Sunset Advisory Commission

Final Report

Texas Public Finance Authority

July 2011

Sunset Advisory Commission

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In 1977, the Texas Legislature created the Sunset Advisory Commission to identify and eliminate waste, duplication, and inefficiency in government agencies. The 12-member Commission is a legislative body that reviews the policies and programs of more than 130 government agencies every 12 years. The Commission questions the need for each agency, looks for potential duplication of other public services or programs, and considers new and innovative changes to improve each agency's operations and activities. The Commission seeks public input through hearings on every agency under Sunset review and recommends actions on each agency to the full Legislature. In most cases, agencies under Sunset review are automatically abolished unless legislation is enacted to continue them.

Texas Public Finance Authority

Sunset Final Report

July 2011

This document is intended to compile all recommendations and action taken by the Sunset Advisory Commission for an agency under Sunset review. The following explains how the document is expanded and reissued to include responses from agency staff and the public.

- *Sunset Staff Report, March 2010* – Contains all Sunset staff recommendations on an agency, including both statutory and management changes, developed after extensive evaluation of the agency.

- *Hearing Material, April 2010* – Summarizes all responses from agency staff and the public to Sunset staff recommendations, as well as new policy issues raised for consideration by the Sunset Commission at its public hearing.

- *Decision Material, May 2010* – Includes additional responses, testimony, or new policy issues raised during and after the public hearing for consideration by the Sunset Commission at its decision meeting.

- *Commission Decisions, June 2010* – Contains the decisions of the Sunset Commission on staff recommendations and new policy issues. Statutory changes adopted by the Commission are presented to the Legislature in the agency's Sunset bill.

- *Final Report, July 2011* – Summarizes action taken by the Legislature on Sunset Commission recommendations and new provisions added by the Legislature to the agency's Sunset bill.

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Summary

Summary

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 has centralized much of the State's debt issuance into one agency, the Texas Public Finance Authority (TPFA). TPFA currently manages $2.8 billion in outstanding state debt.

TPFA's main role is to cost-effectively issue bonds and service debt for 23 state agencies and universities. These institutions generally use debt financing infrequently and lack the in-house expertise to issue bonds cost-effectively. The Legislature has steadily increased TPFA's responsibilities by growing its client agencies from one in 1983, and by authorizing TPFA to issue an additional $4 billion in general obligation debt over upcoming years. In addition to debt for state agency upkeep and construction, the new authority includes several complex bonding programs, such as issuing catastrophe bonds for the Texas Windstorm Insurance Association and general obligation bonds to fund the operations and grants of the Cancer Prevention and Research Institute of Texas (CPRIT).

Consolidating debt issuance into TPFA has significant value for the State.

The Sunset review examined the value of having an independent agency issue debt on behalf of other state entities and whether a further expansion of TPFA's duties makes sense given the State's overall use of debt. Sunset staff found that the consolidation of smaller and infrequent debt issuance in one, independent agency has significant value for the State. Bond market complexities necessitate a sophisticated bond issuer to secure good deals on behalf of Texas. Sunset staff concluded that TPFA has proven experience in negotiating low costs of issuance and in seizing ongoing opportunities to minimize debt service costs to the State.

Given the ongoing need for TPFA's functions, Sunset staff focused on identifying opportunities to take full advantage of TPFA's expertise and track record and remove obstacles to its ability to issue state debt efficiently. First, an unusual statutory provision requiring the use of escrow accounts to hold bond funds for cancer research will unnecessarily cost the State more than $31 million in General Revenue funds in the 2012-2013 biennium. This provision should be removed.

Second, while most state universities have enough volume to issue their own debt, the Sunset review found that all universities should be able to take advantage of TPFA's bonding services when it is cost-effective. Barriers to accessing TPFA's services should be eliminated. Finally, one university, Texas State Technical College, is an ideal TPFA client due to its infrequent and small bond issues. Statute should require the College to use TPFA's services.

The material on the following page summarizes the Sunset staff's recommendations on TPFA.

Issues and Recommendations

Issue 1

Texas Has a Continuing Need for the Texas Public Finance Authority.

Texas achieves cost efficiencies by consolidating the issuance of a large portion of the State's debt in the Texas Public Finance Authority. The Authority successfully negotiates low costs of debt issuance and looks for ongoing opportunities to save the State in debt service costs. The analysis of organizational alternatives for TPFA showed that the benefits of transferring the Authority's functions to another agency such as the Bond Review Board are not sufficient to justify such a significant change and could create a potential conflict of debt issuance and oversight roles.

Key Recommendations

- Continue the Texas Public Finance Authority as an independent agency for 12 years.
- Apply the standard Sunset across-the-board requirement for TPFA to develop a policy regarding negotiated rulemaking and alternative dispute resolution.

Issue 2

Limitations on the Cancer Prevention and Research Institute's Debt Issuance Waste State Funds.

Key to TPFA's effectiveness in managing the State's debt are its close working relationships with client agencies to carefully time debt issuance and its flexibility to take advantage of financing methods best suited for market conditions. However, a needless restriction in the newly created Cancer Prevention and Research Institute's statute prevents TPFA from managing the Institute's $3 billion in general obligation bond authority in the most efficient way. In a time of expected budget shortfalls, removing the restriction and allowing TPFA to manage CPRIT's debt the same as other general obligation debt could save $31 million in General Revenue debt service costs during the next biennium.

Key Recommendation

- Remove CPRIT's requirement to escrow multi-year grant awards, and extend TPFA's standard authority to stagger debt issuance to include CPRIT's grants.

