

SUBJECT: Continuing the Texas State Affordable Housing Corporation

COMMITTEE: Urban Affairs — committee substitute recommended

VOTE: 5 ayes — Talton, Van Arsdale, Edwards, Hunter, Wong

0 nays

2 absent — Menendez, Bailey

SENATE VOTE: On final passage, April 10 — 31-0, on Local and Uncontested Calendar

WITNESSES: *(On original version:)*

For — Donna Chatham, Association of Rural Communities in Texas; Dawn Enoch Moore, Texas State Affordable Housing Corp.; John Henneberger, Texas Low Income Housing Information Service;

Against — None

On — Wayne Moore, American Housing Foundation; Reymundo Ocanas, Texas Association of Community Development Corporations

BACKGROUND: The 74th Legislature in 1995 established the Texas State Affordable Housing Corporation (TSAHC) as a nonprofit organization dedicated to serving the needs of low-income Texans. The corporation finances development of affordable multifamily housing units by nonprofit organizations by issuing tax-exempt mortgage revenue bonds. The corporation also issues taxable mortgage revenue bonds to finance the purchase of single-family homes by Texas educators under the Teacher Home Loan Program and engages in loan servicing, asset oversight, and other housing-related activities.

TSAHC is governed by a five-member, governor-appointed board, which establishes policy for the corporation and hires its president. Board members currently are not subject to term limits. TSAHC is a self-sustaining entity that receives no state funding and is not subject to the appropriations process. In fiscal 2002, the corporation generated \$3.3 million in revenues and expended \$2.6 million.

Government Code, ch. 1372 governs private activity bonds. A private activity bond is a tax-exempt 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, known as the “state ceiling.” Sec. 1372.022 allots portions of the state ceiling to six different purposes. Twenty-five percent of the state ceiling is reserved for qualified mortgage bonds to fund home loans by the Texas Department of Housing and Community Affairs (TDHCA) and housing finance corporations.

In 2001, the 77th Legislature enacted HB 3451 by Gallego, et al., continuing TSAHC for two years and establishing the Teacher Home Loan Program under TSAHC’s administration. The act annually allocates \$25 million of the state ceiling for private activity bonds for home mortgage loans to Texas teachers who are first-time home buyers.

Government Code, sec. 1372.0321 requires the Texas Bond Review Board to give priority in granting reservations of qualified residential rental project issuances to projects such as those planned for low-income areas of the state or those in which rents will remain below 50 percent of area median family income. Sec. 2306.081 governs TDHCA’s project compliance database, which tracks the compliance of a housing development with the department’s requirements through the project’s construction phase.

TSAHC is subject to the Texas Sunset Act and will expire September 1, 2003, unless continued by the Legislature.

DIGEST:

CSSB 284 would continue TSAHC until 2009 and would make several changes to the corporation’s administration. The bill would adopt staggered six-year terms for board members, with the terms of one or two members expiring on February 1 of each odd-numbered year.

Public benefit requirements. TSAHC would adopt several methods to ensure public benefit from housing development projects funded through the corporation. A community housing development organization (CHDO) that received an issuance of tax-exempt 501(c)(3) bonds from TSAHC would have to invest at least one dollar in projects benefitting income-eligible people for each dollar of taxes not imposed on the organization’s property because of property-tax exemptions available to charitable developers of low-income

housing. Projects could include rent reduction, capital improvement, or social, educational, or economic development services and could be determined on a case-by-case basis. TSAHC would have to adopt guidelines for these projects. This dollar-for-dollar public benefit requirement would be reduced for each dollar that the organization remitted to a taxing unit for which the property received an exemption.

Bond funds for targeted areas. CSSB 284 would reserve for TSAHC 10 percent of the state ceiling for qualified mortgage bonds to fund home loans. The portions of these funds available to TDHCA and for local development corporations would be reduced to 20 percent and 70 percent, respectively. Of its portion of the state ceiling, TSAHC would have to allocate bond funds according to a new process established by the bill. Under this new process, TSAHC would have to review annually its 501©)(3) bond issuance policies, including the public benefit requirement. Any proposed change would have to be published in the *Texas Register*, allow for a reasonable period of public comment, and be approved by the corporation's board of directors.

TSAHC would have to direct the Bond Review Board on the issuance of the portion of the state ceiling set aside for qualified residential rental project bond funds for identified target areas. TSAHC would have to establish guidelines including demonstration of local need and community support for housing developments in the corporation's identification of target areas. TSAHC would have to coordinate with TDHCA and review needs-assessment information to research the state's strategic housing needs. To this end, the corporation would have to solicit information from local and regional housing organizations. TSAHC also would have to establish criteria for soliciting housing development proposals in targeted areas.

