

BILL ANALYSIS

Senate Research Center
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S.B. 1791
By: Bivins
Education
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As Filed

DIGEST AND PURPOSE

As proposed, S.B. 1791 creates the Teachers' Housing Assistance Program and authorizes the issuance of bonds for providing home mortgage loans to teachers for housing.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Veterans' Land Board in SECTION 2 (Sections 165.001, 165.003, 165.011, 165.013, 165.015, 165.016, 165.017, Natural Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 1372B, Government Code, by adding Section 1372.0221, as follows:

Sec. 1372.0221. DEDICATION OF PORTION OF STATE CEILING TO VETERANS' LAND BOARD. Sets forth legislative purpose.

SECTION 2. Amends Title 7, Natural Resources Code, by adding Chapter 165, as follows:

CHAPTER 165. TEACHERS' HOUSING ASSISTANCE PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 165.001. DEFINITIONS. (a) Defines "board," "bonds," "fund," "home," "lending institution," "loan," "program," "teacher," and "teachers' housing assistance fund."

(b) Authorizes the Texas Veterans' Land Board (board) by rule to change the definition of "teacher" as necessary or appropriate to protect the best interests of the program.

Sec. 165.002. DEPOSIT OF MONEY IN TEACHERS' HOUSING ASSISTANCE FUND. Requires money received for the fund to be deposited in the state treasury in the fund.

Sec. 165.003. ADMINISTRATION. (a) Requires the board to administer the teachers' housing assistance fund and the teachers' housing assistance program in accordance with this chapter.

(b) Authorizes the board to contract with other agencies of the state or with private entities to determine whether applicants qualify as teachers.

(c) Authorizes the board to set and collect fees the board considers reasonable and necessary from each applicant to cover the expenses of administering the program. Requires the board to deposit those fees in the state treasury in the fund.

(d) Requires the board to adopt rules governing certain aspects of the program.

(e) Requires the board, in determining the terms of any contracts for the origination or servicing of loans, to review the prudent lending practices prevalent in the residential mortgage lending industry and to follow those practices to the maximum extent practicable.

(f) Requires the board to determine the quality and type of homes to be financed under the teachers' housing assistance program.

(g) Requires the board to maintain a list of approved lending institutions and to review and revise the list as necessary at least annually.

(h) Requires the board to file semiannually with the bond review board established under Chapter 1231 (Bond Review Board), Government Code, a report on the performance of the loans. Requires the bond review board to review the reports filed by the board under this subsection to assess the performance of loans made under the program. Requires the filing dates and the contents of the reports to comply with any rules adopted by the bond review board.

Sec. 165.004. INVESTMENTS OF CERTAIN MONEY IN TEACHERS' HOUSING ASSISTANCE FUND. Provides that money in the fund that is not immediately committed for a purpose for which the fund is authorized to be used to be invested by the board in investments authorized for the teachers' housing assistance fund.

Sec. 165.005. CUSTODY AND INVESTMENT OF ASSETS PENDING TRANSACTIONS. Provides that with the approval of the comptroller, the board, in managing the assets of the fund, pending the completion of an investment transaction, is authorized to perform certain procedures.

Sec. 165.006. LENDING SECURITIES. (a) Authorizes the board, in managing the assets of the fund, to take certain actions.

(b) Requires a custodian selected by the board under Subsection (a), to be eligible to lend securities under this section, to be experienced in the operation of a fully secured securities loan program and to meet certain criteria.

Sec. 165.007. SALE OF LOANS. Authorizes the board, notwithstanding any other provision of this chapter, to sell at public or private sale, with or without public bidding, any or all of the loans in the fund. Requires proceeds from the sale to be deposited in the fund and otherwise applied in the manner provided by this chapter, except that at the direction of the board the sale proceeds are authorized to be used by the board, together with other available money, to discharge, pay, or redeem, in whole or in part, outstanding bonds issued by the board under this chapter.

[Sections 165.008-165.010 reserved for expansion]

SUBCHAPTER B. TEACHERS' HOUSING ASSISTANCE PROGRAM

Sec. 165.011. LOANS. (a) Requires the board to make or acquire loans with money from the teachers' housing assistance fund in accordance with this chapter and the rules adopted by the board.