Issue 3

State Law Limits TPFA's Ability to Assist State Colleges and Universities.

Since creating TPFA in 1983, the Legislature has recognized the Authority's success by expanding the number of clients it serves, including the addition of three state universities. No reason exists for limiting the number of universities that TPFA may assist, and several others could potentially benefit from having access to TPFA's expertise. In particular, Texas State Technical College is one of the smallest and least frequent state debt issuers and would benefit from becoming a full client of TPFA.

Key Recommendations

- Authorize TPFA to provide debt issuance services, upon request, to state colleges and universities.
- Require TPFA to issue the debt for Texas State Technical College's legislatively authorized projects.

Fiscal Implication Summary

Issue 2 of the report would result in significant savings to the General Revenue Fund.

- ***Issue 2*** – Removing the requirement that the Cancer Prevention and Research Institute of Texas escrow grant funds would provide significant one-time savings to the General Revenue Fund by giving TPFA the flexibility to manage the Institute's debt the same as its other client agencies' debt. Based on information from TPFA, Sunset staff estimates savings of at least $31 million in the next biennium. The savings primarily results from cost avoidance by postponing debt issuance until CPRIT actually needs funds to reimburse its grantees. The estimates could fluctuate based on TPFA's choice of financing methods, actual market conditions, and CPRIT's timing of grant awards in the future.

Fiscal Year	Savings to the General Revenue Fund
2012	$6,770,301
2013	$24,263,890
2014	$35,755,814
2015	$38,336,964
2016	$37,414,718

Summary of Legislative Action
H.B. 2251 Bonnen (Whitmire)

House Bill 2251 continues TPFA for 12 years. The Legislature adopted all but one of the Sunset Commission's recommendations and voted to make the legislation effective immediately, maximizing the fiscal savings provided by the bill. The list below summarizes the major provisions of H.B. 2251, and more detailed discussion is located in each issue.

Sunset Provisions

1. Continue the Texas Public Finance Authority for 12 years.
2. Remove a multi-million dollar obstacle to efficiently issuing state debt for cancer research bonds.
3. Provide flexibility to state colleges and universities to use TPFA when cost-efficient.

Provision Added by Legislature

1. Make the bill effective immediately.

Fiscal Implication Summary

House Bill 2251 contains provisions with a positive fiscal impact of more than $33 million through the biennium ending August 31, 2013, with additional savings in future biennia. The savings result from postponing cancer research debt issuance until CPRIT actually needs funds to reimburse its grantees. The estimates in the chart below may fluctuate based on TPFA's choice of financing methods, actual market conditions, and CPRIT's timing of grant awards in the future.

Fiscal Year	Savings to the General Revenue Fund
2012	$8,892,602
2013	$24,424,609
2014	$30,280,192
2015	$40,447,198
2016	$42,728,190

Agency at a Glance

(March 2010)

Agency at a Glance

The Legislature created the Texas Public Finance Authority (TPFA) in 1983 to issue bonds on behalf of the General Services Commission, and has since expanded its clients to currently include 23 state entities. Today, TPFA is the State's primary issuer of debt repaid from General Revenue.

The Authority's mission is to provide the most cost-effective financing available to fund capital projects, equipment purchases, and other programs authorized by the Legislature. To achieve its mission, the Authority carries out the following key activities.

- Analyzes and issues general obligation and revenue bonds for its client agencies and other programs authorized by the Legislature.
- Makes debt service payments and manages debt proceeds, ensuring compliance with federal and state law governing the proper use of the funds.
- Provides financing for certain capital equipment purchases such as computers, phone systems, or vehicles.

The textbox, *TPFA Clients,* provides a list of current clients by type.

TPFA Clients

State Agencies

Adjutant General/Military Facilities Commission

Cancer Prevention and Research Institute

Department of Aging and Disability Services

Department of Agriculture (Agricultural Finance Authority)

Department of Criminal Justice

Department of Public Safety

Department of State Health Services

Department of Transportation/Office of the Governor (Colonias Roadway Grant Program)

Facilities Commission

Health and Human Services Commission

Historical Commission

Military Preparedness Commission (Military Value Revolving Loan Fund Program)

Parks and Wildlife Department

School for the Blind and Visually Impaired

School for the Deaf

State Preservation Board

Workforce Commission

Youth Commission

Universities

Midwestern State

Stephen F. Austin

Texas Southern

Other

TPFA Charter School Finance Corporation

Windstorm Insurance Association

Key Facts

- **Public Finance Authority Board.** The Authority's Board is composed of seven public members appointed by the Governor. The Board typically meets monthly and approves all debt issued by the Authority.
- **Funding and Staffing.** The Authority's total administrative expenditures, approximately $951,000 in fiscal year 2009, were funded by $581,000 in General Revenue and $370,000 in appropriated receipts mostly collected from clients of the Master Lease Purchase Program. Salaries for the Authority's 13.5 staff in Austin account for 83 percent of its expenditures.
- **Debt Issuance and Management.** In fiscal year 2009, the Authority managed approximately $2.8 billion in outstanding debt and the corresponding $444 million in debt service. As of December 2009, the

Authority had $4 billion in authorized but unissued general obligation debt authority, described in more detail in Appendix A.

