

SUBJECT: Recovering operating costs of Water Pollution Revolving Fund through fees

COMMITTEE: Appropriations — favorable, without amendment

VOTE: 20 ayes — Junell, Delisi, Clemons, Conley, H. Cuellar, R. Cuellar, Davis, Gallego, Glaze, Gray, Harris, Heflin, Johnson, Kubiak, McDonald, Mowery, Ogden, Park, Swinford, S. Turner

0 nays

7 absent — Carona, Coleman, Cook, Greenberg, Haggerty, Hernandez, Raymond

SENATE VOTE: On final passage, March 21 — 30-0

WITNESSES: For — Monte Akers, Texas Municipal League

Against — None

On — Craig Pedersen, Texas Water Development Board

BACKGROUND: The State Water Pollution Control Revolving Fund (SRF) was created by the federal Clean Water Act of 1987. The SRF, operated by the Texas Water Development Board, is a self-supporting low-interest loan program available to Texas communities for wastewater treatment systems and other wastewater projects. The fund provides financial assistance to political subdivisions at below-market rates for the construction of sewage treatment facilities.

Since 1987 over \$1 billion in loans and commitments have been made from the SRF, which is structured to continue to provide loans in perpetuity. The SRF program uses federal funds, SRF revenue bonds and general obligation bonds. All of the bonds are repaid from borrower's loan payments and investment earnings. The SRF operating expenses are recovered from loan-repayment revenues.

DIGEST: SB 768 would authorize the Texas Water Development Board to charge a loan origination fee and an annual loan service charge to recipients of SRF loans or an additional state revolving fund. The fees would be used to pay the board's cost of administering the SRF or similar revolving funds, including the debt service obligations of financial assistance made available from those funds.

The board would be required to set, by rule, fees at amounts necessary to recover costs of administering the SRF that are not paid by revolving fund money. The board could establish one or more operating funds to finance the administration of the SRF or other revolving funds. The operating funds, consisting of loan origination and loan service fees, would be held outside the state treasury and separate from the related fund.

The board could not transfer SRF or other revolving fund money to an operating fund but could transfer money from an operating fund to its related revolving fund. Money invested in an operating fund would have to be invested in authorized investments as provided by board order, resolution or rule. The board could agree with SRF bondholders that money deposited in operating funds would be used only as provided for by SB 768.

The bill would take immediate effect if approved by two thirds of the membership of each house.

SUPPORTERS SAY: The State Revolving Fund (SRF) is a low-interest loan program available to communities throughout the state for wastewater projects. When cities, large and small, elect to borrow from the SRF it saves utility customers money because it costs less to finance construction of new wastewater plants.

The SRF is completely self-supporting. All of the bonds are repaid from borrowers' loan repayments and investment earnings. SRF operating (or administrative expenses) are paid for through three funding sources (federal funds, bond proceeds and repayments). SRF operating funds are available from net program revenues and are capped by federal law at 4 percent of total federal grant funds received.

Currently, all authorized federal grant funds for the SRF have been received and additional appropriations are not anticipated from the federal government. If no new federal funds are appropriated, the board estimates that operating costs (which would be capped at approximately \$26.6 million) will be depleted during the fiscal 1996-1997 biennium.

SB 768 would authorize the board to collect a one-time closing fee (called a "loan application fee" in the bill) and annual loan servicing fees from SRF borrowers for the recovery of the fund's operating costs so the self-supporting SRF loan program could continue to operate.

SB 768 would be revenue neutral for the political subdivisions that are recipients of loan assistance from the SRF because the board plans to offset the fees by a reduction of interest rates charged to recipients of loan assistance. The bill would merely allow a change in the method of recovering SRF operating costs. The bill would give the board needed flexibility to change the fee rate in order to accommodate any future fluctuations in loan activity and to eliminate the fee if future legislative changes provide for a different method of funding SRF operating costs.

Currently, loan recipients have been paying for the operation of the SRF program through fees incorporated into their current loan agreements. SB 768 would merely require operating costs to be paid at a different point in the process.

Borrowers would still receive a below-market interest rate on their loans and there is a strong incentive for the board to operate the SRF efficiently so cities will continue to use the fund. The amount of SRF operating funds would be subject to the appropriations process, so the board could not spend these funds without authorization from the Legislature each biennium.

SB 768 would not propose an increase in operating costs, and if the Clean Water Act is authorized and funds are appropriated to the SRF, the fees would not be needed or implemented. However, the proposed amendments to the Clean Water Act, the federal legislation governing SRF program administration, failed to pass in the last session of Congress. The Clean Water Act's future is unknown, and no more federal money is expected.

In order to segregate the SRF user fees from other treasury receipts, SB 768 would require the board to deposit the fee revenue into an operating account outside the treasury. This would ensure that fees would only be used for SRF activities. Allowing the transfer of surpluses out of the revolving fund operating accounts back to the SRF account itself would make it possible for excess fee collections to be recycled into new loans.

The "other revolving funds" that are referred to in SB 768 are referenced because the federal government has indicated that it might create drinking water revolving funds or other new federal revolving funds. The board is authorized by statute to establish one or more additional revolving funds if the federal government creates any new revolving funds. The references to "other revolving funds" in SB 768 would ensure that if new federal fund are created, the board would have the money to administer them properly, and start loaning money from the new funds as soon as possible.

**OPPONENTS
SAY:**

The bill should require the Water Development Board to provide a reduction in interest rates equal to cost of the new fees, and SRF administrative costs should be capped by the bill.

SB 768 should specifically provide that no fees could be charged borrowers if Congress appropriates enough money to administer the fund without the need for application and servicing fees.