to be transferred to the development bank.

**Loan audit program.** The auditor, in conjunction with the comptroller and the banking department, would be required to audit each state agency loan and loan guarantee program. The audit would have to be completed by January 1, 1997, and the affected agency would pay the costs of the audit. The audit would have to determine:

• cost versus benefit of the program;
• credit quality of loans in the program;
• loan expertise of management in the agency administering the program;
• adequacy of program delivery systems;
• privatization of loan systems;
• underwriting standards used for the program;
• geographical distribution of loans in the program;
• degree of participation with financial institutions and other lender organizations;
• personnel costs and other administrative costs associated with the program;
• demographic distribution of loan recipients; and
• default and past due rates of loans in the program.

**Effective date, contingency.** The general audit provision of the bill would take effect January 1, 1996. All the other provisions of the bill would take effect only if HJR 98, a proposed constitutional amendment authorizing the bank, was approved by the voters.

SUPPORTERS SAY:

Consolidating all the loans and loan guarantee programs in one agency, the Texas Development Bank, would make it more efficient and cost effective to issue and service the loans. The "one-stop shopping" approach would make it easier and more convenient for consumers seeking agricultural and economic development loans and loan guarantee.

The development bank would centralize bond issuance, provide economies of scale and lower the cost of issuing bonds. It would provide uniform underwriting standards to make it easier for financial institutions to understand the conditions involved in making guaranteed loans. It would consolidate the mechanics of making loans.

The general audit program would provide important information about loan and loan guarantee programs to allow the Legislature to better control and oversight over them. Many of these programs are funded through general obligation bonds and yet there is relatively little information about how these programs operate. The loan and loan guarantee programs are bank-like structures operating in non-bank agencies. Given the amount of funds and the number of programs involved in loan and loan guarantees (the bill lists 70 loan and loan guarantee programs), a general assessment is long overdue.

OPPONENTS SAY:

Consolidating all the loan and loan guarantee programs under one agency may sound good in theory, but in practice would be unworkable and unnecessary. There is no evidence of problems in the way loan and loan guarantee programs are handled today. It may make sense to consolidate all the agriculture and economic development programs under one umbrella agency, but it would be overwhelming for one agency to handle the myriad of different programs. Many of these programs are highly specialized and need the expertise available in the agency in which they are located. This is especially true of the Texas Water Development Board and the Hinson-Hazelwood college student loan program.

Placing all loan and loan guarantee programs under one agency could prove to be less cost efficient than the current system. Consolidation could make the programs less responsive to the consumer and could create more confusion.

NOTES:

The original version of the bill did not include provisions for audit of each agency's loan and loan guarantee programs.

HJR 98 by Patterson, et al., which was not set on a daily calendar, would allow for the centralization of all loan and loan guarantee programs and would permit the Legislature to allow one or more agencies to issue and service all state bonds. The amendment would be placed on the November 7, 1995, ballot.

The companion amendment, SJR 58 by Armbrister is pending in the Senate State Affairs committee.