

BILL ANALYSIS

S.B. 132
By: Hinojosa
International Relations & Economic Development
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Texas leverage fund is an economic development loan program created in 1992 by a master resolution of the former Texas Department of Commerce and is set to expire in 2022 if not continued by statute. It has been noted that such continuation and other revisions are needed, among other reasons, to allow the Texas Economic Development Bank to renew the letter of credit that currently backs its commercial paper notes, to avoid a payment shortfall of active program loans that mature after the 2022 expiration date, and to provide for the program's authority to issue new loans. S.B. 132 seeks to meet these needs by continuing the program, moving the fund outside the state treasury, strengthening its statutory authority, and providing for certain powers and duties of relevant state entities with regard to the program.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 132 amends the Government Code to create the Texas leverage fund as a trust fund held outside the state treasury by the comptroller of public accounts as trustee. The bill requires the comptroller to hold money in the leverage fund in escrow and in trust for and on behalf of the Texas Economic Development Bank and the owners of certain revenue-based bonds issued under the bill's provisions. The bill establishes that the fund consists of proceeds from the issuance of such revenue-based bonds, payments of principal and interest on loans made from the fund, loan origination fees imposed on such loans, certain investment earnings generated by the fund, and any other money received by the bank for purposes of the fund. The bill restricts the use of the fund to the following purposes:

- to make loans to economic development corporations for eligible projects as authorized by the Development Corporation Act and Local Government Code provisions relating to Type A and Type B corporations;
- to pay the bank's necessary and reasonable costs of administering the Texas leverage fund program established under the bill's provisions;
- to pay the principal of and interest on revenue-based bonds;
- to pay reasonable fees and other costs incurred by the bank in administering the fund; and
- for any other purpose authorized by the bill.

S.B. 132 authorizes the bank, in coordination with the comptroller, to provide for the establishment and maintenance of separate accounts or sub-accounts to be kept and held in escrow and in trust in the same manner as the fund. The bill authorizes the comptroller, pending use, to invest and reinvest the fund's money in investments authorized by law for state funds and requires earnings on such investments to be credited to the fund. The bill authorizes the bank to use money in the fund for the purposes specified by the bill and according to the procedures established by the bill. The bill limits the state's authority to take action with respect to the fund to action specified by the bill and in accordance with the resolutions of the executive director of the Texas Economic Development and Tourism Office (TEDTO) adopted under the bill's provisions.

S.B. 132 authorizes the bank, TEDTO, or a TEDTO successor agency to provide for the issuance, sale, and retirement of bonds, including obligations in the form of commercial paper notes, to provide funding for certain authorized economic development purposes and sets out provisions relating to those bonds, including provisions relating to the sale and issuance of bonds, agreements regarding bonds, refunding bonds, the use of bond proceeds, and the nature of the bonds as legal investments for fiduciaries and other persons. The bill requires the bank to administer the leverage fund and grants the bank the powers necessary to carry out the purposes of the bill's provisions in the administration of the fund and those provisions.

S.B. 132 amends the Local Government Code to authorize a Type A or Type B development corporation to obtain a loan from the Texas leverage fund program for eligible projects as authorized by the Development Corporation Act and to pledge revenue from the sales and use tax imposed by the corporation's authorizing municipality to secure the loan.

S.B. 132 establishes that the Texas leverage fund program as amended by the bill authorizes the continued operation of the program established by the September 9, 1992, master resolution of the Texas Department of Commerce under certain specified provisions. The bill validates the governmental acts and proceedings of the comptroller, TEDTO, and the bank relating to the administration of the Texas leverage fund program that occurred before the bill's effective date as if the acts had occurred as authorized by law, except for an act that was a misdemeanor or felony under state law at the time the act occurred or a matter that, on the bill's effective date, has been held invalid by a final judgment of a court or is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court.

S.B. 132 makes the respective requirements for the comptroller, TEDTO, the Texas Economic Development Bank, and the attorney general to implement the bill's provisions contingent on specific legislative appropriations for that purpose and otherwise authorizes, but does not require, those entities to implement the bill's applicable provisions using other available appropriations.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2019.