

BILL ANALYSIS

Senate Research Center

S.B. 1332
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Finance
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

It is necessary to improve the state's debt management and oversight by providing for a more comprehensive review of state debt; assisting with the challenges presented in a decentralized debt structure to improve communication among entities involved in the debt process; and strengthening and refining the oversight functions involving and related to state bonds issuance.

S.B. 1332 requires the Bond Review Board to complete an annual debt affordability study (DAS) regarding the state's current debt burden, to identify additional not self-supporting debt that the state can accommodate and monitor how annual changes and new debt authorizations affect certain economic indicators. The bill also improves the oversight of the board by requiring entities' cost issuance information to be submitted to the board for approval, service providers to submit a request for proposals to the board, and issuers who want to enter into interest rate management agreements to gain approval by the board before entering the interest rate management agreements.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to any state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1201.027, Government Code, by adding Subsection (d), as follows:

(d) Requires an issuer of a state security, as defined by Section 231.001, that selects or contracts with a person to provide services under Subsection (a) to submit, on request, to the Bond Review Board (board) the request for proposals to provide the services not later than the seventh day before the date the request for proposals is published; each final proposal received to provide the services before a contract for the services is entered into by the issuer; and an executed contract entered into by an issuer for services under Subsection (a).

SECTION 2. Amends Section 1231.001, Government Code, by adding Subdivision (1-a) to define "interest rate management agreement."

SECTION 3. Amends Section 1231.001(2), Government Code, to redefine "state security."

SECTION 4. Amends Section 1231.023(c), Government Code, to require the board to adopt policies that help the board and issuers of state securities to evaluate the potential risks involved and the effect that the issuance of a state security or that the execution of an interest rate management agreement will have on the finances and on the overall debt position of the issuer and of the state.

SECTION 5. Amends Subchapter D, Chapter 1231, Government Code, by adding Section 1231.063, as follows:

Sec. 1231.063. DEBT AFFORDABILITY STUDY. (a) Requires the board, in consultation with the Legislative Budget Board, to annually prepare a study (study) regarding the state's current debt burden by analyzing certain information, and

monitoring how annual changes and new debt authorizations affect the mechanism described in Subsection (b).

(b) Requires the study to include a mechanism that can be used to determine, at a minimum, the state's debt affordability and serve as a guideline for debt authorizations and debt service appropriations. Requires the mechanism to be designed to calculate the not self-supporting debt service as a percentage of unrestricted revenues, the ratio of not self-supporting debt to personal income, the amount of not self-supporting debt per capita; the rate of debt retirement, and the ratio of not self-supporting debt service to budgeted or expended general revenue.

(c) Requires the board, not later than December 1 of each year, to submit the study to certain government officials.

(d) Requires the study submitted under Subsection (c) to include a target and limit ratio for not self-supporting debt service as a percentage of unrestricted revenues.

SECTION 6. Amends Subchapter C, Chapter 1232, Government Code, by adding Section 1232.124, as follows:

Sec. 1232.124. PREFERENCE FOR TEXAS BUSINESSES. Requires the Texas Public Finance Authority (authority), if it contracts with a private entity to issue bonds under this chapter, to consider contracting with an entity that has a place of business in this state and a historically underutilized business as defined by Section 2161.001.

SECTION 7. Amends Chapter 1371, Government Code, by adding Subchapter D, as follows:

SUBCHAPTER D. ADVISERS RETAINED FOR THE ISSUANCE OF PUBLIC SECURITIES AND RELATED MATTERS

Sec. 1371.151. DEFINITIONS. Defines "advice," "adviser," "interest rate management agreement," "municipal finance professional," and "public security."

Sec. 1371.152. EXEMPTIONS. Sets forth the entities to whom this subchapter does not apply.

Sec. 1371.153. EXEMPTIONS FOR CERTAIN ADVICE. Provides that this subchapter does not apply to advice to an issuer regarding certain loans, lines of credit, or deposits as set forth in this subsection.

