

By: Averitt, Lindsay

S.B. No. 1664

A BILL TO BE ENTITLED

AN ACT

relating to private activity bonds.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1372.001, Government Code, is amended by adding Subdivision (18) to read as follows:

(18) "Water development issue" means a bond issued as part of an issue, 95 percent or more of the net proceeds of which are to be used to provide facilities for the furnishing, conserving, developing, or making available of water.

SECTION 2. Subsection (b), Section 1372.006, Government Code, is amended to read as follows:

(b) An issuer shall submit to the board a closing fee in an amount that is equal to the greater of:

(1) \$1,000; or

(2) 0.025 percent of the principal amount of the bonds certified as provided by Section 1372.039(a)(1)(A) [~~1372.039(a)(1)~~].

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

Sec. 1372.022. AVAILABILITY OF STATE CEILING TO ISSUERS.

(a) [~~Prior to August 15 of each year through September 1, 2003:~~

~~[(1) 25 percent of the state ceiling is available exclusively for reservations by issuers of qualified mortgage~~

~~bonds;~~

~~[(2) 11 percent of the state ceiling is available exclusively for reservations by issuers of state-voted issues;~~

~~[(3) 7.5 percent of the state ceiling is available exclusively for reservations by issuers of qualified small issue bonds and enterprise zone facility bonds;~~

~~[(4) 16.5 percent of the state ceiling is available exclusively for reservations by issuers of qualified residential rental projects bonds;~~

~~[(5) 10.5 percent of the state ceiling is available exclusively for reservations by issuers of qualified student loan bonds authorized by Section 53.47, Education Code; and~~

~~[(6) 29.5 percent of the state ceiling is available exclusively for reservations by any other issuer of bonds that require an allocation. The board shall issue 2 percent of the allocation based on a priority level for projects for the development of new drinking water sources.~~

~~[(b)]~~ If the state ceiling is computed on the basis of \$75 per capita or a greater amount, before August 15 of each year:

(1) 28.0 ~~[29.6]~~ percent of the state ceiling is available exclusively for reservations by issuers of qualified mortgage bonds;

(2) 8 percent of the state ceiling is available exclusively for reservations by issuers of state-voted issues;

(3) 2.0 ~~[4.6]~~ percent of the state ceiling is available exclusively for reservations by issuers of qualified small issue bonds and enterprise zone facility bonds;

1 (4) 22.0 [~~23~~] percent of the state ceiling is
2 available exclusively for reservations by issuers of qualified
3 residential rental project bonds;

4 (5) 10.5 [~~8.8~~] percent of the state ceiling is
5 available exclusively for reservations by issuers of qualified
6 student loan bonds authorized by Section 53.47, Education Code; and

7 (6) 29.5 [~~26~~] percent of the state ceiling is
8 available exclusively for reservations by any other issuer of bonds
9 that require an allocation.

10 (b) On and after August 15 but before September 1, that
11 portion of the state ceiling available for reservations becomes
12 available for all applications for reservations in the order
13 determined by the board by lot, subject to Section 1372.0321
14 [qualified residential rental project issues in the manner
15 described by Section 1372.0321]. On and after September 1, that
16 portion of the state ceiling available for reservations becomes
17 available to any issuer for any bonds that require an allocation,
18 subject to the provisions of this subchapter.

19 ~~[(c) This section expires September 1, 2003.]~~

20 SECTION 4. Section 1372.0231, Government Code, is amended
21 by amending Subsections (b) and (e) and by adding Subsection (h) to
22 read as follows:

23 (b) With respect to the amount of the state ceiling set
24 aside under Subsection (a)(1), subject to Sections 1372.0321(a) and
25 (b), the board shall grant reservations:

26 (1) in the order determined by the board by lot; and

27 (2) in a manner that ensures that:

1 (A) the set-aside amount is used for proposed
2 projects that are located throughout the state; and

3 (B) not more than 50 percent of the set-aside
4 amount is used for proposed projects that are located in qualified
5 census tracts as defined by Section 143(j), Internal Revenue Code
6 of 1986.

7 (e) Until May 15 of each year for each of [For] the uniform
8 state service regions containing Austin, Dallas, or [and] Houston,
9 the board shall reserve for areas in the region that are located
10 outside ~~[additionally apportion the amount of the state ceiling set~~
11 ~~aside for each of those regions under Subsection (d) within the~~
12 ~~region according to the percentage of the region's population that~~
13 ~~resides in]~~ a metropolitan statistical area \$15 million of the
14 state ceiling set aside for the region under Subsection (d) [and the
15 ~~percentage of the region's population that resides outside of a~~
16 ~~metropolitan statistical area]~~.

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

21 SECTION 5. Subsection (b), Section 1372.024, Government
22 Code, is amended to read as follows:

23 (b) The amount removed under Subsection (a) may not exceed
24 8.0 ~~[4.5]~~ percent of the state ceiling.

25 SECTION 6. Section 1372.028, Government Code, is amended by
26 adding Subsection (e) to read as follows:

27 (e) If an issuer 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, the issuer, instead of filing a complete application under Subsection (c), may file a statement stating whether or not there are changes from the application filed the previous year, and if there are changes, stating the changes. An issuer filing a statement under this subsection must pay the same application fee required of a complete application.

SECTION 7. Subchapter B, Chapter 1372, Government Code, is amended by adding Section 1372.0281 to read as follows:

Sec. 1372.0281. INFORMATION REQUIRED OF ISSUERS OF CERTAIN QUALIFIED STUDENT LOAN BONDS. (a) An issuer of qualified student loan bonds authorized by Section 53.47, Education Code, shall provide to the board together with its application for a reservation information required by board rule.