- **TPFA Role in Texas Debt.** Texas has a decentralized debt structure, with 16 different entities authorized to issue state debt. The Authority's key roles are to issue and manage debt repaid from the State's General Revenue Fund. At the end of fiscal year 2009, TPFA accounted for 76 percent of the approximately $3 billion of outstanding debt repaid from General Revenue.[1]

- **Texas Windstorm Insurance Association Bonds.** The 81st Legislature authorized TPFA to issue up to $2.5 billion in revenue bonds on behalf of the Texas Windstorm Insurance Association in the event of a catastrophic storm.[2]

- **Cancer Prevention and Research Institute Bonds.** The 80th Legislature and Texas voters authorized the issuance of $3 billion in general obligation debt over 10 years to support cancer research and prevention. The 81st Legislature authorized TPFA to issue $225 million for the Institute in fiscal years 2010 and 2011.

- **Master Lease Purchase Program.** The Legislature created the Master Lease Purchase Program in 1992 to give state agencies a more affordable means of financing capital equipment purchases such as computers, phone systems, office furniture, and vehicles. Since its creation, 69 state agencies and universities have used the program to finance capital equipment purchases that exceed $10,000 and have a useful life of at least three years.

- **Charter School Finance Corporation.** In 2001, the Legislature required TPFA to establish the Charter School Finance Corporation (Corporation) to help charter schools secure financing. TPFA staffs the Corporation to issue charter school bonds and administer federal credit enhancement grants to help charter schools obtain the credit rating necessary to issue bonds. Charter school bonds issued through TPFA are backed solely by the schools. As of February 2010, TPFA and the Corporation have issued bonds for six charter schools totaling $130.5 million, and have awarded 16 grants to charter schools totaling $10.8 million.

1 Texas Bond Review Board, *2009 Annual Report* (Austin, TX, August 31, 2009), p. 25. Online. Available: www.brb.state.tx.us/pub/bfo/AR/AR2009.pdf. Accessed: January 26, 2010.

2 Texas House Bill 4409, 81st Legislature (2009).

Issues

Issue 1

Texas Has a Continuing Need for the Texas Public Finance Authority.

Background

Texas uses long-term debt financing for a variety of purposes, such as construction of state office buildings and prisons, road construction, higher education, affordable housing, and water development projects. State debt can be classified by both its legal authorization and source of repayment, as shown by the textbox, *State Debt Types*.

State Debt Types

Legal Authorization

Revenue debt is legally secured by a specific revenue stream. Revenue debt must be authorized by the Legislature, but does not require voter approval.

General obligation (GO) debt is legally secured by a constitutional pledge of the first monies coming into the state treasury that are not constitutionally dedicated for another purpose. GO debt must be authorized by the Legislature and approved by a majority of voters.

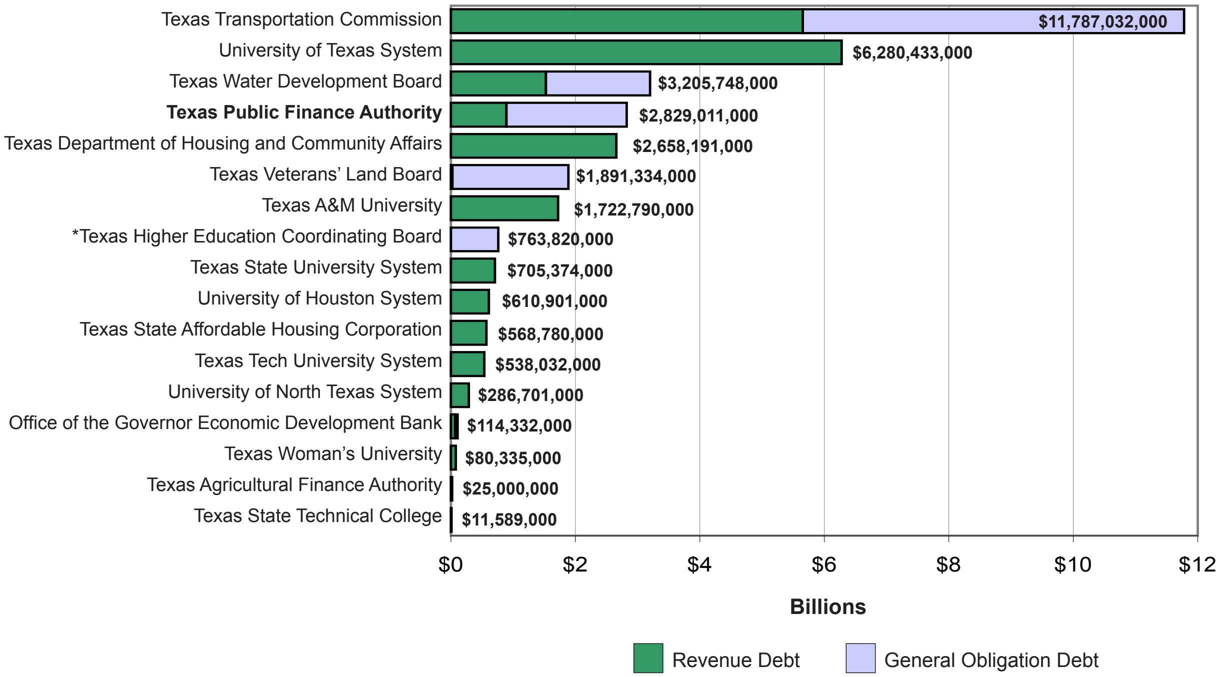
Method of Repayment

Self-supporting debt is repaid from revenues other than state general revenue such as loan repayments or fees. Self-supporting debt is generally used to finance loan programs such as tuition or mortgage loans, and can be GO or revenue debt.

Non-self-supporting debt is repaid from the State's General Revenue Fund and is primarily used to finance capital projects such as construction and maintenance of state office buildings and prisons. Most of the State's non-self-supporting debt is GO debt, but a small portion is made up of lease revenue bonds issued by TPFA for state agencies.

