

SUBJECT: Expanding uses of the Development Corporation Act, including spaceport

COMMITTEE: Economic Development — favorable, with amendment

VOTE: 5 ayes — Jim Solis, Deshotel, Keffer, Luna, Seaman

0 nays

4 absent — Van de Putte, Homer, McClendon, Yarbrough

WITNESSES: For — David Pitstick, Allen Economic Development Corp. and Texas Economic Development Council; Gary Bushell, Greater Corpus Christi Business Alliance; Frederick H. Welch, Brazoria County Partnership

Against — None

BACKGROUND: The Legislature enacted the Development Corporation Act of 1979 (art. 5190.6, VTCS) to allow municipalities to create nonprofit development corporations that would promote new and expanded industry and manufacturing activity within a municipality and its vicinity.

In November 1987, Texas voters approved a constitutional amendment providing that public expenditures for economic development serve a public purpose and therefore are permitted under Texas law.

In 1989, the Legislature amended the Development Corporation Act by adding Section 4A, which allowed the creation of a “4A” development corporation funded by the imposition of a one-half-percent local sales and use tax dedicated to economic development. The tax could be levied only if approved by voters in a local election. The statute dedicated proceeds of this tax primarily to economic development projects to promote new and expanded industrial and manufacturing activities. The 4A sales tax is generally available to cities located within a county of less than 500,000 population, if the city has room within the local 2 percent sales-tax cap.

In 1991, the Legislature authorized a Section 4B sales tax. This legislation authorized certain cities to impose up to a one-half-percent sales tax for use in promoting a wide range of civic and commercial projects. In 1993, the

Legislature broadened the availability of the 4B tax to any city that was eligible to adopt a 4A sales tax. In other words, most cities in a county of fewer than 500,000 now may adopt a 4A or 4B sales tax if they have room under their local sales-tax cap.

Spaceports. Companies with new-generation reusable spacecraft, such as satellites, are searching for sites for public-private spaceports. Texas is among 14 states competing for a spaceport to serve as the launch and landing site for Lockheed Martin's VentureStar, a low-cost launcher for new communication satellites. Brazoria, Pecos, and Kenedy counties are competing to be chosen as the site for the spaceport.

DIGEST:

HB 3029, as amended, would expand uses of the Development Corporation Act to include as eligible projects targeted infrastructure and improvements to promote new and expanded business development, job creation and retention, job training, and educational facilities. The bill also would authorize petitions to reduce or increase the economic development sales tax and to dissolve existing economic development corporations. A committee amendment would include a spaceport as an eligible project to receive funds from the economic development tax.

4A sales tax. HB 3029 would allow proceeds from the 4A sales tax for economic development to be used to pay the maintenance and operating costs of a project. If the governing body of a city received a petition from more than 10 percent of the city's registered voters no later than the 60th day after the notice that the tax would be used for this purpose, the city would have to hold an election before the tax proceeds could be used for this purpose.

4B sales tax. The bill would allow a city that has imposed a 4B tax for an economic development corporation to reduce or increase the tax. The rate could be reduced in one or more increments of one-eighth of 1 percent to a minimum of one-eighth of 1 percent or could be increased by the same increments to as much as one-half of 1 percent. The governing body of a city would have to order an election on the increase or reduction upon receiving a petition of 10 percent or more of the city's registered voters requesting an election.

HB 3029 also would require a city to hold an election upon receiving a petition calling for the dissolution of the economic development corporation. If a majority of local voters approved the dissolution of the corporation, the corporation could continue operations only to pay the principal and interest on its bonds and to meet existing obligations. The corporation would have to sell its assets and apply the proceeds to outstanding debts. When all obligations were satisfied, any remaining assets would have to be transferred to the city.

Tax-exempt entities. HB 3029 would specify that economic development corporations are public entities and that projects owned by such a corporation on behalf a city are exempt from property taxes under Tax Code, sec. 11.11.

Development corporation for spaceport facilities. A committee amendment would allow any county or combination of cities and counties to form an economic development corporation for a project that was required or suitable for use for the promotion or development of a spaceport, related transportation facilities, parking facilities, and related infrastructure. An eligible project also could be one that promotes or develops new or expanded business enterprises relating to a spaceport, promotes educational programs and job training in connection with a spaceport, or is required or suitable for the promotion of development and expansion of affordable housing in connection with a spaceport.

