HOUSE RESEARCH ORGANIZATION bill analysis | 4/23/2001 | HB 3329 Averitt (CSHB 3329 by Averitt)

SUBJECT: Allocating private activity bonds to rural development

COMMITTEE: Financial Institutions — committee substitute recommended

VOTE: 6 ayes — Averitt, Solomons, Denny, Grusendorf, Hopson, and Marchant

0 nays

3 absent — Menendez, Pitts, Wise

WITNESSES: For — None

Against — None

On — Kathryn Bryan, North Texas Higher Education Authority; Rose Delgado, South Texas Higher Education Authority; Shari Flynn, Lubbock Housing Finance Corp. and Texas Association of Finance Agencies; Jeanne Talerico, Texas Association of Local Housing Finance Agencies; Guy Yandel, Texas Association of Local Housing Finance Agencies; *Registered but did not testify:* Jim Buie, Texas Bond Review Board; Robert Ziemski, South Texas Higher Education Authority.

BACKGROUND: The federal government allows a certain dollar amount of tax-exempt private activity bonds (PABs) to be issued on behalf of private entities of each state. The amount of the bonds depends on the state's population. Under this program, Texas receives over $1 billion in authority for these bonds, which public entities such as Texas Department of Housing and Community Affairs (TDHCA) then issue to private borrowers who have applied successfully for bond financing for their projects.

Government Code, sec. 1327.022 divides Texas' $1 billion in bonds between several categories of issuers, such as those that issue bonds to finance affordable housing or student loans. Under section 1327.022, issuers who issue industrial development bonds (IDBs) to small (primarily manufacturing) enterprises are reserved 7.5 percent of the state's $1 billion in bonding authority until September 1 of each year. The Texas Agricultural Finance Authority is one public entity that acts as an issuer of PABs.

DIGEST:

CSHB 3329 would reserve until June 1 of each year one-third of the bonds issued in the small business enterprise category for issuance by the Texas Agriculture Finance Authority (TAFA) for enterprise development in rural areas. For the purposes of these bonds, TAFA would determine what constitutes a rural area. After June 1, any unissued bond authority would revert to the general allocation formula for all industrial development bonds.

The bill would repeal Government Code, sec. 1327.022(c), which provided for the current division of Texas's Private Activity Bond authority between the various categories of issuers, effective September 1, 2003.

The bill would take effect September 1, 2001.

SUPPORTERS SAY:

CSHB 3329 would ensure that rural areas receive a fair share of the PABs available for industrial development by earmarking a certain portion of those bonds for businesses located in rural areas. Since tax-exempt bonds reduce the cost of borrowing for the businesses for which they are issued, the dedication of one-third of IDB issues to rural-based concerns would provide incentives for businesses to locate in rural areas, where there is a significant need.

A precedent exists for making such policy decisions in allocating the bonding authority. For instance, TDHCA receives a dedicated portion of the bond authority reserved to issuers of bonds to finance affordable single family housing. Also, specifying TAFA as the issuer of the rural development bonds would make sense because it would capitalize on TAFA's experience as a bond issuer while insuring that an entity with a dedication to rural concerns would coordinate the bond issues and their uses.

The bill also would force the Legislature to examine the current categories of issuers that receive authority to issue bonds under Government Code, sec. 1327.022 and their allocation of Texas' PAB authority. This area needs a thorough review to make sure Texas is maximizing the benefit of this resource. An interim study is expected over the next biennium. By sunsetting the current allocations, the bill would force the 78th Legislature at least to decide that it does not want to change the current division of the PAB authority by deleting the sunset provision from the Government Code.

OPPONENTS SAY:

The Legislature should not change the current system for allocating industrial development bonds because it the system already is fair. Currently, all issuers' qualified applications for bond authority are placed in a lottery, and the applications that receive the highest numbers receive the requested authority. Where the bond proceeds will be used is not a consideration. This is the fairest system, and CSHB 3329 would change it to a system that favors certain regions of the state over others.

NOTES:

The committee substitute added the one-third allocation to TAFA.

A related bill, SB 716 by Duncan, which was sent to the governor on April 20, would amend TAFA's statutory authority so that it could make loans for non-agricultural related projects that would be located in rural areas.