

SUBJECT: Application for reservation of tax-exempt private activity bonds revisions

COMMITTEE: Financial Institutions — favorable, without amendment

VOTE: 9 ayes — Averitt, Solomons, Denny, Ehrhardt, Elkins, Grusendorf, Marchant, Pitts, Juan Solis

0 nays

WITNESSES: None

BACKGROUND: Each year, Texas receives \$50 per capita in tax-exempt private bond authority from the federal government, amounting to nearly \$1 billion for 1999. Private activity bonds are used to construct affordable housing, provide low-interest mortgage loans to families of low and moderate income, fund student loans, purchase pollution control equipment, and finance industrial development. Each of these categories has an annual ceiling based upon percentages set in art. 5190.9a, VTCS, and portions of the funding in these categories are reserved each year through an annual application process.

Program directors must apply to an appropriate bond issuer, usually a local or state governmental agency or non-profit corporation acting on behalf of a governmental entity. The issuer then applies for a reservation under one of the specified categories of funds. An application for a particular year must be received by October 10 of the previous year. It must include a statement that bonds are not being issued for the same stated purpose for which the issuer has received carryforward or proceeds from the unexpended balance of bonds issued in previous years.

The carryforward is the amount of the state ceiling that has not been reserved before December 15 and any amount previously reserved that becomes available on that date because of a cancellation. It can be allocated to other applicants after that date. Applicants with unexpended balances must show proof of a binding contract that would expend these balances within 12 months.

Last session, the Legislature enacted HB 2798 by Marchant, which made a number of changes to the statutes governing the private activity bond

program, including adjusting the percentage allocations among the ceiling areas and revising the application and administration procedures. The Texas Bond Review Board (the board) administers the state's Private Activity Bond Allocation Program.

DIGEST:

HB 3511 would amend art. 5190.9a, VTCS, to require that the statement that private-activity bond issuers applying for a reservation must file regarding prior year bonds also include information about proceeds transferred between issuers. The issuer would be able to show evidence acceptable to the board, in addition to binding contracts, to demonstrate that any unexpended balances would be spent. The deadline for spending these balances would be changed to either 12 months from the date the application is received or December 31 of the program year for which the application was being filed, whichever date is later.

The bill would establish a fee for an issuer receiving a carryforward designation. The fee would be \$1,000 or 0.025 percent of the carryforward, whichever is greater.

Section 1 of the bill, regarding the additional requirements on an application, would take effect on August 1, 1999, if the bill were finally passed by a two-thirds record vote of the membership of each house. Section 2, regarding the carryforward fee, would take effect on January 1, 2000.

**SUPPORTERS
SAY:**

HB 3511 is a technical cleanup bill that addresses some problems that have arisen from last session's amendments to the private activity bond program statutes. This bill would make the program's operation more efficient, and it would enable the board to target the program's resources better.

Last session's revisions moved the application deadlines up, but no change was made to the deadline that funds must be expended. This has resulted in issuers having to end their programs by mid-October to be eligible for new reservations, shortening the time they have to originate loans. It was always the intent that programs could originate loans until the last day of December, which this bill would allow.

The requirement that transferred proceeds be included in the application would result in approximately \$45 million being redirected to other applicants that do not have funds left over from refunding prior year bonds.

Assessing a fee for carryforward designations simply would treat them like any other allocation. The fee would be the same as for other designations. Each year, only one entity receives carryforward funding. The largest such designation was in 1997 to the Comanche Peak Project, which would have generated a fee of \$6,240 had this fee schedule been in place.

OPPONENTS
SAY:

No apparent opposition.

NOTES:

The Senate companion bill, SB 1155 by Carona, passed the Senate by 30-0 on April 15 and was reported favorably, without amendment, by the House Financial Institutions Committee on April 22, making it eligible to be considered in lieu of HB 3511.