

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 23, 2019

TO: Honorable Dan Patrick, Lieutenant Governor, Senate

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
 Legislative Budget Board

IN RE: SB132 by Hinojosa (Relating to operation of the Texas leverage fund program administered by the Texas Economic Development Bank.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for SB132, As Passed 2nd House: an impact of \$0 through the biennium ending August 31, 2021.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	\$0
2021	\$0
2022	\$0
2023	(\$35,000,000)
2024	(\$35,000,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>Economic Development Bank 5106</i>	Probable Revenue Gain/(Loss) from <i>New Texas Leverage Fund - Fund outside Treasury</i>	Probable Revenue Gain/(Loss) from <i>Foundation School Fund 193</i>	Probable Savings/(Cost) from <i>General Revenue Fund 1</i>
2020	(\$5,684,000)	\$5,684,000	\$0	\$0
2021	(\$1,528,000)	\$1,528,000	\$0	\$0
2022	(\$985,000)	\$985,000	\$0	\$0
2023	(\$943,000)	\$943,000	(\$8,750,000)	(\$26,250,000)
2024	(\$898,000)	\$898,000	(\$8,750,000)	(\$26,250,000)

Fiscal Analysis

The bill would amend the Government Code by creating the Texas Leverage Fund. The Texas Leverage Fund is established as a fund outside the treasury by the comptroller and may be used for making loans to Economic Development Corporations for eligible projects, principal and interest on bonds, and to pay costs associated with the administration of the program.

The bill authorizes the Texas Economic Development Bank to issues, sell, and retire bonds, including obligations in the form of commercial paper to provide funding for economic development purposes.

The bill authorizes the Texas Leverage Fund, as amended, to continue operations as established by the September 9, 1992 master resolution of the Texas Department of Commerce.

The bill provides that previous government acts and proceedings of the comptroller, the Texas Economic Development and Tourism Office, and the Texas Economic Development Bank relating to the administration of the Texas Leverage Fund that occurred before the effective date of this bill are validated as if they had been authorized by law.

The bill would amend the Government Code by adding new Chapter 487A, regarding rural and opportunity funds.

The bill would require the Texas Economic Development and Tourism Office (office) to accept applications from entities seeking approval as rural and opportunity funds. Applications must include a non refundable application fee of \$5,000 that would be deposited to the general revenue fund to be dedicated for the purposes of administering new Chapter 487A.

The bill would provide for the office to approve investment authority in amounts that would allow up to \$35 million in insurance premium tax credits to be claimed in each calendar year.

Upon approval of an application, the office would provide a tax credit certificate to each investor of tax-credit-eligible capital included in the application. The certificate would include the amount of the tax credit. The office could revoke a tax credit certification under certain circumstances. The office would notify the Comptroller in the event of a revocation. A rural and opportunity fund would have the opportunity to correct any violation prior to revocation. The bill would describe the process in which a rural and opportunity fund could exit the program. Tax credits could not be revoked after a rural and opportunity fund has exited the program.

The bill would authorize certain penalties on a rural and opportunity fund for distributions to the fund's equity holders in certain circumstances. Penalty revenue would be deposited to the general revenue fund.

The bill would amend the Insurance Code to add new Chapter 232, regarding tax credit for investment in rural and opportunity funds.

Under the provisions of the bill, an entity that holds a tax credit certificate issued under Chapter 487A described above, would be eligible for a premium tax credit in tax years in which the third, fourth, fifth, or sixth anniversary of the date in which the certificate was issued falls. The amount of the tax credit for each year would be limited to 25 percent of the amount of the total tax credit. Entities would be allowed to carry forward unused credits for 20 consecutive tax reports. An entity could not transfer the credit to another entity. The Comptroller could recapture the amount of a credit claimed if the tax credit certification on which it was based is revoked.

The office would begin accepting applications not later than January 1, 2020. New Chapter 232 would apply only to a tax report due on or after January 1, 2020.

The bill would take effect immediately upon receiving a two-thirds vote of each house, otherwise the bill would take effect September 1, 2019.

Methodology

Within the Office of the Governor, the Economic Development Bank is currently charged with administering the Texas Leverage Fund. The Texas Leverage Fund program was originally created in 1992 to allow local Economic Development Corporations to leverage their economic development sales and use taxes for the support of local development projects. The bill would re-enact and update former sections of the Texas Government Code that were in effect at the time the program was created and would allow the program to continue to operate and authorize the bank to make amendments to the Master Resolution to extend and update the operations of the program.

According to the Office of the Governor and the Comptroller of Public Accounts, the Texas Leverage Fund Program is currently operated under General Revenue-Dedicated Account 5106 - Texas Economic Development Bank. Based on the 2020-21 Biennial Revenue Estimate and data provided by the Office of the Governor, the balance of the fund is expected to be \$4,103,000 at the close of fiscal year 2019. This analysis assumes that this balance will move to the newly created Texas Leverage Fund. Taking into consideration the loss of 2020 revenue related to repayments and interest income generated on loans from the account in the amount of \$1,581,000, the total loss to General Revenue-Dedicated Account 5106 - Texas Economic Development Bank is estimated to be \$5,684,000 in fiscal year 2020, \$1,528,000 in fiscal year 2021, and less than \$1 million in subsequent years.

Regarding the provisions of the bill relating to rural and opportunity funds, this analysis estimates that investment authority sufficient to allow \$35 million in premium tax credits per year will be approved by the Texas Economic Development and Tourism Office in calendar year 2020 and in each year thereafter. Under the provisions of the bill in the new Chapter 232, entities that hold a tax credit certificate would be eligible for a premium tax credit beginning the third anniversary of the date in which the certificate was issued falls. Therefore, entities would first be eligible to redeem premium tax credits in fiscal year 2023 and every subsequent year thereafter.

The Comptroller transfers 25 percent of revenues collected as Premium Taxes to the Foundation School Account, with the remaining 75 percent deposited to the General Revenue Fund.

The amount and timing of any application fee and penalty revenue are unknown.

The bill stipulates that the Comptroller, Texas Economic Development Bank, Texas Economic Development and Tourism Office, and the Attorney General would be required to implement the provisions of the bill only if the Legislature appropriates money specifically for that purpose; absent that appropriation those agencies could, but would not be required to, implement the provisions of the bill using other appropriations. This analysis assumes that either the Legislature will appropriate money for the purposes of the bill, or that the agencies will implement the provisions of the bill using other appropriations.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either in, with, or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as

Government Code 403.095, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 300 Trusted Programs Within the Office of the Governor, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 352 Bond Review Board

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