Sec. 1371.154. FINANCIAL ADVISER OR INVESTMENT ADVISER QUALIFICATIONS AND REQUIREMENTS FOR CERTAIN AGREEMENTS AND TRANSACTIONS. (a) Provides that this section applies to a financial adviser or an investment adviser who advises the issuer in connection with an interest rate management agreement, the execution or delivery of a public security, or the investment of the public security proceeds.

(b) Requires an adviser to meet certain conditions set forth in this subsection to be eligible to be a financial adviser or an investment adviser under this subchapter.

Sec. 1371.155. REQUIREMENTS. (a) Requires an adviser, including an adviser that is not required to be registered under Section 1371.154(b)(1)(A), to comply with certain conditions set forth in this subsection with respect to all services contemplated under this subchapter to be provided in this state.

(b) Provides that this section does not prohibit an adviser, including an adviser that is not required to be registered under Section 1371.154(b)(1)(A), from taking certain actions set forth in this subsection, notwithstanding Subsection (a)(3).

(c) Prohibits a gift or sponsorship given or provided by an adviser, including an adviser that is not required to be registered under Section 1371.154(b)(1)(A), to an issuer under Subsection (b) from being so frequent or so extensive that a question of impropriety is raised.

(d) Provides that this section does not prohibit an adviser, including an adviser that is not required to be registered under Section 1371.154(b)(1)(A), from acting as an adviser to an issuer if the only contributions made to an official of the issuer before the second anniversary of the date of making a contribution described by Subsection (a)(5) were made by municipal finance professionals who were entitled to vote and were not in excess of \$250 for each election, notwithstanding Subsection (a)(5).

SECTION 8. Amends Section 1372.031, Government Code, as follows:

Sec. 1372.031. PRIORITIES FOR RESERVATIONS AMONG CERTAIN ISSUERS.

(a) Creates an exception as provided under Subsection (b).

(b) Requires the board, until August 1 of the program year and within the category described by Section 1372.022(a)(6), to grant priority to the Texas Economic Development Bank (bank) for projects that the Texas Economic Development and Tourism Office (office) determines meet the governor's criteria for funding from the Texas Enterprise Fund (fund). Prohibits the bank from receiving an amount greater than one-sixth of the portion of the state ceiling available under that section on January 1 of the program year, notwithstanding the priority.

(c) Requires the office, in selecting projects for reservations of the state ceiling for a program year under Subsection (b) and among those projects the office determines meet the governor's criteria for funding from the fund, to give priority to obtaining reservations for those projects located or to be located in an economically depressed or blighted area, as defined by Section 2306.004 (Definitions), or in an enterprise zone designated under Chapter 2303 (Enterprise Zones).

(d) Provides that this section and Section 1372.063 (Priority 1 Carryforward Classification) do not give a priority to any project described by Subsection (b) for the purpose of selecting projects for reservations under Section 1372.022(b).

(e) Provides that the bank is subject to Section 1201.027(d) (Authority of Issuer to Contract for Services).

SECTION 9. Amends Section 1372.063, Government Code, to provide that the priority 1 carryforward classification applies to a state agency, other than an issuer of a state-voted issue, that applies for a carryforward designation for a project that is described by Section 1372.067(a)(2) and the office determines meets the governor's criteria for funding from the fund.

SECTION 10. Provides that Section 1201.027(d) Government Code, as added by this Act, apply only to a contract for which the solicitation of applicable bids, offers, qualifications, proposals, or other similar expressions of interest is published on or after September 1, 2007, or if none of the above mentioned solicitations is published in relation to the contract, a contract entered on or after September 15, 2007.

SECTION 11. (a) Effective date: September 1, 2007, except as provided by Subsection (b) of this section.

(b) Effective date of Sections 1371.154 and 1371.155, Government Code, as added by this Act: January 1, 2008