

SUBJECT: Authorizing sale of anticipation notes to TAFE

COMMITTEE: Land and Resource Management — favorable, without amendment

VOTE: 8 ayes — Walker, Crabb, F. Brown, Geren, Howard, Krusee, Truitt, B. Turner
0 nays
1 absent — Mowery

SENATE VOTE: On final passage, March 13 — 30-0

WITNESSES: None

BACKGROUND: The Texas Agriculture Finance Authority (TAFE) is a loan guarantee program created in 1987 by the 70th Legislature. It was set up within the Texas Department of Agriculture (TDA) as a public authority to provide financial assistance for the development and diversification of Texas agricultural products. TAFE is governed by a nine-member board.

In 1999, the 76th Legislature adopted Government Code, sec. 1431.002, allowing county commissioners courts or city councils to authorize issuance of an anticipation note, a type of instrument to borrow money that is paid from and secured by revenue, taxes, or proceeds from bonds issued by the county or city. Sec. 1431.004 allows counties and cities to use the proceeds of anticipation notes to pay for:

- ! construction of public works, such as streets, water and sewer lines, or a park or governmental building;
- ! purchase of materials, supplies, equipment, machinery, buildings, lands, and rights of way;
- ! professional services, such as by a tax appraisal engineer, engineer, architect, attorney, mapmaker, financial advisor, or fiscal agent;
- ! operating or current expenses; or
- ! the issuer's cumulative cash-flow deficit.

The anticipation note can be sold through a public auction or through a negotiated agreement with a buyer. Issuance of anticipation notes does not require the services of a bond advisor and bond attorney and, except for counties or cities with a population of more than 80,000, does not require review by the attorney general.

DIGEST: SB 827 would authorize TAFE to purchase anticipation notes from a city or county participating in a TAFE rural economic development program if the note matured in less than 30 years. Anticipation notes issued by a single issuer in an aggregate amount of \$500,000 or less would not be subject to review by the attorney general. An issuer could issue anticipation notes for the same purpose not more than once in any 12-month period.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2001.

SUPPORTERS SAY: SB 827 would provide another source for rural counties and cities to obtain needed financial assistance for economic development projects. A smaller community might need such items as a \$400,000 fire truck but not have that much cash on hand. SB 827 would offer another borrowing tool in reach of these rural counties and cities.

Issuing anticipation notes would be more affordable for a county or city than offering a bond issue. The county and city would not have to bear the expense of bond advisor and bond attorney fees, nor the additional costs of obtaining the attorney general's review.

TAFE already works with borrowers in rural areas and is familiar with the needs of rural counties and cities. The board also has the expertise and standards to evaluate loans and is under no obligation to extend the loan if the applicant is not creditworthy.

Current law authorizes citizens to reconsider any borrowing by cities and counties. State law already provides the authority for these kinds of financial instruments. SB 827 would provide additional safeguards by limiting the size of the anticipation note and the number of notes that could be issued in one year for the same purpose.

OPPONENTS
SAY:

Given its recent history, TAFAs should be wary of extending the types of loans it makes and risking a repeat of the poor lending decisions that caused the fiscal difficulties identified in a 1997 report by the state auditor. While TAFAs may have shown fiscal improvement since 1999, it still lacks a sufficient track record to determine whether all its difficulties have been corrected. Expanding the program into economic development loans could expose TAFAs to additional risky loans while it has still not attracted enough good loans to serve as a buffer.

Anticipation notes do not require specific approval by local voters. TAFAs should not encourage local entities to increase their indebtedness without the consent of citizens.

NOTES:

The 77th Legislature has enacted and sent to the governor a related bill, SB 716 by Duncan, which, among other provisions, would authorize TAFAs to provide up to \$5 million in loan guarantees to finance the economic development of businesses in rural areas.