For the purpose of scoring applications for residential rental project bond funds in target areas, TSAHC's board would have to adopt criteria that included local need and community support. These criteria also would have to include the cost of each proposed housing unit, the proposed rent for each unit, and the income ranges of individuals and families to be served by the proposed development.

Based on the highest scores from these criteria, TSAHC's board would have to identify housing developments to which to allocate funds and then hold any

federally required public hearings on these developments. After the hearings, TSAHC would have to prepare final recommendations that incorporated public comments for the board, which would have to inform the Bond Review Board of its final decisions. TSAHC would have to pay TDHCA a fee for underwriting an application. Bonds issued under this program would not be subject to the standard prioritization scheme for residential rental projects.

Coordination with TDHCA. CSSB 284 would establish several methods to increase coordination between TSAHC and TDHCA. It would require TDHCA to include TSAHC's review of housing developments for targeted areas in its annual low-income housing plan. TDHCA also would have to incorporate the results of TSAHC programs in its analysis of the housing supply in each uniform state service region and would have to provide TSAHC with needs-assessment information compiled for its annual report. TSAHC would have to review the needs-assessment information and develop a plan to meet the state's most pressing housing needs, including specific proposals to help rural and other underserved areas.

TDHCA would have to include project compliance information provided by TSAHC in its compliance database. TSAHC would have to consider any relevant compliance information in TDHCA's database before approving an application for a housing development.

Teacher Home Loan Program. CSSB 284 would replace references to "teacher" in this program with references to "professional educator," defined as a classroom teacher, full-time paid teacher's aide, full-time librarian, full-time counselor, or full-time school nurse. To be eligible for a loan under the program, an educator would have to live in Texas on the loan application date and be employed by a school district on the application date. Currently, an applicant must have been living in the state for at least five years and have been working as an educator for at least three years.

Across-the-board provisions. The bill would add standard sunset language governing conflicts of interest, nondiscrimination, grounds for removal of board members, standards of conduct, training, separating policymaking and management functions, and complaints.

The bill would take effect September 1, 2003.

**SUPPORTERS
SAY:**

CSSB 284 would continue TSAHC, which provides crucial financing to low-income housing developers and Texas teachers. The bill would improve planning, compliance, and reporting coordination with TDHCA, allow more educators to take advantage of the Teacher Home Loan Program, and allow the corporation to allocate bond funds for housing more effectively. These changes would create a bold and promising new direction for TSAHC, and the corporation should undergo sunset review six years from now to enable the Legislature to evaluate the success of these new policies and to ensure that TSAHC was accountable for funds that it would oversee.

The bill would require bond fund recipients to provide at least a dollar-for-dollar match of public investment in low-income housing for each dollar of property tax on the development that was exempted. The Legislature should ensure that tax exemptions generate a comparable investment in affordable housing for the benefit of low-income residents of taxing entities that forgo this tax revenue. The bill would enable residents to benefit directly through rent reduction, property improvement, or other community development projects. A housing developer could return a tax exemption to a taxing unit if the developer could not make such an investment.

CSSB 284 would enable TSAHC to identify and fund housing projects across the state that would satisfy identified housing needs. The corporation would have direct authority to issue private activity bonds and could allocate these funds through a request-for-proposal process in targeted areas in which the corporation had identified a need for housing. The corporation could identify the groups served by a project, the type of development, and other relevant aspects. This new process would enable TSAHC to direct limited funds to areas and populations that need affordable housing the most.

**OPPONENTS
SAY:**

CSSB 284 would give bond-issuance authority to an independent organization with little direct state oversight. The Legislature and TDHCA would have little ability to ensure that bond funds from the corporation's portion of state ceiling bond funds were granted wisely.

**OTHER
OPPONENTS
SAY:**

The bill should expand beyond CHDOs the definition of an organization required to match tax exemptions with investments. HB 3546 by Hamric, et al., which passed the House on May 10 and has been referred to the Senate Intergovernmental Relations Committee, would allow nonprofit organizations

other than CHDOs to receive tax exemptions. If both of these bills were enacted, several non-CHDO housing organizations could avoid the public investment requirements included in CSSB 284.

NOTES:

The committee substitute to SB 284 as engrossed would expand the Teacher Home Loan Program to additional educators and would change the date on which state ceiling bonds would be allotted to the program from August 15 to August 1. The Senate engrossed version would not have established a private activity issuance program for TSAHC to target specific areas in need of housing.