

SUBJECT: Revising administration of the state ceiling for private activity bonds

COMMITTEE: Financial Institutions — committee substitute recommended

VOTE: 6 ayes — Solomons, Christian, Gutierrez, Flynn, Hopson, Wise
0 nays
1 absent — Paxton

SENATE VOTE: On final passage, May 6 — 31-0, on Local and Uncontested calendar

WITNESSES: No public hearing

BACKGROUND: Government Code, ch. 1372 governs private activity bonds administered by the Bond Review Board (BRB). A private activity bond is a bond issued by the state that allows private interests to benefit from the bond. The amount of tax-exempt private activity bonds that may be issued during a given calendar year is subject to a cap, referred to as the “state ceiling.” Sec. 1372.022(a) allots portions of the state ceiling to several different purposes, including qualified mortgage bonds, state-voted issues, small issue and enterprise zone facility bonds, residential rental project bonds, student loan bonds, water development projects, and other purposes.

DIGEST: CSSB 1664 would make several changes to statutes governing the state ceiling for private activity bonds.

Bond allotments. The bill would change allotments of the state’s private activity bonds when the state ceiling was computed on the basis of \$75 per capita or more. The state ceiling would be distributed to issuers as follows:

- 28 percent for qualified mortgage bonds;
- 8 percent for state-voted issues;
- 2 percent for small issue bonds and enterprise zone facility bonds;
- 22 percent for residential rental project bonds;
- 10.5 percent for student loan bonds issued by nonprofit corporations;
and

- 29.5 percent for any other bonds that require an allocation.

Housing. CSSB 1664 would make several changes to the use of private activity bonds for affordable housing. Issuers of qualified residential rental project bonds would have to submit a nonrefundable fee of \$5,000 with their application for a reservation of bonds. The BRB would have to retain \$1,000 of this fee to offset the costs of administering the private activity bond allocation program and would have to transfer \$4,000 to the Texas Department of Housing and Community Affairs (TDHCA) for an affordable housing research and information program established under the bill. Under this program, TDHCA would have to contract for:

- market studies to determine the statewide need for affordable housing;
- research on the effect of affordable housing on property values, social conditions, and quality of life in surrounding neighborhoods;
- research in housing design and development to enhance community acceptance of affordable housing and quality of life for residents; and
- public education on the nature and purpose of affordable housing and public participation in affordable housing programs.

The bill also would change the types of housing projects given first priority by the BRB for reservations to issuers of qualified residential rental project issues. In addition to projects located in areas with median family income at or below the statewide median family income, the BRB would have to give first priority to projects in which:

- 50 percent of the units were rent restricted at 30 percent of 50 percent of area median family income and reserved for residents earning not more than 50 percent of area median income, and the other 50 percent were rent restricted at 30 percent of 60 percent of area median family income and reserved for residents earning not more than 60 percent of area median income;
- 15 percent of the units were rent restricted at 30 percent of 30 percent of area median family income and reserved for residents earning not more than 30 percent of area median income, and the other 85 percent were rent restricted at 30 percent of 60 percent of area median family income and reserved for residents earning not more than 60 percent of area median income; and

- 100 percent of the units were rent restricted at 30 percent of 60 percent of area median family income and reserved for residents earning not more than 60 percent of area median income.

Student loan bonds. CSSB 1664 would allow only a nonprofit corporation to apply for a student loan bond allocation. An application for a student loan bond allocation would have to include a statement listing the principal amount of Texas eligible loans purchased in the two most recent fiscal years, the agencies guaranteeing the eligible loans, the amount of the eligible loans, the originating lenders from whom the eligible loans were purchased, the amount of eligible loans each lender sold, and the date of each purchase transaction. This statement would have to have to be certified by an officer of the applicant and audited by an independent auditor. Each qualified nonprofit corporation applying for an allocation would be entitled to receive a floor allocation, defined as an allocation that was the lesser of \$27 million or the corporation's annual need. The bill would establish criteria for allocating excess private activity bonds reserved for student loans that had not been allocated and for allocating bonds to applicants with additional need. A corporation receiving a student loan bond allocation could not transfer the allocation to another entity or lend proceeds of bonds issued under the allocation to another entity other than a student.

An issuer of qualified student loan bonds would have to provide the BRB with information along with its application for a reservation. This information would be determined by BRB rule and could include financial statements, portfolio accounts, default rates, descriptions of how students loans were spent, and information about the issuer's client agencies.

Water development bonds. CSSB 1664 would authorize the board to grant to the Texas Water Development Board a reservation of up to \$100 million of the state ceiling for a water development issue.

Other provisions. The bill would make various other changes regarding the allocation of the state ceiling of private activity bonds. Except for certain changes relating to qualified residential rental projects, publication of data on the Internet, and portions of the state ceiling that become available before June 1, changes in the bill would apply only in relation to a reservation of the state ceiling made on or after January 1, 2004.

The bill would take effect September 1, 2003.

NOTES:

The committee substitute made numerous changes to the original, most notably:

- requiring the BRB to apportion residential rental project bonds to housing finance corporations only if an issuer had submitted an application before March 1;
- changing the prioritization of reservations among issuers of qualified student loan bonds;
- allowing that partial reservations could be offered until an applicant accepted the reservation or additional volume was returned in an amount sufficient to grant a full reservation; and
- establishing the affordable housing research and information program in a new section of code.