The Texas Public Finance Authority (TPFA) currently serves 23 client agencies, consolidating the issuance of most of the State's non-self-supporting debt repaid from General Revenue. In contrast, 15 other state agencies and universities with access to specific revenue streams, such as taxes and fees, generally issue and manage their own self-supporting debt. As shown in the graph on the following page, *Outstanding Debt by Issuer*, TPFA's combined debt was the fourth largest among state issuers in fiscal year 2009.[1]

Outstanding Debt by Issuer – FY 2009



* Includes $54,875,000 in Higher Education Constitutional Bonds issued by smaller universities.

Findings

Texas has a continuing interest in efficiently issuing state debt.

Through TPFA, the State bundles debt to lower costs.

Issuing debt allows the State to finance legislatively approved projects for state agencies and universities, including building construction and maintenance, equipment acquisitions, and other programs. Aggregating the issuance of non-self-supporting general obligation debt into one agency minimizes the State's bond issuance expenses. Through TPFA, the State bundles general obligation debt for many client agencies to lower the issuance costs per bond. A single state agency can build the specific knowledge and expertise required to negotiate bond sales that individual entities may not possess, allowing other agencies to focus limited resources on mission-critical functions. Consolidating bond issues also makes a single entity accountable for making debt service payments on much of the State's debt.

The Authority issues a large portion of the State's bonds and does so cost-effectively.

As one of the State's largest debt issuers, TPFA plays an important role in Texas debt administration. The market recognizes TPFA's sustained presence in the bond market, which helps TPFA negotiate comparatively low issuance costs on behalf of its 23 client agencies. The costs of issuing bonds are composed of professional fees paid to bond consultants to prepare the bond sale and market the bonds to investors. The table, *Average Issuance Costs on*

Large Bond Issues, shows that TPFA's average issuance costs are comparable to those of a similar bond issuer, the Texas Water Development Board (TWDB), and to the statewide average issuance cost for all bond issuers.[2] TPFA also provides some of the lowest interest rates available to state agencies for financing equipment and smaller capital improvements through its Master Lease Purchase Program. Over the years, TPFA has developed significant expertise in debt issuance, and the agency's 2008 customer service survey has shown an average of 98 percent client satisfaction over the prior six years.[3]

Average Issuance Costs on Large Bond Issues, FYs 2007 – 2009*

	FY 07	FY 08	FY 09
TPFA	$5.90	$4.45	$5.99
TWDB	$4.09	$6.55	$6.19
Statewide Average	$4.58	$4.63	$6.70

* Issuance costs are per $1,000 of bonds issued in amounts greater than $150 million.

While other organizational options exist, TPFA effectively issues debt for its clients as a stand-alone agency.

As shown above, TPFA performs its functions well under the current structure as a stand-alone agency. Sunset staff concluded that consolidating TPFA's functions in a single agency results in a reduction of duplication of bond issuance functions at TPFA's client agencies and efficient use of agencies' limited resources. Staff also examined the integration of TPFA with the Bond Review Board (BRB) but found no benefit to such a merger.

Combining TPFA with the Bond Review Board could compromise the Board's oversight capability.

The Bond Review Board is a four-member body that approves state debt issues and lease purchases, including those of TPFA. This positions BRB to perform a statewide oversight role and to provide the Legislature, the markets, and the public with needed information on overall state debt management in Texas. Combining TPFA with BRB could compromise BRB's oversight capability by causing BRB to approve its own bond sales. The current structure allows each agency to focus on its core mission: TPFA as bond issuer and BRB as oversight body. While the Texas Performance Review recommended combining TPFA and BRB in 1991 and 1993, the Legislature did not take this action and has further developed each agency's respective role rather than moving toward their consolidation.[4]

Most states consolidate debt issuance, but organizational structures vary.

The ten most populous states have some form of bond issuance consolidation. Most of these states issue general obligation debt through one issuer, usually the treasury, office of the governor, or a stand-alone agency, but allow multiple public authorities to issue revenue debt. Texas is unique by allowing several agencies to issue general obligation bonds in addition to revenue bonds. However, these agencies issue large amounts of debt, comparable to the amount of debt TPFA issues for all other state entities, as shown in the graph on page 8, *Outstanding Debt by Issuer.* The volume of bond issuance by these agencies is sufficient to cost-effectively manage their own debt issuance and debt service.

The Authority's statute does not reflect standard language typically applied across the board during Sunset reviews.

TPFA's governing statute does not include a standard provision relating to alternative rulemaking and dispute resolution that the Sunset Commission applies in across-the-board fashion to agencies under review. Without this provision, the agency could miss ways to improve rulemaking and dispute resolution through more open, inclusive, and conciliatory processes designed to solve problems by building consensus rather than through contested proceedings.

Recommendations

Change in Statute

1.1 Continue the Texas Public Finance Authority as an independent agency for 12 years.

This recommendation would continue the Authority as an independent agency, responsible for issuing and managing debt on behalf of other state entities.

1.2 Apply the standard Sunset across-the-board requirement for TPFA to develop a policy regarding negotiated rulemaking and alternative dispute resolution.

This recommendation would ensure that TPFA develops and implements a policy to encourage alternative procedures for rulemaking and dispute resolution, conforming to the extent possible, to model guidelines by the State Office of Administrative Hearings. The agency would also provide training as needed, and collect data concerning the effectiveness of these procedures. Because the recommendation only requires the agency to develop a policy for this alternative approach to solving problems, it would not require additional staffing or other expenses.