(b) Requires a person, to qualify for a loan under this chapter, to be a teacher at the time the person applies for the loan.

(c) Requires the final principal payment on any loan under this chapter to be made not

later than the 40th anniversary of the date the loan was made. Requires the board to determine the maximum principal amount of loans to any teacher that may be outstanding at any time.

(d) Requires the board to obtain insurance covering certain amounts, in order to minimize losses.

(e) Requires all fees to be charged to a teacher receiving a loan under this chapter to be approved by the board. Authorizes the board to enter into contracts with lending institutions to assist in certain procedures under this chapter. Authorizes any fees and expenses incurred in connection with a loan, including the cost of insurance, to be charged to the teacher and made a part of the teacher's payments.

(f) Authorizes the board by rule to determine the number of loans that a teacher may receive under this chapter.

Sec. 165.012. PAMPHLETS. (a) Requires the board to publish pamphlets summarizing the requirements of this chapter and relevant board rules.

(b) Requires the board to make the pamphlets available to any interested person or teachers in the state.

(c) Authorizes the board to contract with any appropriate entity to publish the pamphlets.

Sec. 165.013. INTEREST RATE. Sets forth provisions regarding the setting of certain interest rates. Provides that to assure the maximum benefit of the program to the teacher, the board is authorized to adopt rules relative to the fees, charges, and interest rates charged by the lending institutions on the financing of the home with money other than from the fund and to limit to the maximum extent practicable the fees, charges, and interest rates to those collected by the lending institution in the normal course of the institution's residential mortgage lending business.

Sec. 165.014. SECURITY FOR THE LOAN. Prohibits money from being disbursed in connection with a loan under this chapter unless the loan is secured by a certain means. Provides that a mortgage retained by or a deed of trust to the board or any other lien is authorized to be a participation in a lien securing any other loan for the purchase of the property. Requires payments to retire the loan to be made at times determined by the board.

Sec. 165.015. INITIAL PAYMENT OR EQUITY. Authorizes the board to require an initial payment on a loan or to require an investment in the home by the teacher in an amount or amounts set by the board's rules under this chapter.

Sec. 165.016. TIME LIMITATION ON TRANSFER. (a) Prohibits a teacher from leasing, transferring, selling, or conveying in whole or in part any interest in a home against which there is a mortgage, deed of trust, or any other lien securing a loan under this chapter unless the teacher has met certain requirements.

(b) Authorizes a home, after the conclusion of the three-year residential period, to be transferred, sold, or conveyed subject to any lien securing a loan under this chapter at any time if all mature interest, principal, and taxes have been paid, the requirements of this chapter and rules of the board have been met, and the approval of the board has been obtained.

(c) Authorizes the board to waive the time limitation of Subsection (a) if certain conditions exist.

(d) Authorizes the board by rule, if the requirements of Subsection (a) fail to be met and the board does not waive the time limitation as provided by Subsection (c), to provide for the escalation of the interest rate on the loan to a higher rate of interest, the acceleration of all principal and interest on the loan, or any other remedy the board considers appropriate.

Sec. 165.017. FORECLOSURE AND RESALE. Requires the board to adopt rules and procedures for the foreclosure and resale of homes financed with a loan under this chapter.

Sec. 165.018. INTEREST RATE IN DELINQUENT PRINCIPAL AND INTEREST. Requires principal and interest that become delinquent to bear interest at a rate fixed by the board.

Sec. 165.019. ENFORCEMENT OF FORFEITURE AND PROTECTION OF RIGHTS. Authorizes the board to request the attorney general to take, and requires the attorney general to take, any action necessary to protect the rights of the state and the teachers' housing assistance fund in a matter concerning the program.

[Sections 165.020-165.030 reserved for expansion]

SUBCHAPTER C. BONDS

Sec. 165.031. ISSUANCE AND SALE OF BONDS; DISPOSITION OF PROCEEDS. (a) Authorizes the board to provide by resolution for the issuance and sale of negotiable general obligation bonds or revenue bonds authorized by the constitution. Provides that the proceeds of the bonds are a part of the fund.

