

BILL ANALYSIS

Senate Research Center

S.B. 1664
By: Averitt
Finance
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Enrolled

DIGEST AND PURPOSE

The Texas Private Activity Bond Program is a federal program administered by the Texas Bond Review Board to assist in financing eligible privately owned public-purpose projects. S.B. 1664 adjusts the Texas Private Activity Bond Program to meet the state's public needs.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Bond Review Board in SECTION 8 (Section 1372.0281, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1372.001, Government Code, by adding Subdivision (18), to define "water development issue."

SECTION 2. Amends Sections 1372.006(a) and (b), Government Code, as follows:

(a) Requires an application for a reservation under Subchapter B or a carryforward designation under Subchapter C to be accompanied by a nonrefundable fee in the amount of \$500, except that for issuers of qualified residential rental project bonds the application is required to be accompanied by a nonrefundable fee of \$5,000, of which the Texas Bond Review Board (TBRB) shall retain \$1,000 to offset the costs of the private activity bond allocation program and administration of that program and of which TBRB shall transfer \$4,000 through an interagency agreement, to a certain entity for use in an Affordable Housing Research and Information program as provided in Section 2306.259, Government Code.

(b) Require an issuer, other than an issuer under Section 1372.022(a)(2) to submit to the TBRB a closing fee in an amount that is equal to the greater of \$1,000 or 0.025 percent of the principal amount of the bonds certified as provided by Section 1372.039(a)(1).

SECTION 3. Reenacts and amends Section 1372.022, Government Code, as amended by Chapters 1367, 1420, and 1468, Acts of the 77th Legislature, Regular Session, 2001, as follows:

(a) Deletes existing text related to the state ceiling available to issuers prior to August 15 of each year prior to September 1, 2003. Redesignates existing Subsection (b) as Subsection (a). Provides that if the state ceiling is computed on the basis of \$75 per capita or a greater amount, before August 15 of each year certain percentages of the state ceiling are available for certain reservations.

(b) Provides that the portion of the state ceiling available for reservations becomes available for all applications for reservations in the order determined by TBRB by lot, subject to Section 1372.0321. Deletes existing language relating to reservations becoming available to qualified residential rental project issues in a certain manner. Deletes existing Subsection (c) relating to this section expiring September 1, 2003.

SECTION 4. Amends Section 1372.0231, Government Code, by amending Subsections (b) through (f) and adding Subsections (h) and (i), as follows:

(b) Requires TBRB, with respect to the amount of the state ceiling set aside under Subsection (a)(1), after TBRB's review and approval, to grant reservations at the direction of the Texas Department of Housing and Community Affairs (TDHCA) in accordance with Section 1372.0321 and criteria established by rules of TDHCA. Provides that subsequent allocations of TBRB makes on behalf of TDHCA are subject to review and approval by TBRB in accordance with Section 1231.041. Requires TBRB, subsection to Sections 1372.0321(a) and (b), to grant reservations in a certain manner.

(c) Requires TBRB, with respect to the amount of the state ceiling set aside under Subsection (a)(2), to grant reservations in a manner that ensures that not more than 50 percent of the set-aside amount is used for proposed projects that are located in qualified census tracts as defined by the most recent publication by the United States Department of Housing and Urban Development, rather than by a certain section of the Internal Revenue Code.

(d) Makes a conforming change.

(e) Requires TBRB to reserve for areas in the region that are located outside a metropolitan statistical area \$15 million of the state ceiling set aside for the region under Subsection (d), until May 15 of each year for each of the uniform state service regions containing certain cities.

(f) Requires TBRB, in each area described by Subsection (d) or (e), to grant reservations based on the priority levels of proposed projects as described by Section 1372.0321, rather than Section 1372.032.

(h) Provides that an application by an issuer of qualified residential rental project bonds that is submitted after the deadline for eligibility to participate in the lottery has a priority lower than that of every application submitted before that date.

(i) Requires TBRB, before June 1, to apportion the amount of the state ceiling set aside under Subsection (a)(2) only among uniform state service regions with respect to which an issuer has submitted an application for a reservation of the state ceiling on or before March 1.

