

BILL ANALYSIS

C.S.H.B. 3039
By: Workman
Economic & Small Business Development
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties assert that the Texas Economic Development Bank could assist rural communities to enhance and diversify rural economies by financing infrastructure development, including public utilities, facilities, or other projects that support economic development. These parties note, however, that the bank currently can offer economic development financing only to rural communities that are eligible for another Texas fund, which offers limited amounts of money only to communities that have adopted an economic development sales tax. C.S.H.B. 3039 seeks to strengthen rural economic development in Texas by providing additional financing for programs and activities related to that cause.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Economic Development and Tourism Office in SECTION 5 of this bill.

ANALYSIS

C.S.H.B. 3039 amends the Agriculture Code to authorize the Texas agricultural fund to be appropriated for the purposes of the Texas Agricultural Finance Act or for rural development programs administered by the Texas Economic Development Bank. The bill authorizes the bank to establish and maintain accounts in the Texas agricultural fund. The bill prohibits any money in an account of the Texas Agricultural Finance Authority in the Texas agricultural fund, including any money due the authority and any assessment or fee collected under the Transportation Code provision relating to a voluntary assessment collected on registration of a commercial motor vehicle as a farm vehicle, from being appropriated for or used to pay or satisfy any charge, debt, interest payment, principal payment, or other financial obligation of the bank.

C.S.H.B. 3039 amends the Government Code to establish the rural development account as a dedicated account in the Texas agricultural fund for the purpose of financing rural economic development projects authorized by the Texas Constitution. The bill authorizes the bank to issue general obligation bonds, up to the amounts constitutionally authorized, to fund rural economic development projects and limits the amount used to pay administrative fees involved in selling bonds to five percent of the total amount of bonds issued.

C.S.H.B. 3039 requires repayments of financial assistance under any program funded wholly or partly with the proceeds of such general obligation bonds to be deposited first in the interest and sinking account as prescribed by the bank's resolutions authorizing the bonds and second in the reserve account for the bonds until that account is fully funded as prescribed by the bank's resolutions. The bill requires the rural development account and all accounts within that account to be kept and maintained at the direction of the bank and held in trust by the comptroller of public accounts for and on behalf of the bank and the owners of the bonds. The bill limits the use of those accounts as provided by the bill's provisions. The bill requires money in the rural development account, pending its use, to be invested as prescribed by the resolution by which the bonds were issued. The bill requires a bond authorization issued under statutory provisions

relating to the bank that is payable from the rural development account to expressly require that the account be administered separately from other accounts in the Texas agricultural fund and provide that a bondholder is prohibited from considering a payment from an account or fund that is administered by the authority as security for the bond.

C.S.H.B. 3039 requires the comptroller to transfer to the fund the first money coming into the state treasury not otherwise appropriated by the constitution in an amount sufficient to pay the obligations if, during the time any bonds are payable from the account, the bank determines there will not be sufficient money in the interest and sinking account for the bonds during the following fiscal year to pay the principal of or interest on the bonds that is to come due during the following fiscal year. The bill authorizes the bank to receive and requires the bank to deposit in the rural development account specified funds that are related to rural economic development projects and sets out provisions relating to money included in the account. The bill exempts the fund from the application of statutory provisions relating to the use of dedicated revenue by the comptroller and requires the bank to attempt to administer the rural development account in a manner that makes private donations to the account an eligible itemized deduction for federal income taxation purposes.

C.S.H.B. 3039 authorizes the bank to provide financial assistance from available funds held in the rural development account to an applicant for a rural economic development project and to purchase anticipation notes from an eligible issuer authorized by a specified statutory provision for the purpose of securing a financial commitment made by the bank for such a project.

C.S.H.B. 3039 requires the Texas Economic Development and Tourism Office (TEDTO) by rule to adopt applicant eligibility standards and prescribe the application process. The bill adds the rural development account in the Texas agricultural fund to the funds TEDTO is required to administer and authorizes TEDTO, in administering those funds, to issue bonds for financial assistance to stimulate the economy in rural areas of Texas but requires the bank to perform the duties and functions of TEDTO with respect to the rural development account. The bill sets out the information an applicant for financial assistance is required to submit to TEDTO with the application and restricts the bank's consideration of such applications to those that demonstrate reasonable assurance that the projected revenues will be sufficient to repay any financial assistance approved by the bank. The bill requires the bank, after considering the application and all other information the bank considers relevant, to approve or deny the application and promptly notify the applicant of the decision. The bill authorizes TEDTO to adopt rules, policies, and procedures necessary or reasonable to implement the rural development account.

C.S.H.B. 3039 expands the purposes for which the bank is established to include providing financial assistance for economic development projects, including projects for rural areas of Texas under the bill's provisions. The bill, in a provision authorizing an issuer of an anticipation note participating in a rural economic development program established by the authority to sell to the authority an anticipation note that matures before the 30th anniversary of the date the note is issued for specified purposes, extends this authorization to an issuer participating in a program established by the bank to sell such a note to the bank.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3039 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 58.032, Agriculture Code, is amended by amending Subsection (a) and adding Subsection (i) to read as follows:

(a) The Texas agricultural fund is a fund in the state treasury that may be appropriated for the purposes of this chapter or for rural development programs administered by the Texas Economic Development Bank as authorized by Chapter 489, Government Code.

