

- SUBJECT:** Raising the cap for private activity bonds for certain individual projects
- COMMITTEE:** Financial Institutions — favorable, without amendment
- VOTE:** 7 ayes — Solomons, McCall, Chavez, Flynn, Guillen, Orr, Riddle  
0 nays
- WITNESSES:** For — Russell MacPherson, Becon Corporation; (*Registered, but did not testify*: Larry Catuzzi, James Cooksey, Charlie Ganze, Kinnan Goleman, Gulf Coast Waste Disposal Authority; Alan Raynor, McCall, Parkhurst, and Horton, L.L.P)  
  
Against — None
- BACKGROUND:** Government Code, ch. 1372, governs tax-exempt private activity bonds administered by the Bond Review Board (BRB). A private activity bond is a bond issued by the state that allows private interests to benefit from its tax-exempt status. The amount of private activity bonds that may be issued during a given calendar year is set by the federal government and based on each state's population. In 2004, Texas had the authority to issue about \$1.7 billion in bonds.  
  
A portion of these bonds is set aside by law for particular purposes, including qualified mortgage bonds, state-voted issues, small issue and enterprise zone facility bonds, residential rental project bonds, student loan bonds, and other purposes. Sec. 1372.037(a) limits the amount of money that may be reserved for any single project among the aforementioned types of bonds; all other issuers are limited to no more than \$25 million under sec. 1372.037(a)(6). On August 15 of each year, any remaining private activity bond authority in each subceiling collapses into a single pool, with issuers of multi-family housing bonds given first access. On September 1, any remaining funds become available to all issuers without any limitation on the amount.
- DIGEST:** HB 1901 would raise the private-activity bond cap in sec. 1372.037(a)(6) from \$25 million to \$50 million.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect August 29, 2005.

SUPPORTERS  
SAY:

Raising the cap on the dollar amount of private activity bonds for a single project to \$50 million would provide more efficient and adequate financing of projects in the "other" subceiling. This subceiling, which has \$530 million in bond authority for 2005, primarily funds solid waste disposal and recycling projects, which may cost several hundreds of millions of dollars. Because of the low cap on single projects, companies often have to seek taxable financing to cover the difference, which they then refinance with tax exempt private activity bonds received later in the year or in future years. This financing and refinancing is costly, and discourages businesses from seeking these bonds. Many businesses also have found it difficult to find investors for only \$25 million in bonds and rarely are able to receive the best interest rate for such a small amount. As a result, this subceiling is now undersubscribed, and in calendar year 2004, only about \$220 million of more than \$520 million of bonding authority was used by these issuers. Raising the cap would generate additional interest in this subceiling and help these bond issuers more efficiently to finance their projects.

Raising the cap would not reduce the number of companies able to receive these bonds. This subceiling is significantly undersubscribed, indicating that any issuer who wanted these bonds and met the requirements could receive them. While it is true that some of the decline in interest may be due to lower interest rates, the decline also is due to the reduction in the number of types of projects that qualify for these bonds because many of the companies whose eligibility was grandfathered in the 1986 federal tax act have completed their projects. Many smaller companies also have completed their projects, leaving just a few larger projects among a small number of companies. Unlike other subceilings, this category may not become oversubscribed again when interest rates rise. Because the amount of bonds available every year is pegged to population, Texas is likely to continue to receive larger amounts of bonding authority each year, allowing more projects to be funded. If the subceiling did become oversubscribed, the Legislature always could lower the cap.

The bill would not reduce the amount of bonding authority available for multi-family housing projects. These bonds become available for multifamily housing only if they have not been requested by August 15.

In all but the past year, these bonds have been reserved before that date, so bonds never have been available from this pot for multifamily housing. As interest rates rise, it is likely that "other" subceiling issuers again will claim this authority prior to August 15. Moreover, nearly every multifamily housing project that wanted bonds last year received them. The only exceptions were a couple of applicants who had problems with their applications or who applied too late.

OPPONENTS  
SAY:

Raising the cap could reduce the number of issuers receiving this bond authority. With about \$530 million in authority available in this subceiling, raising the cap to \$50 million would allow about 11 projects to receive funding each year. While it is true that the subceiling is undersubscribed, the lack of interest in these bonds is due to low interest rates, and as interest rates rise, so should requests for these bonds. This subceiling consistently has been oversubscribed in the past, and the Legislature should not change hastily the cap during what clearly is an unusual drop in interest due to historically low interest rates.

The bill also could reduce the amount of bonding authority available for multi-family housing projects. Any unreserved bonds become available to multifamily housing on August 15 of each year. If "other" subceiling issuers claimed more of those bonds before August 15, less money could be available to meet the state's critical housing needs.

NOTES:

The companion bill, SB 1352 by Williams, has been referred to the Senate Finance Committee.