

SUBJECT: Allowing use of certain bonds for EDAP, revising program requirements

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 7 ayes — Larson, Metcalf, Dominguez, Farrar, Harris, Lang, Oliverson

0 nays

4 absent — T. King, Nevárez, Price, Ramos

SENATE VOTE: On final passage, May 8 — 21-10 (Bettencourt, Birdwell, Campbell, Creighton, Fallon, Hall, Hughes, Paxton, Schwertner, Seliger)

WITNESSES: None

BACKGROUND: Water Code ch. 17, subch. K governs the Economically Distressed Areas Program (EDAP), which is administered by the Texas Water Development Board (TWDB).

EDAP provides financial assistance for projects to develop water and wastewater services in economically distressed areas where these services or facilities are inadequate to meet minimum state standards. An economically distressed area is a political subdivision in which the median household income is no greater than 75 percent of the state's medium income.

The program is funded by proceeds from bonds sold by TWDB. In both 1989 and 2007, EDAP received constitutional authority to issue \$250 million in bonds, and it previously received federal funds. The 85th Legislature in 2017 authorized TWDB to issue the remaining constitutionally authorized bonding authority of about \$53.5 million.

DIGEST: CSSB 2452 would allow the Texas Water Development Board (TWDB) to use certain general obligation bonds for the Economically Distressed Areas Program (EDAP), revise the administration of financial assistance through EDAP, and require an annual report on EDAP projects.

Bond authority. CSSB 2452 would allow TWDB to maximize the effectiveness of the additional general obligation bonds authorized by the Texas Constitution for use in providing financial assistance for the development of water supply and sewer service projects by using the bonds in conjunction with other sources of financial assistance, including nonpublic funds, for EDAP projects.

TWDB also could use the additional bonds to promote and support public-private partnerships that the board determined were financially viable, would diversify the methods of financing of EDAP projects, and would reduce reliance on bonds.

Financial assistance. The bill would make certain revisions to the financial assistance provided through EDAP, including changes to the administration of the EDAP account, the creation of a project prioritization system, consideration of loan repayment, and certain changes to applications for financial assistance.

CSSB 2452 would require, rather than allow, TWDB to use the economically distressed areas account to provide financial assistance to political subdivisions for the construction, acquisition, or improvement of water supply and sewer services. The bill would specify that assistance for such services could include funds for the state's participation in federal programs that provided assistance solely for projects intended to serve economically distressed areas.

The bill would require TWDB to establish a system for prioritizing EDAP projects seeking financial assistance. TWDB would have to give the highest consideration to projects that would have a substantial effect, including projects:

- that would serve an area in which it was determined that a nuisance dangerous to the public health and safety existed resulting from water supply and sanitation problems; or
- for which the applicant was subject to an enforcement action by a state or federal entity related to public health and safety issues

resulting from water supply or sewer services and did not cause or allow the violation.

TWDB by rule could provide for additional consideration criteria.

CSSB 2452 would specify that an applicant for EDAP funds that included a proposal for treatment works could not be delivered funds until the applicant received:

- a permit for construction and operation from certain applicable permitting authorities, unless such a permit was not required; and
- approval of the plans from the commission, executive administrator, or other applicable authority.

The bill would require TWDB to also consider, in passing on an application for financial assistance or in determining the type of financial assistance to provide, the ability of the applicant to repay financial assistance.

The bill also would specify that a political subdivision could request a change or modification of the budget or project plan included in its application if the change did not increase the budget or change the project scope.

The bill would remove the calculation of interest as a factor in the total amount of financial assistance TWDB provided to an applicant for which repayment was not required.

TWDB could provide the repayable portion of financial assistance from any financial assistance program for which the applicant was eligible.

CSSB 2452 would decrease the limit on the use of authorized bonds for financial assistance that did not have to be repaid from 90 to 70 percent of the total principal of authorized bonds.

In determining the amount and form of financial assistance and the

amount and form of repayment, if any, TWDB would be required to establish repayment based on the political subdivision's ability to repay the financial assistance and would be required to consider rates, fees, and charges that the average customer to be served by the project would be able to pay. The bill would remove from the determination of repayment a comparison of what other families of similar income who were similarly situated paid for comparable service.

TWDB also would have to consider its ability to maximize the portion of financial assistance for which repayment was required based on the political subdivision's ability to pay.

Annual report. CSSB 2452 would require TWDB annually to post on its website a report detailing each project for which the board provided financial assistance under EDAP. The report would have to include:

- a description and the location of each project;
- the number of residents served by the project;
- the amount of financial assistance provided or anticipated;
- a statement of whether each project had been completed or the expected completion date;
- the date on which each appropriate political subdivision adopted the model rules; and
- the date on which the appropriate political subdivisions certified enforcement of the model rules.

Other provisions. The bill would repeal a provision prohibiting TWDB from charging interest on loans provided to certain conservation and reclamation districts under EDAP.

TWDB would be required to implement a provision of this bill only if the Legislature appropriated money specifically for that purpose. If not, the board could, but would not be required to, implement a provision of this bill using other available appropriations.

The bill would take effect on the date the constitutional amendment

proposed by the 86th Legislature providing for the issuance of additional general obligation bonds by TWDB in an amount up to \$200 million to provide financial assistance for the development of certain projects in economically distressed areas took effect. If that amendment was not approved by the voters, the bill would have no effect.

**SUPPORTERS
SAY:**

CSSB 2452, in combination with SJR 79, would allow the Texas Water Development Board (TWDB) to issue additional bonds for the Economically Distressed Areas Program (EDAP), providing critical financing for the development of necessary water and wastewater infrastructure in economically distressed areas of Texas. EDAP needs to be replenished if it is to continue funding existing projects and support future projects for communities that could not otherwise afford secure access to safe water. The bill also would make certain enhancements to EDAP, such as prioritizing projects based on whether they would have a substantial effect and requiring an annual report to be published on the TWDB website.

While the cost of water infrastructure may be high, it is essential that Texas have access to water that meets state standards. Financing these costs through bond issues would allow for greater and more reliable funding over a longer period of time. Using general revenue to support EDAP would strain available resources without providing the long-term benefits of a bond issue.

**OPPONENTS
SAY:**

CSSB 2452, in combination with SJR 79, would increase the size of the government and state bond debt at the expense of taxpayers. If TWDB needs additional funding for EDAP, that money should come from general revenue during the regular budgeting process for state agencies.

NOTES:

CSSB 2452 is the enabling legislation for SJR 79 by Lucio (M. González), which would amend the Texas Constitution to allow TWDB to issue up to \$200 million in additional general obligation bonds for EDAP. SJR 79 is on today's Constitutional Amendments Calendar.