Fiscal Implication Summary

If the Legislature continues the current functions of the Authority using the existing organizational structure, the agency's annual appropriation of $980,000 would continue to be required for its operation. Applying the Sunset across-the-board requirement on alternative dispute resolution would not have a fiscal impact to the State.

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1 Texas Bond Review Board, *2009 Annual Report*, (Austin, TX, August 31, 2009), pp. 25-26. Online. Available: www.brb.state.tx.us/pub/bfo/AR/AR2009.pdf. Accessed: January 20, 2010.

2 These data are derived from Texas Bond Review Board, *Annual Report*, Fiscal Years 2007-2009 (Austin, TX). Online. Available: www.brb.state.tx.us/agency/publications.aspx. Accessed: December 1, 2009.

3 Texas Public Finance Authority, *Report on Customer Service*, (Austin, TX, June 2, 2008), p. 14.

4 Texas Comptroller of Public Accounts, Texas Performance Review, *Breaking the Mold: New Ways to Govern Texas*, vol. 2, chapter CG18, "The State Should Centralize Debt Issuance for Capital Project Finance" (July 1991). Online. Available: www.window.state.tx.us/tpr/btm/btmcg/cg18.html. Accessed: October 28, 2009; and Texas Comptroller of Public Accounts, Texas Performance Review, *Against the Grain: High-Quality, Low-Cost Government for Texas*, vol. 2, chapter GG13, "Merge the Texas Public Finance Authority and the Bond Review Board" (1993). Online. Available: www.window.state.tx.us/tpr/atg/atggg/gg-13.html. Accessed: October 28, 2009.

Responses to Issue 1

Recommendation 1.1

Continue the Texas Public Finance Authority as an independent agency for 12 years.

Agency Response to 1.1

The agency agrees with this recommendation. (Dwight D. Burns, Executive Director – Texas Public Finance Authority)

For 1.1

None received.

Against 1.1

None received.

Recommendation 1.2

Apply the standard Sunset across-the-board requirement for TPFA to develop a policy regarding negotiated rulemaking and alternative dispute resolution.

Agency Response to 1.2

The agency agrees with this recommendation. (Dwight D. Burns, Executive Director – Texas Public Finance Authority)

For 1.2

None received.

Against 1.2

None received.

Commission Decision

Adopted Recommendations 1.1 and 1.2.

Legislative Action

House Bill 2251 continues TPFA as an independent agency, responsible for issuing and managing debt on behalf of other state entities, for 12 years. (Recommendation 1.1) The bill also applies the standard Sunset across-the-board requirement for TPFA to develop a policy regarding alternative dispute resolution. (Recommendation 1.2)

Issue 2

Limitations on the Cancer Prevention and Research Institute's Debt Issuance Waste State Funds.

Background

In 2007, voters authorized the State to issue $3 billion in general obligation debt to fund the Cancer Prevention and Research Institute of Texas (CPRIT), with a limit of $300 million per year for the next 10 years.[1] The Institute's mission is to develop and implement the Texas Cancer Plan, and to support scientific research and cancer prevention programs through grant awards. As of February 2010, TPFA had issued approximately $12.7 million in debt to fund CPRIT's operating expenses, and expects to issue $60 million in debt to fund the agency's first round of grants in March 2010.

Findings

TPFA minimizes debt service costs to the State by issuing debt only when client agencies actually need the funds.

For most of its client agencies, TPFA can precisely structure the timing of general obligation debt issuance to minimize interest costs to the State. Rather than issuing the full amount of authorized bonds upfront, TPFA works closely with its client agencies to develop payout schedules, often extending over several years, and issues debt only when the agencies actually need the funds. Smaller debt issuances also enable TPFA to take advantage of lower-cost, variable-rate debt called commercial paper to achieve further reductions in interest costs. The textbox, *Long-Term Bonds vs. Commercial Paper*, provides more information on this type of debt.[2]

Flexibility is key to TPFA's success in managing state debt efficiently.

Long-Term Bonds vs. Commercial Paper

Long-Term Bonds are debt obligations of five or more years, issued in larger amounts, and usually with a fixed interest rate. TPFA often uses long-term bonds to convert commercial paper to fixed-rate debt or to refinance existing debt. The average market rate for long-term, fixed-rate, tax-exempt bonds was 3.93 percent as of December 23, 2009.

Commercial Paper is a short-term obligation of one to 270 days; issued more frequently and in smaller amounts; and usually with a lower, variable interest rate. TPFA uses commercial paper when a client agency needs to make frequent payments over time, such as for ongoing construction projects. Using commercial paper saves interest costs because short-term rates are usually lower and the State pays less debt service over time by issuing only what is needed. TPFA's commercial paper rate was 0.33 percent as of December 30, 2009.

TPFA lacks the flexibility needed to lower CPRIT's debt service costs.

The requirement to escrow CPRIT grant funds will cost $31 million in General Revenue next biennium.

An unusual requirement in CPRIT's statute prevents TPFA from fully using its expertise and the benefits of commercial paper to minimize debt service costs, resulting in an estimated $31 million in unnecessary costs to the General Revenue Fund in the 2012-2013 biennium. Statute requires CPRIT to hold grant funds in an escrow account at the time of award, requiring TPFA to issue debt for entire multi-year awards upfront.[3] Escrowing the funds and incurring the resultant, premature debt service costs serves no purpose. The Legislature has consistently approved funding to meet the State's commitments for long-term projects. Other state agencies using general obligation bonds to fund multi-year projects are not subject to such an escrow requirement.

