

BILL ANALYSIS

Senate Research Center
82R19783 E

H.B. 2251
By: Bonnen (Whitmire)
Government Organization
4/27/2011
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The State of Texas sells millions of dollars in bonds to finance projects as wide-ranging as building construction, cancer research, and major technology purchases. Rather than every state agency going out on its own to issue and market bonds, the legislature, in 1983, centralized much of the state's debt issuance in one agency, the Texas Public Finance Authority (TPFA). TPFA's main role is to cost-effectively issue bonds and service debt for 23 state agencies and universities that generally use debt financing infrequently and lack in-house bond expertise.

TPFA is subject to the Sunset Act and will be abolished on September 1, 2011, unless continued by the legislature. The Sunset Advisory Commission (commission) concluded that the consolidation of smaller and infrequent debt issuance in one agency has significant positive value for the state. Given the ongoing need for TPFA's functions, the commission identified opportunities to expand the use of TPFA's expertise and track record, and in one recommendation, remove a multi-million dollar obstacle to efficiently issuing debt for cancer research and prevention.

Major provisions in H.B. 2251 include continuing TPFA for 12 years; adding standard Sunset language requiring TPFA to develop a policy that encourage the use of negotiated rulemaking and alternative dispute resolution; removing the requirement that the Cancer Prevention and Research Institute of Texas (CPRIT) escrow multi-year grant awards; extending TPFA's standard authority to stagger debt issuance to include CPRIT grants; adding CPRIT grants to the list of projects funded by general obligation bonds that can move forward before TPFA has issued the debt, as long as TPFA and the Bond Review Board have approved the issuance; authorizing TPFA to provide debt issuance services, upon agreement, to state colleges and universities that generally issue their own debt, and to be reimbursed for these services; specifying that changes to CPRIT's debt issuance do not affect grants awarded before the effective date of the Act; requiring TPFA to issue debt for Texas State Technical College; removing the requirement that Stephen F. Austin State University use TPFA, allowing that university the flexibility to issue its own debt or use TPFA; and specifying that changes to university debt issuance do not apply to bonds authorized before the effective date of the Act.

H.B. 2251 amends current law relating to the continuation and functions of the Texas Public Finance Authority.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1232.072, Government Code, to provide that unless continued in existence as provided by Chapter 325 (Texas Sunset Act), Government Code, the Texas Public Finance Authority (TPFA) is abolished and this chapter expires September 1, 2023, rather than September 1, 2011.

SECTION 2. Amends Subchapter B, Chapter 1232, Government Code, by adding Section 1232.073, as follows:

Section 1232.073. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION. (a) Requires the board of directors of TPFA (board) to develop and implement a policy to encourage the use of negotiated rulemaking procedures under Chapter 2008 (Negotiated Rulemaking) for the adoption of TPFA rules, and appropriate alternative dispute resolution procedures under Chapter 2009 (Alternative Dispute Resolution for Use by Governmental Bodies) to assist in the resolution of internal and external disputes under TPFA's jurisdiction.

(b) Requires TPFA's procedures relating to alternative dispute resolution to conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings (SOAH) for the use of alternative dispute resolution by state agencies.

(c) Requires TPFA to coordinate the implementation of the policy adopted under Subsection (a), provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution, and collect data concerning the effectiveness of those procedures.

SECTION 3. Amends Section 1232.101, Government Code, as follows:

Sec. 1232.101. ISSUANCE OF BONDS FOR CERTAIN STATE AGENCIES. (a) Creates this subsection from existing text. Provides that TPFA has the exclusive authority to act on behalf of certain entities in issuing bonds on their behalf. Deletes existing text providing that Stephen F. Austin State University is among the entities for which TPFA has exclusive authority to act in issuing bonds on behalf of those entities.

(b) Authorizes TPFA to, except as provided by Subsection (a), under an agreement entered into with Texas State Technical College System or a general academic teaching institution as defined by Section 61.003 (Definitions), Education Code, act on behalf of Texas State Technical College System or a general academic teaching institution in issuing bonds on system's or the institution's behalf. Provides that in connection with those issuances and with the issuance of refunding bonds on behalf of those institutions, TPFA is subject to all rights, duties, and conditions surrounding issuance previously applicable to the issuing system or institution under the statute authorizing the issuance. Provides that a reference in an authorizing statute to the system or institution on whose behalf the bonds are being issued applies equally to TPFA in its capacity as issuer on behalf of the system or institution. Authorizes an agreement under this subsection to provide for reimbursement to TPFA for costs incurred in issuing bonds under the agreement.

SECTION 4. Amends Subchapter C, Chapter 1232, Government Code, by adding Section 1232.1221, as follows:

Sec. 1232.1221. COMMENCEMENT OF CERTAIN MULTIYEAR CANCER-RELATED PROJECTS. (a) Authorizes funds to be distributed to a grant recipient for a multiyear project for which an award is granted by the Cancer Prevention and Research Institute of Texas (CPRIT) Oversight Committee as authorized by Section 102.257, Health and Safety Code, after TPFA has certified that obligations in an amount sufficient to pay the money needed to fund the project have been authorized for issuance by TPFA and approved by the Texas Bond Review Board (BRB).

(b) Requires BRB, after issuing the obligations, to:

(1) pay the costs of the issuance and any related bond administrative costs of TPFA;

(2) certify to CPRIT and to the comptroller of public accounts that the proceeds from the issuance are available; and

(3) deposit the proceeds into the state treasury to be credited to the account of CPRIT.

SECTION 5. Amends Section 55.13(c), Education Code, as follows:

(c) Requires TPFA, notwithstanding any other provision of this section, with respect to all bonds authorized to be issued by Midwestern State University or Texas Southern University, to exercise the authority of a board having management and control of an institution of higher education (board) to issue bonds on behalf of those institutions, in the manner provided by this subchapter, including the authority to issue refunding bonds under Section 55.19 (Refunding Bonds). Deletes existing text including Stephen F. Austin State University among the institutions subject to the provisions of this subsection.

SECTION 6. Amends Section 102.257, Health and Safety Code, as follows:

Sec. 102.257. MULTIYEAR PROJECTS. Authorizes the CPRIT oversight committee to grant funds for a multiyear project. Requires the oversight committee to specify the total amount of money approved to fund the multiyear project. Provides that the total amount specified is considered for the purposes of this subchapter to have been awarded, rather than must be awarded, in the state fiscal year that the project is approved by the research and prevention programs committee. Requires CPRIT to distribute only the money that will be expended during that fiscal year. Requires that the remaining money be distributed by CPRIT as the money is needed in each subsequent fiscal year, rather than requiring that the remaining money be maintained in an escrow account to be distributed by CPRIT in subsequent years of the project. Makes nonsubstantive changes.

SECTION 7. (a) Makes application of this Act, to a grant of funds for a multiyear project by the CPRIT oversight committee as authorized by Section 102.527, Health and Safety Code, as amended by this Act, prospective.

(b) Makes application of the changes in law made by this Act to Section 55.13, Education Code, and Section 1232.101, Health and Safety Code, prospective.

SECTION 8. Effective date: upon passage or September 1, 2011.