

- SUBJECT:** Establishing the Texas small and rural community success fund program
- COMMITTEE:** International Relations and Economic Development — committee substitute recommended
- VOTE:** 6 ayes — Button, C. Morales, Beckley, Canales, Hunter, Larson
- 0 nays
- 3 absent — C. Bell, Metcalf, Ordaz Perez
- WITNESSES:** For — (*Registered, but did not testify:* Carlton Schwab, Texas Economic Development Council)
- Against — None
- BACKGROUND:** Calls have been made to create a successor program to the Texas leverage fund program to allow the Texas Economic Development Bank to renew the letter of credit backing its commercial paper notes, avoid a payment shortfall of active loans, and provide for new economic development loans.
- DIGEST:** CSHB 4119 would establish the Texas small and rural community success fund program as the continued and amended operation of the Texas leverage fund program previously established by law. The program would be administered by the Texas Economic Development Bank.
- Development corporation loans.** The bill would allow a Type A or Type B development corporation to obtain a loan from the Texas small and rural community success fund program for eligible projects. To secure the loan, a corporation could pledge revenue from the sales and use tax imposed by the corporation's authorizing municipality for the benefit of the corporation.
- Texas small and rural community success fund.** The bill would create the Texas small and rural community success fund as a trust fund held

outside the state treasury by the comptroller. The fund would consist of bond proceeds, loan payments and fees, investment earnings, and any other money received under the program.

The fund could be used only:

- to make loans to economic development corporations for eligible projects;
- to pay the fees and costs of administering the program or fund;
- to pay the principal and interest of bonds; and
- for other authorized purpose.

The Texas Economic Development Bank, in coordination with the comptroller, could provide for the establishment and maintenance of separate accounts or sub-accounts in the fund. Pending use, the comptroller could invest and reinvest money in the fund in investments authorized by law for state funds.

Revenue bonds authorized. The bill would authorize the Texas Economic Development Bank, Texas Economic Development and Tourism Office, or the office's successor agency to provide for the issuance, sale, and retirement of bonds to provide funding for economic development purposes as authorized by the Texas Constitution.

The bonds would be special obligations of the bank and the principal of and interest on the bonds would have to be payable solely from the revenues derived by the bank, including loan repayments secured by a pledge of the local economic development sales and use tax revenues imposed by municipalities for the benefit of economic development corporations.

The bonds would not constitute an indebtedness or pecuniary liability of the state, the office, or the bank. These limitations would have to be stated plainly on the face of each bond.

The executive director of the office could provide for the bonds to:

- be executed and delivered at any time in one or more series;
- be in any denomination and form;
- be of a term not to exceed 40 years;
- be in coupon or registered form;
- be payable in installments;
- be subject to terms of redemption;
- bear no interest or bear interest at any rate, fixed, variable, floating, or otherwise; and
- contain other provisions not inconsistent with the bill.

Bonds would be subject to review and approval by the attorney general.

The state would pledge to and agree with the owners of any bonds that the state would not limit or alter the rights vested in the bank to fulfill the terms of any agreements made with an owner until the bonds were fully met and discharged. The bank could include this pledge and agreement in any agreement with the owners of the bonds.

Bond sale and issuance. The bill would allow bonds to be sold at public or private sale. From the bond proceeds, the bank could pay expenses, premiums, and insurance premiums necessary or advantageous in connection with the issuance of the bonds.

In connection with the issuance of bonds, the bank could exercise the powers granted to other bond issuers under state law, however, any bonds issued under this bill would not be subject to certain rating requirements.

Agreements in bonds. A resolution authorizing bonds to be issued could contain any agreements and provisions customarily contained in instruments securing bonds. However, the bank could not incur a pecuniary liability or a charge against the general credit of the state, office, or bank.

The resolution could provide that, in the event of default in bond payments or in the performance of an agreement, the payment and performance could be enforced as provided by the bill. A security

agreement could provide that, in the event of a default or the violation of an agreement, a trustee under the agreement could enforce the bondholder's rights as provided by the bill, including the right to collect and receive any revenue to secure the bonds.

A breach of a resolution, agreement, or a default would not constitute a pecuniary liability or charge against the general credit of the state, office, or bank.

Refunding bonds. Bonds could be refunded by the bank by the issuance of refunding bonds in an amount necessary to refund the unpaid principal of the refunded bonds, along with any unpaid interest, premiums, expenses, and commissions. Refunding could be effected whether or not the refunded bonds had matured, either by sale of the refunding bonds or by exchange of the refunding bonds for the refunded bonds.

A holder of refunded bonds could not be compelled to surrender the bonds for payment or exchange before the date on which the bonds were payable or the date on which they were subjected to redemption, if the bonds were called for redemption.

Refunding bonds with a final maturity of up to 40 years could be issued in the same terms and conditions as other bonds under the bill.

Use of bond proceeds. The bill would allow the bond proceeds to be applied only for a purpose for which the bonds were issued, except that any secured interest or additional unneeded proceeds would have to be applied to bond payments. Any premium received on the sale of the bonds would have to be applied as authorized by other law.

Bonds as legal investments. Bonds of the bank would be securities in which all public officers and bodies of the state, entities listed in the bill, and other persons authorized to invest in other obligations of the state could invest funds. The bonds also would be securities that could be deposited with and received by certain public entities for any authorized purposes.

Administration of fund. In administering the fund, the Texas Economic Development Bank would have the powers necessary to carry out the purposes of this bill, including the power to make, execute, and deliver contracts, conveyances, and other instruments; and impose charges and provide for reasonable penalties for delinquent payments or performance in connection with a transaction.

Continuation of previous program. The program created by the bill would authorize the continued operation, under a new name and with new provisions, of the Texas leverage fund program that was previously established in law.

The governmental acts and proceedings of the comptroller, office, and bank relating to the administration of the leverage fund program that occurred before the effective date of this bill would be validated. The bill would not validate an act that was a misdemeanor or felony or a matter that on the effective date of the bill was involved in litigation or had been held invalid by a final judgment of a court.

Implementation. The comptroller, office, bank, and attorney general would be required to implement the provisions of this bill only if the Legislature appropriated money specifically for that purpose. If money was not appropriated, the agencies could, but would not be required to, implement the provisions.

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, 2021.

NOTES:

According to the Legislative Budget Board, the fiscal implications of the bill cannot be determined at this time. The bill would have an indeterminate negative impact based on appropriations that would be made by the Legislature as well as the assumption of the transfer of funds from a dedicated account to an account that exists outside the state treasury.