The escrow requirement limits TPFA's ability to efficiently manage CPRIT's debt by requiring an upfront issuance of the entire grant amount at the time of award, instead of periodic, carefully timed issuances to fund reimbursements to grantees throughout the years. As a result, the State will begin paying debt service before the funds are actually needed to reimburse grantees, creating significant costs in the first years of repaying CPRIT's debt. Instead of diverting General Revenue to pay debt service on funds that CPRIT will not use for several years, the State could use these funds for more immediate needs.

TPFA's authority to stagger debt issuance for its clients' projects does not include CPRIT's grants.

TPFA's statute gives its other client agencies legal assurance to begin a project as soon as TPFA and the Bond Review Board have approved the issuance of bonds.[4] This provision allows TPFA to fully access the benefits of commercial paper by issuing incremental amounts of the client agency's full debt authority. However, the provision only applies to TPFA client agencies' construction, purchase, or lease projects; CPRIT's grant contracts are not covered. Extending this standard authority to CPRIT's grants would provide CPRIT assurance to award multi-year grants as soon as TPFA and the Bond Review Board have approved the debt issuance.

Recommendation

Change in Statute

2.1 Remove CPRIT's requirement to escrow multi-year grant awards, and extend TPFA's standard authority to stagger debt issuance to include CPRIT's grants.

Under this recommendation, statute would no longer require CPRIT to hold multi-year grant funds in an escrow account at the time of the award. TPFA would manage CPRIT's general obligation debt the same way it manages its other client agencies' debt, using its expertise and flexibility to minimize debt service costs to the State.

The recommendation would also add CPRIT's 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.

Fiscal Implication Summary

This recommendation would provide a one-time savings to the General Revenue Fund during each of the initial years of CPRIT's debt issuance, as reflected in the five-year chart below. This significant initial cost avoidance primarily results from postponing debt issuance until CPRIT actually needs funds to reimburse its grantees. Additional savings could result from TPFA's flexibility to choose the most appropriate financing method according to market conditions. Factors such as actual market conditions, refinancing bonds, use of variable- versus fixed-rate debt, and CPRIT's actual timing and amount of grant awards over the next several years could alter the estimates.

Fiscal Year	Savings to the General Revenue Fund
2012	$6,770,301
2013	$24,263,890
2014	$35,755,814
2015	$38,336,964
2016	$37,414,718

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1 Texas Constitution, art. III, sec. 67.

2 The interest rate data provided in the textbox are publicly available. Texas Public Finance Authority, *Monthly Status Report* (Austin, Texas, December 2009). Online. Available: www.tpfa.state.tx.us/pdf/monthlystatusreport.pdf. Accessed: February 5, 2010.

3 Texas Health and Safety Code, sec. 102.257.

4 Texas Government Code, sec. 1232.122(1).

Responses to Issue 2

Recommendation 2.1

Remove CPRIT's requirement to escrow multi-year grant awards, and extend TPFA's standard authority to stagger debt issuance to include CPRIT's grants.

Agency Response to 2.1

The agency agrees with this recommendation. (Dwight D. Burns, Executive Director – Texas Public Finance Authority)

Affected Agency Response to 2.1

The Cancer Prevention and Research Institute of Texas agrees with this recommendation. (Bill Gimson – Cancer Prevention and Research Institute of Texas)

For 2.1

None received.

Against 2.1

None received.

Commission Decision

Adopted Recommendation 2.1.

Legislative Action

House Bill 2251 removes the requirement that the Cancer Prevention and Research Institute (CPRIT) escrow multi-year grant awards. This provision led to TPFA having to issue the total amount of bonds at one time regardless of market conditions. The bill extends TPFA's standard authority to stagger debt issuance to include CPRIT's grants, allowing TPFA to minimize debt service costs to the State. House Bill 2251 also improves the timing of debt issuance by adding CPRIT's 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. (Recommendation 2.1)

Issue 3

State Law Limits TPFA's Ability to Assist State Colleges and Universities.

Background

Over the years, the Legislature has transferred the bonding authority of several small and infrequent issuers into the Texas Public Finance Authority (TPFA), including three smaller public universities: Stephen F. Austin State University, Midwestern State University, and Texas Southern University. TPFA works closely with these universities to issue the revenue bonds needed to finance major improvements on their campuses. TPFA's service allows its university clients to focus resources on mission-critical functions instead of technical bond issuing matters. TPFA has earned a reputation for negotiating low consultant and other fees, known as the bonds' costs of issuance. Other, larger universities such as the University of Texas and Texas A&M systems have the volume of debt and resources necessary to cost-effectively manage their own debt programs.

Findings

Without specific authority in law, state colleges and universities cannot access TPFA's assistance as needed to help minimize bond issuance costs.

State law only allows TPFA to assist the three universities specifically required to issue bonds though TPFA.[1] The eight other state universities and colleges that issue their own debt cannot access TPFA's services. While many of these universities can cost-effectively issue and manage their own debt, several could possibly benefit from TPFA's services to lower their bond-related costs. Financing needs often change, and TPFA's help could be useful in the future for other universities, on a case-by-case basis.

State law only allows TPFA to assist three universities.

For example, Texas State University might benefit from having access to TPFA's assistance. The University has considered financing less expensive projects more cost-effectively by using short-term, variable-rate debt called commercial paper instead of long-term, fixed-rate bonds. However, Texas State lacks the staff resources and expertise necessary to establish a commercial paper program, which requires more ongoing resources than a long-term bond issue. TPFA manages several commercial paper programs, and could potentially assist the University in establishing or managing a program, which could save the State in debt service costs. By allowing TPFA to work with Texas State or another university upon mutual agreement, the State could ensure that universities have the flexibility to use TPFA's expertise when needed.

