

SUBJECT: Continuing the Texas Leverage Fund program; modifying administration

COMMITTEE: International Relations and Economic Development — favorable, without amendment

VOTE: 8 ayes — Anchia, Frullo, Blanco, Cain, Metcalf, Perez, Raney, Romero

0 nays

1 absent — Larson

SENATE VOTE: On final passage, April 30 — 26-5 (Bettencourt, Creighton, Hall, Hughes, Nelson)

WITNESSES: *On House companion bill, HB 31:*

For — (*Registered, but did not testify:* Mario Martinez, Port of Brownsville; Jake Fuller, South Texas Business Coalition, Texas Leverage Fund; Susan Gezana)

Against — None

On — (*Registered, but did not testify:* Bryan Daniel, Office of the Governor)

BACKGROUND: The Texas Leverage Fund is an economic development loan program that was created in 1992 by a master resolution of the former Texas Department of Commerce. The program is set to expire in 2022 if not continued in statute. The fund is now operated by the Texas Economic Development Bank within the Office of the Governor's Economic Development and Tourism division.

It has been noted that continuation of the fund and other revisions to statute are needed to allow the Bank to renew the letter of credit that currently backs the fund's commercial paper notes.

DIGEST: SB 132 would authorize the continued operation of the Texas Leverage

Fund program as established by the 1992 master resolution of the Texas Department of Commerce and would amend the program.

**Fund.** SB 132 would establish the Texas Leverage Fund as a trust fund held outside the state treasury by the comptroller as trustee.

The fund would be administered by the Texas Economic Development Bank within the Texas Economic Development and Tourism Office (TEDTO). It would consist of proceeds from the issuance of bonds, loan payments, origination fees, investment earnings, and any other money received by the Texas Economic Development Bank.

The fund could be used to:

- make loans to economic development corporations for eligible projects;
- pay the bank's necessary and reasonable costs of administering the program established by the bill, including the payment of letter of credit fees and credit rating fees;
- to pay the principal of and interest on certain issued bonds;
- to pay reasonable fees and other costs incurred by the bank in administering the leverage fund; and
- for any other purpose authorized by the bill.

Pending use, the comptroller could invest and reinvest the money in the leverage fund in investments authorized by law for state funds. Earnings on the investments would be credited to the leverage fund.

**Authority to raise capital.** SB 132 would authorize the bank and TEDTO to issue, sell, and retire bonds, including obligations in the form of commercial paper notes, to provide funding for economic development purposes.

The executive director of TEDTO would oversee the format, terms, and rates of these bonds, subject to review and approval by the attorney general. The bill would prohibit the director from issuing a loan with a

term longer than 40 years or an interest rate greater than the maximum annual interest rate of 15 percent.

SB 132 would pledge the state of Texas to not limit or alter the rights vested in the bank to fulfill the terms of any agreements made with bondholders or in any way impair the rights and remedies of the bondholders until the bonds were repaid in full. The Texas Economic Development Bank would be prohibited from incurring a pecuniary liability or charge against the general credit of the state, TEDTO, or the bank, or against the taxing powers of the state.

**Lending authority.** SB 132 would authorize a Type A or Type B economic development corporation to obtain a loan from the Texas Leverage Fund for eligible projects. To secure the loan, the corporation would be authorized to pledge revenue from the sales and use tax imposed by its authorizing municipality for the benefit of the corporation.

SB 132 would retroactively validate acts of the comptroller, TEDTO, and Texas Economic Development Bank relating to the administration of the Texas Leverage Fund program, excluding misdemeanors, felonies, or a matter that had been held invalid by a final judgment of a court.

**Contingent implementation.** The comptroller, TEDTO, and Texas Economic Development Bank would be required to implement a provision of the bill only if the Legislature appropriated money specifically for that purpose. If the Legislature did not appropriate money, these agencies would be allowed, but not required to, implement the provision using other appropriations available for that purpose.

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 September 1, 2017.

SUPPORTERS  
SAY:

SB 132 would continue the Texas Leverage Fund, which would help small, rural communities that may be unable to access traditional sources of infrastructure financing such as municipal bonds.

The Texas Leverage Fund program's authority to issue commercial paper notes stems from a 1992 master resolution of the former Texas Department of Commerce, which is set to expire in 2022. Without an extension, there could be a default event impacting active loans in the program. SB 132 would address this by clarifying the authority of the Texas Economic Development Bank to amend the resolution, which would allow the fund to fulfill its obligations.

By continuing and improving a valuable program, SB 132 would promote business expansion, recruitment, and exporting in communities that otherwise might have a hard time accessing capital to finance investments.

**OPPONENTS  
SAY:**

SB 132 would interfere in the private market by enabling a program that provides economic incentives to private businesses through economic development corporations. This represents a form of corporate subsidies in violation of free markets and limited government principles. The Texas Leverage Fund should not be continued.