SECTION 5. Amends Sections 1372.024(a) and (b), Government Code, as follows:

(a) Provides that if, before January 2, applications received for reservations for state-voted issues total more than eight, rather than 13, percent of the available state ceiling for the program year, the percentage of state-voted ceiling requested that is more than eight percent of the state ceiling is removed from the state ceiling available to other issuers on January 2 and is available for those applications for reservations for state-voted issues. Makes a conforming change.

(b) Prohibits the amount removed under Subsection (a) from exceeding eight, rather than 4.5, percent of the state ceiling.

SECTION 6. Amends Section 1372.027, Government Code, to require TBRB to publish certain statements and lists at least weekly on its Internet site.

SECTION 7. Amends Section 1372.028, Government Code, by amending Subsection (b) and adding Subsection (e), as follows:

(b) Authorizes an issuer to apply for a reservation for a program year not earlier than October 5, rather than 10, of the preceding year.

(e) Authorizes the issuer, instead of filing a complete application under Subsection (c), to file a statement explaining whether there are changes in information from the application filed the previous year, and if there are changes, stating the changes, if an insurer applied

the previous year for a reservation for qualified mortgage bonds and has not received the reservation at the time of application for the lottery. Requires the statement, if there are changes, to specify the current information. Requires an issuer filing a statement under this subsection to pay the same application fee required of a complete application.

SECTION 8. Amends Subchapter B, Chapter 1372, Government Code, by adding Section 1372.0281, as follows:

Sec. 1372.0281. INFORMATION REQUIRED OF ISSUERS OF CERTAIN QUALIFIED STUDENT LOAN BONDS. (a) Requires an issuer of qualified student loan bonds authorized by Section 53.47, Education Code (Guaranteed Student Loans and Alternate Education Loans; Bonds for the Purchase of Education Loan Notes), to provide to TBRB together with its application for a reservation information required by TBRB rule.

(b) Authorizes TBRB to require an issuer described by Subsection (a) to provide information with its application, or to supplement the application with certain information.

SECTION 9. Amends Section 1372.031, Government Code, to make conforming changes.

SECTION 10. Amends Section 1372.0321, Government Code, as added by Chapters 1367 and 1420, Acts of the 77th Legislature, Regular Session, 2001, as follows:

(a) Requires TBRB, in granting reservations to issuers of qualified residential rental project issues, to give first priority to certain projects based on certain criteria.

(a-1) Requires TBRB, in granting reservations to issuers of qualified residential rental project issues, to give second priority to certain projects based on certain criteria.

(a-2) Requires TBRB, in granting reservations to issuers of qualified residential rental project issues, to give third priority to certain projects based on certain criteria.

(b) Makes a conforming change.

SECTION 11. Amends Section 1372.033, Government Code, as follows:

(a) Defines “additional need,” “annual need,” “floor allocation,” “qualified nonprofit corporation,” “remaining amount to be collected,” “student loan bond allocation,” “Texas eligible loan,” “Texas loan,” and “total amount to be allocated.”

(b) Authorizes only a qualified nonprofit corporation to apply for a student loan bond allocation.

(c) Requires an application for a student loan bond allocation to include a statement as provided by this subsection. Requires the statement to be certified by an officer of the applicant, whose signature must be notarized. Requires the statement to be audited by an independent auditor, and the report of the independent auditor to be attached to the statement. Requires the statement to list certain information.

(d) Provides that each qualified nonprofit corporation that applies for a student loan bond allocation in compliance with all applicable application requirements is entitled to receive a floor allocation except as provided by this section. Provides that if the total amount to be allocated is less than the sum of the floor allocations for all of the applicants, each applicant is entitled to a proportion of the total amount to be allocated equal to the proportion its floor allocation bears to the total of the floor allocation for all of the applicants. Provides that a qualified nonprofit corporation whose annual need is zero is not entitled to apply for a student loan bond allocation.

(e) Provides that if, after allocations are computed under Subsection (d), there is a remaining amount to be allocated and there are one or more applicants with additional need, each applicant with additional need is entitled to a proportion of the remaining amount to be allocated equal to the proportion the applicant's additional need bears to the total of the additional need of all applicants but not to exceed the amount of the applicant's additional need. Requires any amount remaining after distribution to applicants with additional need to be allocated in equal amounts to the other applicants that have a floor allocation of greater than \$27 million.