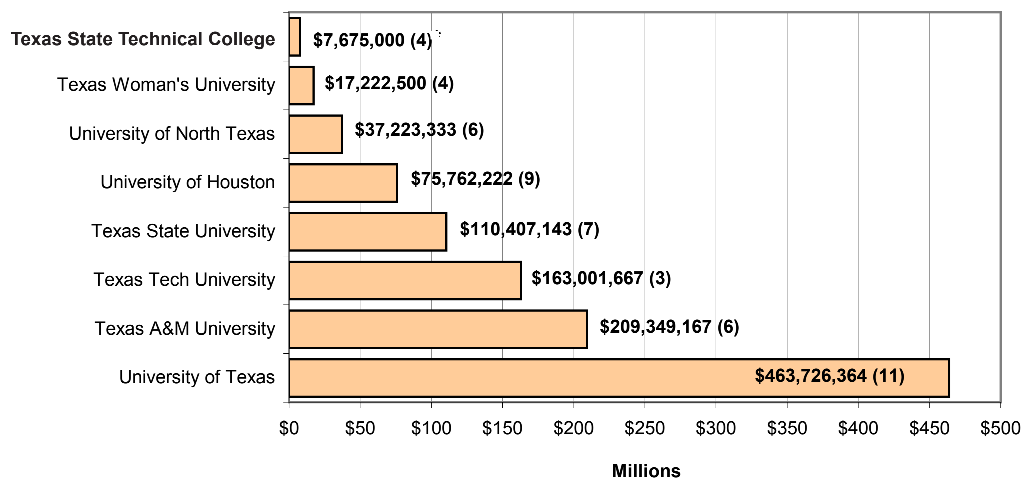
Texas State Technical College is an ideal TPFA client.

As a smaller and infrequent issuer of debt, Texas State Technical College lacks the expertise to minimize issuance costs.

Effective debt issuance requires specialized knowledge related to municipal bond market trends, bond underwriting, and the Internal Revenue Code. Issuers that sell bonds infrequently and in small amounts often lack the expertise necessary to achieve the lowest issuance costs for the State. For these entities, issuing debt can divert limited resources, in the form of staff time and fees paid to bond consultants, from core functions.

Of the state universities that issue debt independently, Texas State Technical College (TSTC) sells the least amount of bonds and is one of the least frequent issuers, as shown in the graph, *Number and Amount of University Bond Issues*. Texas State Technical College has limited staff resources and must divert these from other duties to issue bonds. Because TSTC issues debt on average only once a biennium, staff cannot maintain familiarity with the municipal bond market and rely heavily on outside consultants to help navigate the debt issuance process.

Number and Amount of University Bond Issues [2]
FYs 2003 – 2009



The number in parentheses shows the number of bond issues.

As shown in the table, *Comparison of Select Bond Issuance Costs*, TPFA's bond issuance costs are lower than Texas State Technical College's.[3] Transferring TSTC's issuing authority to TPFA would likely reduce issuance costs as well as save on consultant fees and staff time.

Comparison of Select Bond Issuance Costs, FYs 2003 – 2009

	Average Size of Bond Issue	Average Total Cost Per $1,000 of Bonds
TPFA*	$25,106,635	$14.64
TSTC	$7,675,000	$17.65

* Data for TPFA includes only bonds issued on behalf of its three university clients.

In 2002, Texas State Technical College explored the possibility of using TPFA to issue its bonds and requested an Attorney General opinion to clarify whether or not TPFA had the legal authority to do so. The resulting Attorney General opinion states that, under current law, TPFA may not issue bonds for TSTC nor any university not specifically identified in statute as a client of TPFA.[4]

Recommendations

Change in Statute

3.1 Authorize TPFA to provide debt issuance services, upon request, to state colleges and universities.

This recommendation would allow TPFA to provide debt issuance services to state universities upon agreement between TPFA and the university. Should Texas State or any state university wish to access TPFA's bond or commercial paper expertise, the Authority would be able to consider requests on a case-by-case basis and enter into agreements with those it can accommodate. These colleges and universities would maintain the authority to issue their own debt as well.

TPFA should be authorized to receive reimbursement for services it renders under these agreements. TPFA would continue to issue all debt without reimbursement for its current client universities and TSTC, if Recommendation 3.2 is adopted.

Sunset staff anticipate cost savings, but an exact amount cannot be estimated as it will depend on the specific debt amounts and market conditions.

3.2 Require TPFA to issue the debt for Texas State Technical College's legislatively authorized projects.

This recommendation would transfer the debt issuance functions of Texas State Technical College to TPFA. TPFA's relationship with TSTC would be the same as its relationship with current university clients, all of which ceased issuing debt upon the transfer of their bonding authority to TPFA. TSTC would still be fully responsible for project planning, obtaining legislative approval, and all related decisions. The University would no longer have to contract for bond counsel, financial advisors, or underwriters. TPFA would only be responsible for arranging cost-effective bond financing, and would not have any other authority over TSTC or its projects.

Sunset staff expect Texas State Technical College to lower its bond issuance costs, but an exact amount cannot be estimated as it will depend on the number and size of TSTC's future debt issues.

Fiscal Implication Summary

Although Sunset staff expect cost savings from these recommendations, the amount cannot be estimated as it will depend on the number and size of legislatively authorized bond issues in the future.

....

[1] Texas Education Code, sec. 55.13.