(b) The board may require an issuer described by Subsection (a) to provide information with its application, or to supplement the application with information, that includes:

- (1) financial statements;
- (2) portfolio amounts;
- (3) default rates;
- (4) descriptions of how student loans are being used or spent; and
- (5) information about the issuer's client agencies.

SECTION 8. Section 1372.0321, Government Code, as added by Chapters 1367 and 1420, Acts of the 77th Legislature, Regular Session, 2001, is amended by adding Subsection (c) to read as

1 follows:

2 (c) The priorities established by this section apply only to
3 applications for reservations submitted for projects that are
4 located in the uniform state service regions containing Austin,
5 Dallas, or Houston.

6 SECTION 9. Section 1372.037, Government Code, is amended to
7 read as follows:

8 Sec. 1372.037. LIMITATIONS ON GRANTING OF RESERVATIONS FOR
9 INDIVIDUAL PROJECTS. (a) Except as provided by Subsection (b),
10 before ~~[Before]~~ September 1~~[, for any one project,]~~ the board may
11 not grant for any single project a reservation for that year that is
12 greater than:

13 (1) \$25 million, if the issuer is an issuer of
14 qualified mortgage bonds, other than the Texas Department of
15 Housing and Community Affairs;

16 (2) \$50 million, if the issuer is an issuer of a
17 state-voted issue, other than the Texas Higher Education
18 Coordinating Board or the Texas Water Development Board, or \$75
19 million, if the issuer is the Texas Higher Education Coordinating
20 Board;

21 (3) the amount to which the Internal Revenue Code
22 limits issuers of qualified small issue bonds and enterprise zone
23 facility bonds, if the issuer is an issuer of those bonds;

24 (4) the lesser of \$15 million or 15 percent of the
25 amount set aside for reservation by issuers of qualified
26 residential rental project bonds, if the issuer is an issuer of
27 those bonds;

1 (5) \$35 million, if the issuer is an issuer authorized
2 by Section 53.47, Education Code, to issue qualified student loan
3 bonds; or

4 (6) \$25 million, if the issuer is any other issuer of
5 bonds that require an allocation.

6 (b) The board may grant to the Texas Water Development Board
7 a reservation for not more than \$150 million of the available state
8 ceiling as an issuer of state-voted issues if the proceeds are for a
9 water development issue.

10 SECTION 10. Subsection (a), Section 1372.039, Government
11 Code, is amended to read as follows:

12 (a)(1) Not later than the 35th day after an issuer's
13 reservation date, the issuer shall submit to the board:

14 (A) [~~(1)~~] a certificate signed by an authorized
15 representative of the issuer that certifies the principal amount of
16 the bonds to be issued; and

17 (B) [~~(2)~~] a list of finance team members and
18 their addresses and telephone numbers.

19 (2) If an issuer does not submit the documents as
20 required by Subdivision (1), the issuer may submit the documents
21 not later than the third day after the end of the 35-day period
22 accompanied by evidence of extenuating circumstances that
23 prevented a timely filing. The board shall review the late filing
24 and, based on the extenuating circumstances, may permit the late
25 filing.

26 SECTION 11. Section 1372.042, Government Code, is amended
27 by amending Subsections (a), (b), and (c) and adding Subsection

1 (a-1) to read as follows:

2 (a) An issuer other than an issuer of qualified residential
3 rental project bonds, an issuer of state-voted issues, or an issuer
4 of qualified mortgage bonds shall close on the bonds for which the
5 reservation was granted not later than the 120th day after the
6 reservation date.

7 (a-1) An issuer of qualified residential rental project
8 bonds shall close on the bonds for which the reservation was granted
9 not later than the 150th day after the reservation date. If an
10 issuer of qualified residential rental project bonds fails to close
11 on the bonds for which a reservation was granted, the issuer shall
12 pay the full closing fee provided under Section 1372.006(b) if the
13 application is not withdrawn before the 120th day after the
14 reservation date.

15 (b) An issuer of state-voted issues or an issuer of
16 qualified mortgage revenue bonds shall close on the bonds for which
17 the reservation was granted not later than the 180th day after the
18 reservation date.

19 (c) Notwithstanding Subsections (a), (a-1), and (b), if the
20 120-day period, the 150-day period, or the 180-day period, as
21 applicable, expires on or after December 24 of the year in which the
22 reservation was granted, the issuer shall close on the bonds before
23 December 24, except that if the applicable period expires after
24 December 31 of that year, the issuer may notify the board in writing
25 before December 24 of the issuer's election to carry forward the
26 reservation and of the issuer's expected bond closing date. In
27 compliance with the requirements of Section 146(f), Internal

1 Revenue Code of 1986, the board shall file in a timely manner a
2 carryforward election with respect to any bonds expected to close
3 after December 31 to permit the bonds to close by the expected date,
4 except that the board may not file the carryforward election after
5 February 15 of the year following the year in which the reservation
6 was granted. The grant of the reservation for the balance of the
7 120-day period, the 150-day period, or the 180-day period, as
8 applicable, is automatically and immediately reinstated on the
9 board's filing of a carryforward election with respect to the
10 reservation.

11 SECTION 12. This Act takes effect September 1, 2003. The
12 changes in law made by this Act apply only in relation to a
13 reservation of the state ceiling that will be granted on or after
14 January 1, 2004.