(i) Notwithstanding Subsections (b), (c), (d), (e), (f), (g), and (h), the Texas Economic Development Bank may establish and maintain accounts in the Texas agricultural fund.

SECTION 2. Section 489.101(a), Government Code, is amended.

SECTION 3. Section 489.105(b), Government Code, is amended to read as follows:

- (b) The fund consists of:
 - (1) appropriations for the implementation and administration of this chapter;
 - (2) investment earnings under the capital access fund established under Section 481.402;
 - (3) fees charged under Subchapter BB, Chapter 481;
 - (4) interest earned on the investment of money in the fund;
 - (5) fees charged under this chapter;
 - (6) investment earnings from the programs administered by the bank;
 - (7) amounts transferred under Section 2303.504(b)~~], as amended by Article 2, Chapter 1134, Acts of the 77th Legislature, Regular Session, 2001];~~
 - (8) investment earnings under the Texas product development fund under Section

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 58.032, Agriculture Code, is amended by amending Subsection (a) and adding Subsections (i) and (j) to read as follows:

(a) The Texas agricultural fund is a fund in the state treasury that may be appropriated for the purposes of this chapter or for rural development programs administered by the Texas Economic Development Bank as authorized by Chapter 489, Government Code.

(i) Notwithstanding Subsections (b), (c), (d), (e), (f), (g), and (h), the Texas Economic Development Bank may establish and maintain accounts in the Texas agricultural fund.

(j) No money in an account of the authority in the Texas agricultural fund, including any money due the authority and any assessment or fee collected under Section 502.404, Transportation Code, may be appropriated for or used to pay or satisfy any charge, debt, interest payment, principal payment, or other financial obligation of the Texas Economic Development Bank.

SECTION 2. Same as introduced version.

No equivalent provision.

489.211;

(9) investment earnings under the Texas small business incubator fund under Section 489.212; ~~and~~

(10) investment earnings under the rural development account in the Texas agriculture fund under Subchapter E; and

(11) any other amounts received by the state under this chapter.

SECTION 4. Section 489.106, Government Code, is amended.

SECTION 5. Section 489.108, Government Code, is amended.

SECTION 6. Chapter 489, Government Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. RURAL DEVELOPMENT ACCOUNT

Sec. 489.251. PURPOSE. Financial assistance is a commitment made by the bank for the purpose of stimulating economic development in rural areas of this state.

Sec. 489.252. DEFINITIONS. In this subchapter:

(1) "Anticipation note" means a note issued by an eligible issuer and purchased by the bank under Section 1431.014.

(2) "Financial assistance" means a loan, loan guarantee, or equity investment from the rural development account to an applicant under this subchapter.

(3) "Rural area" has the meaning assigned by Section 58.002, Agriculture Code.

Sec. 489.253. RURAL DEVELOPMENT ACCOUNT.

Sec. 489.254. BONDS

Sec. 489.255. MANAGEMENT OF RURAL DEVELOPMENT ACCOUNT.

(a) Repayments of financial assistance under any program funded wholly or partly with the proceeds of general obligation bonds issued in accordance with Section

SECTION 3. Substantially the same as introduced version.

SECTION 4. Substantially the same as introduced version.

SECTION 5. Chapter 489, Government Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. RURAL DEVELOPMENT ACCOUNT

Sec. 489.251. PURPOSE. Financial assistance is a commitment made by the bank for the purpose of stimulating economic development in rural areas of this state.

Sec. 489.252. DEFINITIONS. In this subchapter:

(1) "Anticipation note" means a note issued by an eligible issuer and purchased by the bank under Section 1431.014.

(2) "Financial assistance" means a loan, loan guarantee, or similar assistance from the rural development account to an applicant under this subchapter.

(3) "Rural area" means an area that is predominately rural in character, being one that the office of the governor defines and declares to be a rural area.

Sec. 489.253. RURAL DEVELOPMENT ACCOUNT. *(Substantially the same as introduced version.)*

Sec. 489.254. BONDS

Sec. 489.255. MANAGEMENT OF RURAL DEVELOPMENT ACCOUNT.

(a) Repayments of financial assistance under any program funded wholly or partly with the proceeds of general obligation bonds issued in accordance with Section 489.254 shall be

489.254 shall be deposited first in the interest and sinking account as prescribed by the bank's resolutions authorizing the bonds, and second in the reserve account for the bonds until that account is fully funded as prescribed by the bank's resolutions. The rural development account and all accounts within that account shall be kept and maintained at the direction of the bank and held in trust by the comptroller for and on behalf of the bank and the owners of the bonds issued in accordance with Section 489.254, and may be used only as provided by this subchapter. Pending its use, money in the rural development account shall be invested as prescribed by the resolution by which the bonds were issued.