[2] This data is derived from Texas Bond Review Board, *Annual Report,* Fiscal Years 2003-2009 (Austin, TX). Online. Available: www.brb.state.tx.us/agency/publications.aspx. Accessed: December 1, 2009.

[3] Ibid.

[4] Op. Tex. Att'y Gen. JC-0523 (2002).

Responses to Issue 3

Recommendation 3.1

Authorize TPFA to provide debt issuance services, upon request, to state colleges and universities.

Agency Response to 3.1

The agency agrees with this recommendation. (Dwight D. Burns, Executive Director – Texas Public Finance Authority)

For 3.1

None received.

Against 3.1

None received.

Recommendation 3.2

Require TPFA to issue the debt for Texas State Technical College's legislatively authorized projects.

Agency Response to 3.2

The agency agrees with this recommendation. The agency could absorb Texas State Technical College as a client agency within the agency's current resources. (Dwight D. Burns, Executive Director – Texas Public Finance Authority)

Affected Agency Response to 3.2

The Texas State Technical College supports the concept of utilizing the bond issuance services of TPFA, with the modification presented below. (J. Gary Hendricks, Vice Chancellor for Financial and Administrative Services – Texas State Technical College)

Affected Agency Modification

1. Authorize, but do not require, Texas State Technical College to utilize TPFA's bond issuance services. (J. Gary Hendricks, Vice Chancellor for Financial and Administrative Services – Texas State Technical College)

For 3.2

None received.

Against 3.2

None received.

Commission Decision

Adopted Recommendations 3.1 and 3.2.

Legislative Action

House Bill 2251 authorizes 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. (Recommendation 3.1)

The Legislature did not adopt Recommendation 3.2 to transfer the debt issuance functions of Texas State Technical College to TPFA. As a result, the College will be authorized, but not required, to use TPFA for debt issuance.

New Issue

New Issue

The following issue was raised in addition to the issues in the staff report. These issue is numbered sequentially to follow the staff's recommendations.

4. Remove the requirement that TPFA issue bonds for Stephen F. Austin State University, allowing the University to choose to use TPFA or to issue its own debt for legislatively-approved projects. (Senator Robert Nichols, Member - Sunset Advisory Commission)

Commission Decision

Adopted New Issue 4.

Legislative Action

House Bill 2251 removes the requirement that TPFA issue bonds for Stephen F. Austin State University, allowing the University to use TPFA or to issue its own debt for legislatively authorized projects. (New Issue 4)

Provision Added by Legislature

Provision Added by Legislature

1. Make the bill effective immediately.

The Legislature added a provision to make H.B. 2251 effective immediately to maximize the debt service savings for this year's cancer research bonds. The bill received the constitutionally-required two-thirds vote of both houses for immediate effect.

Appendices

Appendix A

Texas Public Finance Authority
General Obligation Bonds – Authorized and Unissued
As of December 3, 2009

Authorization	Authorization Amount	Issued	Unissued
Self-Supporting			
2003 Art III, Sec. 49-n (TMPC-Loans to defense communities)	$250,000,000	$49,595,000	$200,405,000
Total Self-Supporting	***$250,000,000***	***$49,595,000***	***$200,405,000***
Non-Self-Supporting			
Art III, Sec. 49-h (Acquisition, construction, and repair of State facilities – TDCJ, MHMR, TYC)			
1987 Art III, Sec. 49-h(a)	$500,000,000	$499,752,500	$247,500
1989 Art III, Sec. 49-h(c)(1)	$400,000,000	$399,497,500	$502,500
1993 Art III, Sec. 49-h(c)(1)	$1,000,000,000	$999,325,000	$675,000
Total Art III, Sec. 49-h	*$1,900,000,000*	*$1,898,575,000*	*$1,425,000*
2001 Art III, Sec. 50-f (Proposition 8 – Construction & Repair Projects & Equipment Acquisition)[1]	$850,000,000	$728,301,702	$121,698,298
2001 Art III, Sec. 49-l (Colonias Roadway Projects)	$175,000,000	$100,000,000	$75,000,000
2007 Art III, Sec. 50-g (Proposition 4 – Construction & Repair Projects)[2]	$1,000,000,000	$347,780,000	$652,220,000
2007 Art III, Sec. 67 (Cancer Research)	$3,000,000,000	$12,700,000	$2,987,300,000
Total Non-Self-Supporting	***$6,925,000,000***	***$3,087,356,702***	***$3,837,643,298***

1 The Legislature has fully appropriated the authorized funds through fiscal year 2011.

2 The Legislature has appropriated $943,502,295 through fiscal year 2011.

Source: Texas Public Finance Authority

Appendix B

Staff Review Activities

During the review of the Texas Public Finance Authority, Sunset staff engaged in the following activities that are standard to all Sunset reviews. Sunset staff worked extensively with agency personnel; attended Board meetings and met with Board members; met with staff from legislative agencies; solicited written comments from interest groups and the public; reviewed agency documents and reports, state statutes, legislative reports, previous legislation, and literature; researched the organization and functions of similar state agencies in other states; and performed background and comparative research using the Internet.

In addition, Sunset staff also performed the following activities unique to this review.

- Spoke with staff of TPFA client agencies and charter schools; the Bond Review Board; other state agencies and universities that issue bonds; the Office of the Attorney General; and the Comptroller of Public Accounts.
- Attended board meetings of the Charter School Finance Corporation and the Cancer Prevention and Research Institute of Texas.
- Attended the Bond Buyer Texas Public Finance Conference in Austin.

Sunset Staff Review of the Texas Public Finance Authority

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