

(Gov) Agency: Board of Commissioners of Public Lands
Origination & Servicing Fees for Loans

27p3

1 + 3 Porter

Recommendations:

Paper No. 232: Alternative 2 (action^{is} needed)

Comments: FB seems to dislike this proposal and says it isn't needed or well-conceived (see paragraph 12).

You could also include alternative 3 in your motion if you want the agency to report back to JFC on accounting and administrative steps they can take to make the program more user friendly. I don't feel strongly either way - no one has told me this is a problem, but FB thinks it might be.

prepared by: Barry



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May 6, 1999

Joint Committee on Finance

Paper #232

Origination and Servicing Fees for Trust Fund Loans (Board of Commissioners of Public Lands)

[LFB 1999-01 Budget Summary: Page 111, #7]

CURRENT LAW

A municipal or other public borrower from the Common School Fund, the Normal School Fund, the University Fund and the Agricultural College Fund may prepay, with no prepayment fee being charged, any part of a loan after March 15 and prior to August 1 of any year and all future interest on the amount of the payment is forgiven. All interest that has accrued on the outstanding principal amount must be paid as of the date of any prepayment.

GOVERNOR

Authorize the Board of Commissioners of Public Lands to charge a fee to eligible borrowers from the trust funds who repay one or more installments of a loan after March 15 but before August 1 of any year. Specify that the fee would be set to cover any administrative costs incurred by the Board in originating and servicing the loan.

DISCUSSION POINTS

1. Under current law, every October 1, the Board must certify to borrowers from its trust funds the principal and interest payment amounts that will be due on the on the annual payment due date (March 15 of the year following the October 1 certification).
2. In order to meet this annual October 1 certification timetable, the Board closes its books for accounting purposes after July 31 for new loan issues. This practice means that for loans issued immediately after that date through the following March 15, the amount due on that loan will not be certified until October 1 of the next year. Thus, the first scheduled annual payment date for that loan will not occur until March 15 of the second year following. For example, if a new loan

had been issued on August 2, 1998, the first certification of the principal and interest amounts due on the loan would occur on October 1, 1999, and would apply to the first annual payment due on March 15, 2000. In this instance, the period elapsed between the origination of the loan and the first scheduled payment date would be 19 months.

3. Under current Board procedures, the certificate of indebtedness that is entered into between the Board and the borrower contains a provision that actually prohibits the borrower from making a loan prepayment from August 1 until March 15 of a year. For new loans that may be within the period of up to 19 months described above, this prepayment prohibition would apply to that entire period of time.

4. This prohibition is not expressly authorized by statute. It appears to become enforceable, however, because it is included in the certificate of indebtedness agreement that exists between a municipal borrower and the Board.

5. The reason for the prohibition appears to be due primarily to the Board's current accounting and administrative procedures. Currently, it takes several weeks for Board staff to complete the post-July 31 accounting necessary to generate the October 1 certifications of the payment amounts due on the following March 15. Once that certification has been issued on October 1, the Board believes that unless no further payments are permitted before March 15, the amount listed on the statutorily-required certification that must be filed with the State Treasurer and other parties will not be correct.

6. During periods of falling interest rates, some borrowers from the trust funds have been successful in refinancing their debt elsewhere at a lower rate of interest. In such instances, the borrowers will seek to liquidate their outstanding trust fund loan balances. In some cases, this refinancing may be for a new trust fund loan that is still within the period described above of up to 19 months between the loan's origination and the initial annual payment due date.

7. As a practical matter, where a municipality has refinanced a loan and has approached the Board during the initial period covered by the prepayment prohibition contained in the certificate of indebtedness, the Board has made arrangement for the complete payoff. The payoff includes the principal amount due as well as all accrued interest to the date of the payoff. The Board indicates that these types of complete loan prepayments before the first scheduled loan payment date are quite rare, with only one instance identified during the last two years.

8. The Board's original request proposed that it be able to charge a borrower who completely prepays an outstanding loan before the first scheduled March 15 annual payment date a fee to cover the Board's administrative costs associated with originating and servicing the loan. While such a fee might be either a fixed dollar amount or a percentage of the amount financed, the Board's requested language was silent on the amount of the fee. The Governor's recommended language similarly does not specify the type or amount of any such fee. However, Board staff have now suggested that the language provide for the imposition of a \$500 flat fee, regardless of the size of the loan being paid off.

9. While the Board's original proposal would have applied the fee to cover loan origination and servicing costs only for prepayments on new loans where the first annual payment had yet to be made, the Governor's recommended language would permit the collection of such costs with the prepayment of any loan.

10. The Board has not been able to provide data on how these administrative costs would be determined nor data on what the Board's actual administrative costs are. The \$500 fee cited above by Board staff does not appear to be based on any actual cost determination made by the Board.

11. There does not appear to be any mechanism to recover the costs of loan origination or servicing from other municipal borrowers whose loans run to full term. A question may be raised, therefore, as to why these types of costs, to the extent that they can be identified, should be collected for loans that are fully repaid before their first scheduled payment date when such costs are not currently identified and specifically recouped where a loan that runs to full term.

12. It could be concluded that there does not appear to be a compelling rationale for the imposition of a loan origination and servicing fee when a trust fund loan is prepaid. The Committee could delete the provision authorizing the Board to collect the fee.

13. Finally, if the Committee is concerned about the Board's current administrative practice of including language in certificates of indebtedness that prohibits loan prepayments during the first statutory prepayment period (after March 15 and prior to August 1) occurring for loans first issued since the previous August 1, it could include session law language requesting the Board to report to the Committee by December 1, 1999, on the accounting and administrative steps the Board will take to change the practice and allow the acceptance of loan prepayments during any statutorily authorized prepayment period for any trust fund loans issued by the Board.

ALTERNATIVES

1. Approve the Governor's recommendation to authorize the Board of Commissioners of Public Lands to charge a fee to cover loan originating and servicing costs to eligible borrowers who repay one or more installments of a loan after March 15 but before August 1 of any year.

2. Maintain current law.

3. *[This alternative may be adopted in addition to either Alternative 1 or Alternative 2]* Include session law language requiring the Board to report to the Joint Committee on Finance by December 1, 1999, on the accounting and administrative steps the Board will take to allow the acceptance of loan prepayments during any statutorily authorized annual prepayment period for any trust fund loans issued by the Board.

Prepared by: Tony Mason

MO# 415 143

BURKE	<input checked="" type="radio"/>	N	A
DECKER	<input checked="" type="radio"/>	N	A
JAUCH	<input checked="" type="radio"/>	N	A
MOORE	<input checked="" type="radio"/>	N	A
SHIBILSKI	<input checked="" type="radio"/>	N	A
PLACHE	<input checked="" type="radio"/>	N	A
COWLES	<input checked="" type="radio"/>	N	A
PANZER	<input checked="" type="radio"/>	N	A
<u>Z</u> GARD	<input checked="" type="radio"/>	N	A
PORTER	<input checked="" type="radio"/>	N	A
KAUFERT	<input checked="" type="radio"/>	N	A
ALBERS	<input checked="" type="radio"/>	N	A
DUFF	<input checked="" type="radio"/>	N	A
WARD	<input checked="" type="radio"/>	N	A
HUBER	<input checked="" type="radio"/>	N	A
RILEY	<input checked="" type="radio"/>	N	A

AYE _____ NO _____ ABS _____