(b) Authorizes the board to use money in the fund attributable to bonds issued to provide money for the fund to pay all costs of issuance of the bonds, including costs, fees, and expenses of the type the board is authorized to pay from the teachers' housing assistance fund in connection with the issuance of the teachers' housing assistance bonds.

Sec. 165.032. INSTALLMENTS. Authorizes the board to issue bonds in one or several installments.

Sec. 165.033. INTEREST RATE. Requires the bonds to bear the rate of interest prescribed by the board.

Sec. 165.034. PAYMENT AND MATURITY OF BONDS. (a) Provides that the bonds are payable as provided by the board and are required to mature serially or otherwise not later than the 40th anniversary of the date of their issuance.

(b) Authorizes the board to make the bonds redeemable or subject to tender for purchase before maturity at the price and under the terms fixed by the board in the resolution providing for the issuance and sale of the bonds.

Sec. 165.035. FORM, DENOMINATION, AND PLACE OF PAYMENT OF BONDS. Requires the board to determine the terms of the bonds and the form of the bonds, including the forms of interest coupons attached to the bonds, if any, and to fix the denomination of the bonds and the place for payment of the principal of and interest on the bonds.

Sec. 165.036. MANNER OF EXECUTION. (a) Provides that the bonds are to be executed by and on behalf of the board and the state in the manner provided by Subsection (b).

(b) Requires the presiding officer and the secretary of the board to sign the bonds. Requires the seal of the board to be impressed on the bonds. Requires the bonds to be signed by the governor and attested by the secretary of state with the state seal impressed on the bonds.

Sec. 165.037. SIGNATURES AND SEALS. (a) Authorizes the resolution authorizing the issuance of an installment or series of bonds to prescribe the extent to which facsimile signatures and facsimile seals may be used instead of manual signatures and manually impressed seals in executing the bonds and attached coupons.

(b) Authorizes interest coupons to be signed with the facsimile signatures of the presiding officer and secretary of the board.

(c) Provides that if an officer whose manual or facsimile signature appears in a bond or whose facsimile signature appears on a coupon ceases to be an officer before the bonds are delivered, the signature remains valid and sufficient for all purposes as if the officer had remained in office until the delivery of the bonds.

Sec. 165.038. APPROVAL BY ATTORNEY GENERAL. Requires the attorney general, before the bonds are delivered to the purchasers, to examine the record relating to the bonds. Requires the attorney general, under certain conditions, to approve the bonds.

Sec. 165.039. REGISTRATION WITH COMPTROLLER. Provides that after the bonds are approved by the attorney general, they are required to be registered with the comptroller.

Sec. 165.040. VALIDITY OF BONDS. (a) Provides that after the bonds are approved by the attorney general and registered with the comptroller, they are valid and binding obligations in every action, suit, or proceeding in which their validity is questioned. Provides that general obligation bonds issued by the board are obligations of the state.

(b) Requires a court, in each action brought to enforce collection of the bonds or rights incident to the bonds, to admit the certificate of approval by the attorney general or certified copy of that certificate as evidence of the validity of the bonds.

(c) Provides that the validity of the bonds is subject to challenge only on the basis of forgery or fraud.

Sec. 165.041. BONDS AS NEGOTIABLE INSTRUMENTS. Requires the board if the board authorizes the issuance of a series of bonds and decides to call for bids, to publish in a recognized financial journal of general circulation an appropriate notice at least once before the 10th day preceding the date of the sale.

Sec. 165.043. SECURITY FOR BID. Authorizes the board to require bidders to accompany their bids with exchange or bank cashier's checks in an amount considered adequate by the board to be a forfeit guaranteeing the acceptance and payment for bonds covered by the bids and accepted by the board.

Sec. 165.044. SALE OF BONDS. Authorizes bonds to be sold at public or private sale at prices and on terms determined by the board.

