

SUBJECT: Bonds for water and sewer services for economically distressed areas

COMMITTEE: Border and International Affairs — favorable, without amendment

VOTE: 4 ayes — Chavez, Alonzo, Castro, Vo

1 nay — Griggs

1 absent — Merritt

SENATE VOTE: On final passage, May 3 — 26-5 (Estes, Fraser, Harris, Nelson, Ogden)

WITNESSES: For — John Henneberger, Texas Low Income Housing Information Service and Border Low Income Housing Coalition; (*Registered, but did not testify*: Veronica de Lafuente, Office of Cameron County Judge Gilberto Hinojosa; Deborah Kastrin, Commissioners Court, County of El Paso)

Against — None

BACKGROUND: In 1989, the 71st Legislature enacted SB 2 by Santiesteban, which established the Economically Distressed Areas Program (EDAP) to be administered by the Texas Water Development Board (TWDB). EDAP provides financial assistance in the form of grants, loans, or grant/loan combinations to bring water and wastewater services to *colonias*, primarily along the Texas-Mexico border. The program funds construction, acquisition, and improvements to water supply and wastewater collection and treatment facilities, including all necessary engineering work. Maintenance and operations must be funded by the applicant. All political subdivisions in affected counties are eligible to apply.

Under the program, an economically distressed area is defined as an area where, on June 1, 1989, there was an established residential subdivision that had inadequate water supply or wastewater systems and lacked the financial resources to improve those systems. EDAP projects must be located in economically distressed areas within affected counties. Affected counties are defined as those next to an international border or those with a

per capita income at least 25 percent below the state average and unemployment levels at least 25 percent above the state average. Thirty-four counties were eligible to participate in the program as of September 2004.

In 1989, Texas voters approved a constitutional amendment that authorized \$500 million in general obligation bonds for water projects statewide. The amendment reserved 20 percent of the bonds, or \$100 million, for *colonia* projects as authorized by the enabling legislation.

In 1991, the 72nd Legislature adopted and voters approved a constitutional amendment to increase total bond funds for EDAP to \$250 million. According to TWDB, \$37 million of bond authority currently is remaining.

DIGEST:

SJR 27 would amend the Texas Constitution to allow TWDB to issue up to \$785 million in general obligation bonds for the EDAP program account within the Texas Water Development Fund II. The bonds would be subject to Texas Constitution, art. 3, sec. 49-d-8(e), which provides that if there is not enough money to pay the principal and interest on the general obligation bonds issued, an amount sufficient to pay the principal and interest on the general obligation bonds that matured or became due during that fiscal year or to make bond enhancement payments with respect to those bonds would be appropriated out of the first money coming into the state treasury in each fiscal year not otherwise appropriated by the constitution. Money not committed could be invested as authorized by law.

The proposal would be presented to the voters at an election on Tuesday, November 8, 2005. The ballot proposal would read: "The constitutional amendment providing for the issuance of additional general obligation bonds by TWDB in an amount not to exceed \$785 million to provide assistance to economically distressed areas."

SUPPORTERS
SAY:

SJR 27 would authorize the issuance of an additional \$785 million in general obligation bonds to help meet the water and wastewater infrastructure needs of Texas' citizens. Although the EDAP program has been highly successful, many Texas residents continue to lack water and wastewater infrastructure. Without additional funding, many residents of unincorporated and economically distressed areas will be forced to

continue to live in communities lacking the most basic infrastructure that most Texans take for granted.

Since its inception, EDAP successfully has administered \$542 million in state and federal funds to provide assistance to economically distressed communities, primarily along the Texas-Mexico border. Yet, according to TWDB, traditional EDAP communities still require about \$785 million to meet their water and wastewater infrastructure needs. Statewide, \$4 billion in funding is needed for water and wastewater projects. However, the EDAP program only has \$37 million in bond authority remaining, and the federal government recently cut by half its appropriations to the Border Environment Infrastructure Fund, which also provides funding to meet water and wastewater needs along the border. The state should act now to refinance the EDAP program and ensure that TWDB has the resources necessary to meet the state's critical water and wastewater infrastructure needs.

Extending water service to unincorporated areas makes strong economic sense. While many of the communities without water and wastewater infrastructure are poor, existence of water lines would enable businesses to move into those areas, improving the tax base and providing jobs for residents. Investing in necessary infrastructure would be a wise use of state funds.

The enabling bill, CSSB 964 by Lucio, would expand the EDAP program statewide and simplify the eligibility criteria to meet the water and wastewater needs of Texas' citizens throughout the state. By setting a conservative cap of \$50 million on the amount of bonds that could be issued by the TWDB each year under this new authority, CSSB 964 also would spread out the state's financial liability for the repayment of those bonds. Consequently, repayment of these bonds and related administrative costs would be just \$7 million for the fiscal 2006-07 biennium. Although the state has limited general revenue available, ensuring that citizens have the access to clean water and adequate sanitation necessary to promote public health should be one of its highest priorities.

**OPPONENTS
SAY:**

The EDAP program should be allowed to sunset. Since EDAP was created in 1989, TWDB has received \$542 million in state and federal funds to provide assistance under the program, yet the problem has not gone away. In fact, continuing to extend water lines to unincorporated areas could prove counterproductive, since it effectively encourages people to move

into the regions that are costly to serve. Moreover, changes that would be made to the program under SB 964 by Lucio, the enabling legislation, could exacerbate the problem. With so many underfunded priorities this session, the state cannot afford to authorize more bonds that further would drain the state's general revenue and increase state debt. Texas should search for other ways to address its water and wastewater needs, such as expanding grants and tax credits for low-income housing or providing counties with the authority to regulate and develop unincorporated areas.

NOTES:

The enabling legislation, CSSB 964 by Lucio, on today's General State Calendar, would authorize the issuance of \$50 million in bonds per year upon voter approval of the constitutional amendment proposed in SJR 27. The fiscal note on that bill estimates a cost of just over \$7 million for fiscal 2006-07 for debt service and administrative costs.