

SUBJECT: Priority classification for projects under the private activity bond program

COMMITTEE: Economic Development — committee substitute recommended

VOTE: 4 ayes — Deshotel, Morrison, Ortiz, Veasey

0 nays

3 absent — Straus, Dunnam, Kolkhorst

WITNESSES: For —None

Against —None

On —Michael Chrobak, Office of the Governor, Economic Development and Tourism Division

BACKGROUND: Government Code, ch. 1372 governs private activity bonds administered by the Bond Review Board. A private activity bond (PAB) is a tax-exempt bond issued by the state that encourages private investment in projects for public purposes, such as affordable housing and education. 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.” The benefit to the business borrowing the money is that the interest rate is better than the amount for a taxable bond.

Government Code, sec. 1372.022(a) governs the availability of the state ceiling to bond issuers. If the state ceiling is computed on the basis of at least \$75 per capita, before August 15 of each year, the ceiling is allotted as follows:

- 28 percent for reservations by issuers of qualified mortgage bonds;
- 8 percent for reservations by issuers of state-voted issues;
- 2 percent for reservations by issuers of qualified small issue bonds and enterprise zone facility bonds;
- 22 percent for reservations by issuers of qualified residential rental project bonds;
- 10.5 percent for reservations by issuers of qualified student loan bonds under the Education Code; and

- 29.5 percent for reservations by any other issuer of bonds that require an allocation.

DIGEST:

CSHB 1467 would amend the Government Code to allow the use of PABs for economic development purposes. Within the 29.5 percent subceiling identified in Government Code, sec. 1372.022(a)(6) for reservations by any other issuer of bonds that require an allocation, the bill would grant priority to the Texas Economic Development Bank for projects identified by governor's Texas Economic Development and Tourism Office that met the criteria for funding from the Texas Enterprise Fund (TEF). The bill would restrict the total amount that could be made available to these projects to 25 percent of the state subceiling in sec. 1372.022(a)(6) available on January 1 of the program year.

With regard to the "carryforward" of bond funds — i.e., the amount of the state ceiling not reserved before December 15 and any amount previously reserved that became available later because of a reservation cancellation — the bill would grant "priority 1" status to a state agency that applied for a carryforward designation for a project that:

- met the governor's criteria to receive TEF funding, according to the Texas Economic Development and Tourism Office, and;
- met other criteria in the Government Code with regard to the anticipation or payment of "significant expenses" — up to \$1 million or 10 percent of the reasonably anticipated cost of the project, whichever was greater — in the context of a binding contract required to perform the project.

The \$50 million carryover limit in Government Code, sec. 1372.069(c) would not apply to the projects described above.

The 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, 2007.

SUPPORTERS
SAY:

CSHB 1467 would allow the use of PABs to promote job creation and economic development, which would give the state an additional tool, along with the Texas Enterprise Fund and the Emerging Technology Fund, to help grow industry in the state. Traditionally, the Texas Private Activity Bond Program, a federal program administered by the state, has been used to assist in financing privately owned, public-purpose projects, such as

housing projects. The bill would allow the state to use the bonds to develop new jobs and industries while benefiting economically depressed areas. While the bill would prioritize certain projects and allow them to access a significant portion of the state subceiling in the “all other” category, these projects have the most potential to build industry and bring jobs to the state while improving areas that desperately need such growth.

Additionally, under Internal Revenue Service requirements, any bond volume allotted to the state for private activity bonds that is not used in the current year is carried forward. Carryforward not used within three years is considered abandoned and lapses. The total effective size of the available allocations under the state ceiling and carryforward reached \$2.8 billion in fiscal 2006. This bill would give the state access to money for economic development that otherwise would lapse.

**OPPONENTS
SAY:**

CSHB 1467 would allow a competitive advantage over other key programs in the PAB program, including qualified mortgage bonds, small issue bonds, residential rental project bonds, student loan bonds, and water development projects. Projects under this bill would receive priority over these other projects and would not be capped at the \$50 million carryover limit, which would allow these priority projects to take a significant share of the available bond money. While CSHB 1467 would limit these projects to no more than 25 percent of the subceiling in the “all other” category, in many cases this would be a larger amount than any other issuer would receive. Additionally, many of the other issuers fund projects that produce a much wider and greater impact on improving the economic development of the state than would the projects envisioned by this bill.

NOTES:

The companion bill, SB 193 by Brimer, has been referred to the Senate Finance Committee.

HB 1467 originally was set on the April 30 General State Calendar and was recommitted to committee. When the bill originally was reported, the vote in committee was 4 ayes, 3 nays (Dunnam, Ortiz, Veasey).