Sec. 165.045. REPLACEMENT BONDS. Authorizes the board to provide for replacement of bonds that are mutilated, lost, or destroyed.

Sec. 165.046. REFUNDING BONDS. Authorizes the board to provide by resolution for issuance of refunding bonds for the purpose of refunding outstanding bonds issued under this

chapter together with accrued interest on the bonds.

Sec. 165.047. BONDS AS INVESTMENTS AND SECURITY. (a) Provides that bonds issued under this chapter are legal and authorized investments for certain entities.

(b) Provides that the bonds are legal and sufficient security for the deposits in the amount of the par value of the bonds.

Sec. 165.048. TAXATION OF BONDS. Provides that the bonds are exempt from any tax by the state and by certain other entities.

Sec. 165.049. PAYMENT OF PRINCIPAL AND INTEREST. Requires the comptroller to pay the principal on bonds as the bonds mature and the interest on bonds as the interest becomes payable. Requires the comptroller to make payments at the price of payment designated on the bonds.

Sec. 165.050. CONSTITUTIONAL APPROPRIATIONS. (a) Requires the comptroller, under certain situations, to transfer to the fund in amounts sufficient to pay the general obligations the first money coming into the state treasury not otherwise appropriated by the constitution.

(b) Requires the comptroller to use the appropriated money to pay the general obligations only if, at the time the principal or interest or both actually become due, there is not sufficient money in the fund available to pay the amount due.

Sec. 165.051. PURCHASE AND DESTRUCTION OF BONDS. (a) Authorizes the board to use money in the fund to purchase on the open market any bonds the board has issued and sold to provide money for the fund. Provides that any debt represented by those bonds is considered canceled on purchase by the board under this section.

(b) Requires the comptroller to mutilate, burn, or otherwise destroy bonds purchased by the board under this section. Requires the comptroller to certify the destruction of the bonds to the board under the seal of office.

(c) Prohibits interest from being paid on those bonds after their purchase by the board.

Sec. 165.052. BOND ENHANCEMENT AGREEMENTS. (a) Authorizes the board at any time to enter into one or more bond enhancement agreements that the board determines to be necessary or appropriate to place the obligation of the board, as represented by the bonds, in whole or in part, on the interest rate, currency, cash flow, or other basis desired by the board. Authorizes bond enhancement agreements, on terms approved by the board, to include certain agreements. Provides that a bond enhancement agreement is an agreement for professional services and is required to contain the terms and be for the period that the board approves. Authorizes the fees and expenses of the board in connection with the issuance of bonds and the making of loans to be paid from money in the related fund, provided that any payments due from the board under a bond enhancement agreement, other than fees and expenses, that relate to the payment of debt service on bonds constitute payments of principal of and interest on the bonds.

(b) Authorizes the resolution of the board authorizing a bond enhancement agreement to authorize one or more designated officers or employees of the board to act on behalf of the board in entering into and delivering the bond enhancement and in determining or setting the counter party and terms of the bond enhancement agreement specified in the resolution, except that the resolution is required to set the maximum amount and term for the bond enhancement agreement.

(c) Provides that the bond enhancement agreement, under certain conditions, is not a credit agreement for purposes of Chapter 1371 (Obligations for Certain Public Improvements), Government Code, regardless of whether the bonds relating to the bond enhancement agreement were issued in part under that law.

SECTION 3. Amends Section 404.094(d), Government Code, to provide that a state agency that receives money from securities transactions under applicable law, including Chapter 815 or 825, Government Code, Chapter 161, 162, 164, or 165, Natural Resources Code, Chapter 43, Education Code, and the Texas Statewide Emergency Services Retirement Act (Article 6243e.3, V.T.C.S.), with the comptroller's approval may, as an alternative to the deposit of the funds as provided by Subsection (a), to net funds received against purchases of securities occurring within one business day.

SECTION 4. Amends Section 2256.004(a), Government Code, to make a conforming change.

SECTION 5. Effective date: January 1, 2002, contingent upon approval by the voters of the constitutional amendment proposed by the 77th Legislature, Regular Session, 2001, creating the teachers' housing assistance program and fund.