HOUSE
RESEARCH
ORGANIZATION bill analysis 4/5/2011

HB 1732
Ritter

SUBJECT: Texas Water Development Board bond status for state debt limit

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 10 ayes — Ritter, T. King, Beck, Creighton, Hopson, Keffer, Larson, Lucio, D. Miller, Price

0 nays

1 absent — Martinez Fischer

WITNESSES: For — (*Registered, but did not testify:* Luana Buckner, Medina County Groundwater Conservation District; Dean Robbins, Texas Water Conservation Association; John Burke)

Against — None

On — Piper Montemayor, Texas Water Development Board; (*Registered, but did not testify:* Melanie Callahan, Texas Water Development Board)

BACKGROUND: Texas Constitution, Art. 3, sec. 49 generally prohibits state borrowing. However, Texas voters have amended this provision numerous times to authorize the issuance of general-obligation bonds backed by the state's full faith and credit, most recently in 2007.

Art. 3, sec. 49-j, approved by voters in November 1997, sets a specific limit on certain state debt. The Legislature may not authorize general-obligation or revenue bonds or large lease-purchase agreements designed to be repaid from general revenue if the resulting annual debt service from general revenue would exceed 5 percent of the average amount of general revenue (excluding funds dedicated by the Constitution) over the preceding three fiscal years. The limitation does not include state-backed bonds for which debt service is reasonably expected to be paid from other revenue sources and not draw on general revenue, unless repayment from general revenue actually is required.

At the end of fiscal 2010, actual debt service on outstanding state debt payable from general revenue equaled about 1.36 percent of unrestricted general revenue, according to the Bond Review Board. The ratio of total authorized debt service (issued and unissued) to unrestricted general revenue was 4.10 percent at the end of fiscal 2010.

The Texas Water Development Board (TWDB) provides financial assistance for water and wastewater projects throughout the state by issuing general-obligation water development bonds and using the proceeds from those bonds to finance loans to political subdivisions.

The TWDB issues general obligation bonds under the constitutional authority of the Texas Water Development Fund II (DFund) Program, which funds programs such as the Water Infrastructure Fund, State Participation Program, and Rural Water Assistance Fund. The Development Fund also provides state-match funds for the TWDB's Clean Water and Drinking Water State Revolving Funds.

The TWDB is unique in that the agency issues both self-supporting and nonself-supporting bonds under one constitutional authority. Self-supporting bonds provide financing without the need for an appropriation of general revenue for debt service on those bonds. Nonself-supporting bonds require an appropriation of general revenue for debt service and are included in the calculation of the constitutional debt limit.

Typically, the TWDB issues self-supporting bonds and uses the proceeds of those bonds to finance loans to political subdivisions. The principal and interest paid by the political subdivisions cover the debt service on the TWDB's bonds.

Before TWDB issues nonself-supporting bonds, the Legislature must authorize the issuance of the bonds and appropriate general revenue for debt service to allow the TWDB to provide financing for projects. An example is the Water Infrastructure Fund, which currently provides loans at 2 percent below market rates (i.e., below the TWDB's cost on its bonds). In these cases, the bonds issued by the TWDB are considered nonself-supporting since they require general revenue to cover the subsidized portion of the interest.

Bonds that are nonself-supporting may become self-supporting when principal and interest payments to the TWDB program fund become sufficient to cover the debt service required and no longer require an appropriation of general revenue to pay the debt service. When the TWDB proves this to the Bond Review Board, the Bond Review Board is able to certify to the Legislative Budget Board (LBB) that the bond issue no longer requires general revenue and no longer is included in the constitutional debt limit calculation.

Last year, the Bond Review Board certified that approximately $370 million in bonds issued under the constitutional authority (State Participation and Water Infrastructure Fund programs) as nonself-supporting were now self-supporting and thus no longer were included in the constitutional debt limit calculation.

DIGEST:

HB 1732 would require TWDB, when requesting approval for the issuance of bonds, to certify to the Bond Review Board the source of debt service, either general revenue or other revenue sources, on the proposed bond issuance.

The Bond Review Board would have to determine the portion of debt service that was to be paid from general revenue and was therefore nonself-supporting. Nonself-supporting bonds no longer would be considered nonself-supporting and would be removed from the constitutional debt limit calculation if:

- the bonds were backed by insurance or another form of guarantee that ensured payment from a source other than general revenue; or
- TWDB demonstrated to the Bond Review Board that the bonds no longer required payment from general revenue and the Bond Review Board certified this to the LBB.

The bill would take effect September 1, 2011.

SUPPORTERS SAY:

HB 1732 would codify the current practice for determining how the TWDB's general obligation water development bonds were treated for purposes of calculating the constitutional debt limit.

Under HB 1732, the TWDB's general obligation bonds would not be considered state-debt payable from general revenue for purposes of calculating the constitutional debt limit until the Legislature appropriated general revenue for debt service on the TWDB's bonds and only for as long as the Legislature continued to do so.

Unlike debt at other state agencies, the TWDB's Development Fund debt has both self-supporting and nonself-supporting components. Self-supporting debt is not factored into the constitutional debt limit. In the calculation of the constitutional debt limit, the Texas Constitution allows for bonds "reasonably expected to be paid from other revenue sources and that are not expected to create a general revenue draw" to be excluded from the calculation until "any portion of the bonds or agreements subsequently requires use of the state's general revenue for payment."

As a historical and current practice, both the Bond Review Board and the LBB consider the TWDB's bond authority self-supporting unless the Legislature appropriates funds for debt service, at which point that portion of the authority becomes nonself-supporting and is included in the constitutional debt limit calculation.

In its review of the TWDB, the Sunset Advisory Commission recommended that this historical practice be statutorily codified. Statutory codification specifying that the TWDB's bonds were considered self-supporting unless the Legislature appropriated debt service would clarify the impact of the TWDB's bonds on the constitutional debt limit, allowing the state to manage its total debt more effectively.

OPPONENTS SAY: No apparent opposition.

NOTES: The companion bill, SB 334 by Fraser, was considered in a public hearing by the Senate Finance Committee on March 14 and left pending.