(b) If during the time any general obligation bonds are payable from the rural development account the bank determines that there will not be sufficient money in the interest and sinking account for the bonds during the following fiscal year to pay the principal of or interest on the bonds that is to come due during the following fiscal year, the comptroller shall transfer to the fund the first money coming into the state treasury not otherwise appropriated by the constitution in an amount sufficient to pay the obligations.

(c) The bank may receive, and shall deposit in the rural development account appropriations, grants, donations, earned federal funds, and the proceeds of any investment pools operated by the comptroller that are related to rural economic development projects under this subchapter.

(d) The rural development account includes grants and donations made for the purposes of rural economic development projects administered by the bank and any other money received under this subchapter.

deposited first in the interest and sinking account as prescribed by the bank's resolutions authorizing the bonds, and second in the reserve account for the bonds until that account is fully funded as prescribed by the bank's resolutions. The rural development account and all accounts within that account shall be kept and maintained at the direction of the bank and held in trust by the comptroller for and on behalf of the bank and the owners of the bonds issued in accordance with Section 489.254, and may be used only as provided by this subchapter. Pending its use, money in the rural development account shall be invested as prescribed by the resolution by which the bonds were issued.

(b) A bond authorization issued under this chapter that is payable from the rural development account shall:

(1) expressly require that the account be administered separately from other accounts in the Texas agricultural fund; and

(2) provide that a bondholder may not consider a payment from an account or fund that is administered by the Texas Agricultural Finance Authority as security for the bond.

(c) If during the time any general obligation bonds are payable from the rural development account the bank determines that there will not be sufficient money in the interest and sinking account for the bonds during the following fiscal year to pay the principal of or interest on the bonds that is to come due during the following fiscal year, the comptroller shall transfer to the fund the first money coming into the state treasury not otherwise appropriated by the constitution in an amount sufficient to pay the obligations.

(d) The bank may receive, and shall deposit in the rural development account appropriations, grants, donations, earned federal funds, and the proceeds of any investment pools operated by the comptroller that are related to rural economic development projects under this subchapter.

(e) The rural development account includes grants and donations made for the purposes of rural economic development projects administered by the bank and any other money received under this subchapter.

Notwithstanding Section 404.071, income and interest earned on money in the rural development account shall be deposited to the credit of the account. The fund is exempt from the application of Section 403.095.

(e) The bank shall attempt to administer the rural development account in a manner that makes private donations to the account an eligible itemized deduction for federal income taxation purposes.

Sec. 489.256. FINANCIAL ASSISTANCE FOR RURAL ECONOMIC DEVELOPMENT PROJECTS. (a) The bank may provide financial assistance from available funds held in the rural development account to an applicant for a rural economic development project.

(b) The bank may purchase anticipation notes from an eligible issuer for the purpose of securing a financial commitment made by the bank for a rural economic development project.

Sec. 489.257. APPLICATION FOR FINANCIAL ASSISTANCE.

Sec. 489.258. RULES.

SECTION 7. Section 1431.014(a), Government Code, is amended to read as follows:

(a) Notwithstanding any other provision of this chapter, an issuer participating in a rural economic development program established by the Texas Economic Development Bank ~~[Agricultural Finance Authority]~~ may sell to the Texas Economic Development Bank ~~[authority]~~ an anticipation note issued for a purpose described by Section 1431.004(a)(1), provided that the note matures before the 30th anniversary of the date the note is issued.

SECTION 8. This Act takes effect September 1, 2013.

Notwithstanding Section 404.071, income and interest earned on money in the rural development account shall be deposited to the credit of the account. The fund is exempt from the application of Section 403.095.

(f) The bank shall attempt to administer the rural development account in a manner that makes private donations to the account an eligible itemized deduction for federal income taxation purposes.

Sec. 489.256. FINANCIAL ASSISTANCE FOR RURAL ECONOMIC DEVELOPMENT PROJECTS. (a) The bank may provide financial assistance from available funds held in the rural development account to an applicant for a rural economic development project.

(b) The bank may purchase anticipation notes from an eligible issuer ~~authorized by Section 1431.014(a)~~ for the purpose of securing a financial commitment made by the bank for a rural economic development project.

Sec. 489.257. APPLICATION FOR FINANCIAL ASSISTANCE. (Substantially the same as introduced version.)

Sec. 489.258. RULES.

SECTION 6. Section 1431.014(a), Government Code, is amended to read as follows:

(a) Notwithstanding any other provision of this chapter, an issuer participating in a rural economic development program established by ~~the Texas Agricultural Finance Authority or the Texas Economic Development Bank~~ may sell to ~~the authority or bank, as applicable,~~ an anticipation note issued for a purpose described by Section 1431.004(a)(1), provided that the note matures before the 30th anniversary of the date the note is issued.

SECTION 7. Same as introduced version.