(f) Provides that notwithstanding Subsection (e), if an applicant's share of the remaining amount to be allocated is greater than 50 percent, that applicant is entitled to 50 percent of the remaining amount to be allocated. Requires the other 50 percent of the remaining amount to be allocated to be distributed to the other applicants in proportion to their unmet additional need, except that the allocation may not exceed, for any applicant, the additional need of the applicant. Requires that amount, if, after the additional needs of the other applicants are met, there remains any amount of the remaining amount to be allocated available for distribution, to be distributed to the applicant with the share of more than 50 percent of the remaining amount to be allocated in an amount not to exceed the amount of the applicant's additional need.

(g) Prohibits a qualified nonprofit corporation that receives a student loan bond allocation from taking certain actions. Deletes existing text relating to an issuer applying for reservation of the state ceiling for qualified student loan bonds and TBRB granting certain reservations to an issuer.

SECTION 12. Amends Section 1372.036(b), Government Code, to authorize partial reservations, beginning, rather than after, June 1, to be offered once to each applicant in each category described by Section 1372.022(a) until an applicant in the category accepts the partial reservation or until additional volume is returned in an amount sufficient to grant a full reservation. Deletes existing text relating to any portion of the state ceiling in certain categories from which issuers were granted reservations becoming available.

SECTION 13. Amends Section 1372.037, Government Code, as follows:

(a) Prohibits TBRB, before September 1, from granting any single project a reservation for that year that is greater than a certain amount, except as provided by Subsection (b).

(b) Authorizes TBRB, in addition to a reservation under Subsection (a)(2), to grant to the Texas Water Development Board a reservation for not more than \$100 million of the available state ceiling for a water development issue.

SECTION 14. Amends Section 1372.039, Government Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Requires the issuer, not later than the 35th day after the issuer's reservation date, to submit certain items to TBRB.

(d) Authorizes the issuer, if an issuer does not submit the documents during the period provided by Subsection (a), to submit the documents not later than the third day after the end of the 35-day period accompanied by evidence of extenuating circumstances that prevented a timely filing. Requires TBRB to review the late filing and, based on the extenuating circumstances, authorizes TBRB to permit the late filing.

SECTION 15. Amends Section 1372.040, Government Code, to add the Texas State Affordable Housing Corporation to the list of entities exempt from the six month reservation of 50 percent of the funds available for loans outside the federally designated target areas to provide mortgages to certain persons for certain reasons.

SECTION 16. Amends Section 1372.042, Government Code, by amending Subsections (a), (b),

and (c) and by adding Subsection (a-1), as follows:

(a) Requires an issuer other than an issuer of qualified residential rental project bonds, an issuer of state-voted issues, or an issuer of qualified mortgage bonds to close on the bonds for which the reservation was granted not later than a certain date after the reservation date.

(a-1) Requires an issuer of qualified residential rental project bonds to close on the bonds for which the reservation was granted not later than a certain date after the reservation date. Requires the issuer to pay the full closing fee provided under Section 1372.006(b) if the application is not withdrawn before a certain date after the reservation date, if an issuer of qualified residential rental project bonds fails to close on the bonds for which a reservation was granted.

(b) and (c) Make conforming changes.

SECTION 17. Amends Subchapter K, Chapter 2306, Government Code, by adding Section 2306.259, as follows:

Sec. 2306.259. AFFORDABLE HOUSING RESEARCH AND INFORMATION PROGRAM. Requires the Texas Department of Housing and Community Affairs (TDHCA), with money available under Section 1372.006(a), to establish an affordable housing research and information program in which TDHCA shall contract for certain studies, research, and programs.

SECTION 18. Repealer: Section 53.47(k), Education Code (regarding the expiration of Subsection (a)(6)).

SECTION 19. Effective date: September 1, 2003.

Makes application of this Act prospective to January 1, 2004, except for the changes in law made by this Act to Section 1372.0231(f), Section 1372.027, and Section 1372.036(b), Government Code.