HOUSE
RESEARCH
ORGANIZATION bill analysis 4/30/2001

HB 2153
Averitt

SUBJECT: Authority and composition of the board of the Public Finance Authority

COMMITTEE: Financial Institutions — favorable, without amendment

VOTE: 6 ayes — Averitt, Solomons, Denny, Grusendorf, Hopson, Menendez

0 nays

3 absent — Marchant, Pitts, Wise

WITNESSES: For — None

Against — None

On — Kimberly K. Edwards, Texas Public Finance Authority

BACKGROUND: The statute that creates and governs the Public Finance Authority (PFA), Government Code, sec. 1232.101a, currently states that PFA has the exclusive authority to issue bonds for institutions of higher education, but creates exceptions to that general rule. Similarly, other sections of the Government Code indicate that PFA's authority to issue bonds to finance the acquisition or construction of buildings is limited to buildings in Travis County, then also list specific building projects for which PFA can issue bonds, including several projects outside Travis County.

Government Code, section 1401.122 requires PFA to attempt to use historically underutilized businesses to assist the state in the issuance of at least 30 percent of the total value of general obligation bonds issued. However, SB 178 by Ratliff, which was enacted by the 76th Legislature and took effect September 1, 1999, completely overhauled Government Code, ch. 2161 regarding historically underutilized businesses. Among other changes, the new law requires that all state agencies to make good faith efforts to increase their utilization of historically underutilized businesses, provides guidelines for achieving that goal, and requires agencies to file reports with the state auditor and Legislature Budget Board regarding compliance.

In 1999, the 76th Legislature adopted and the voters approved a constitutional amendment that requires the boards of most state agencies to be composed of an odd number of members (Texas Constitution, art. 16, sec. 30a).

DIGEST:

HB 2153 would increase the number of directors on the board of the Texas Public Finance Authority from six to seven and would direct the governor to appoint the new member as soon as practicable. It also would permit either two or three (instead of just two) members' terms to expire in a given biennium.

The bill would alter the structure of the authorizing statute to list specifically the institutions of higher education for which PFA is the exclusive issuer instead of having the statute describe the exceptions.

The bill also would eliminate the provision that appeared to limit PFA's authority to issue bonds for acquisition and construction of buildings to projects located in Travis County. It also would repeal the section listing projects that currently are excepted from that rule and would move those projects into the section listing all the other projects for which PFA could serve as issuer.

The bill would repeal Government Code, sec. 1401.122 regarding PFA's use of historically underutilized businesses.

The bill would take effect September 1, 2001.

SUPPORTERS SAY:

HB 2153 would make various needed conforming and clarifying changes regarding the Texas Public Finance Authority. The bill is necessary to bring the authority's board into compliance with the Texas Constitution, Art. 16, sec. 30a regarding the appropriate number of members for a state board. Deleting the references to Travis County and to historically underutilized businesses provisions is necessary to avoid statutory contradictions. Finally, listing the institutions for which PFA is the exclusive issuer would make sense because currently the institutions that are exceptions to that general rule far exceed the number that are subject to it.

OPPONENTS SAY:

Despite the fact that the 76th Legislature set a goal for all state agencies to increase their use of historically underutilized businesses, it did not set specific benchmarks. A 30-percent target for PFA is a useful and appropriate standard and should not be deleted.