The bill would authorize a corporation to issue bonds that would have to be paid solely from the revenue of a spaceport developed by the corporation and would have to be approved by the governing body of each county or combination of cities and counties that established the corporation.

A corporation formed for a spaceport project would be exempt from Development Corporation Act, sec. 24, which requires the Texas Department of Economic Development (TDED) to approve the contents of any lease, sale, or loan agreement made by an economic development corporation. This section also requires the department to set minimum standards for project eligibility and for lease, sale, and loan agreements, and requires corporations to file fee schedules and bond procedures with the department.

A corporation formed for this purpose could not issue a bond or acquire property unless a site in that city or county had been designated as the site for

a spaceport. HB 3029 would allow a corporation to acquire, convey, mortgage, or otherwise dispose of property and to exercise the power of eminent domain to acquire property for a spaceport.

Such a corporation's property, income, and operations would be exempt from state and local taxes. In lieu of taxes, a corporation would have to make a payment in an amount equal to the ad valorem taxes that would be paid on the land of the corporation if the land were owned privately. A spacecraft or other property necessary to launch the spacecraft would not be taxable if located in the spaceport.

HB 3029 would authorize such a corporation to enter into an interlocal contract as local governments are allowed to do. The bill would prohibit a corporation from contracting to operate a spaceport unless the agreement required the person contracting with the corporation to assume the corporation's liability for cause of action arising from environmental damage. The bill also would allow a corporation to sue and be sued.

HB 3029 also would require such a corporation to be governed by a seven-member board of directors that would meet at least once every three months at the call of the presiding officer or a majority of the directors. The bill also would set requirements for choosing members of the board.

The bill would authorize the board to develop a plan for higher education courses and degree programs to be offered at or near a spaceport. The Texas Aerospace Commission and the Texas Higher Education Coordinating Board would have to cooperate with and advise the board of directors in carrying out these provisions.

Validation of acts. Another committee amendment to HB 3029 would validate various acts of a defense base development corporation taken before March 1, 1999. Validation would not apply to an act, proceeding, bond, obligation, or election or appointment of an official of which the validity was the subject of pending litigation; to an act that was void or that was a misdemeanor or felony at the time of the action; or to an act that had been held invalid by a final judgment of a court.

HB 3029 would take effect September 1, 1999.

SUPPORTERS
SAY:

The sales tax for economic development has been one of the most effective tools used by cities throughout Texas to promote economic development. Although the local-option tax has been authorized only since 1989, about 378 cities have levied such taxes. Cities that have adopted this tax have raised cumulatively more than \$200 million annually, which is dedicated to the promotion of local economic development. Of these cities, 126 have adopted a Section 4A sales tax, 205 have adopted a Section 4B sales tax, and 47 have adopted both.

HB 3029 would make changes to clarify and strengthen the Development Corporation Act. It would clarify that cities with 4A or 4B tax could use the revenue for additional projects not currently in statute. This would help communities provide additional incentives to attract new businesses and retain existing businesses.

The bill also would allow voters to petition for the dissolution, reduction, or increase of a 4B sales tax. Voters in cities with a 4A tax already have this right.

Spaceports. A spaceport would be home to a fleet of reusable space vehicles that aim to launch commercial satellites and other cargo into orbit at a fraction of today's cost. An estimated 1,700 satellites are waiting to be launched over the next decade. At least six companies are designing reusable space planes. This is the industry of the future.

For Texas to compete with Florida and California for this industry, the public and private sectors must show interest in the project as other states have shown. HB 3029 would increase the chances that a county in Texas could be designated as a spaceport site. Other states competing for the spaceport have enacted similar legislation. This would be an opportunity for Texas to lead the nation and the world in space operations in the 21st century.

The multibillion-dollar aerospace industry could bring as many as 16,000 new jobs to Texas. A spaceport would greatly improve the economy of counties crippled by slumping oil prices by using land that is not being used now.

OPPONENTS
SAY:

The spaceport amendment would expand the Development Corporation Act beyond its original intent. This project would cost tens of millions of dollars to build. The economic development tax in the counties vying for this

designation should be used for more general projects already authorized under the statute.

HB 3029 would allow more projects to qualify for funds from increases in local sales taxes. Because low-income Texans already shoulder a hugely disproportionate share of sales taxes, economic development efforts should be targeted to benefit everyone. Increasing taxes that disproportionately affect low-income families would offset any economic development benefits intended by the tax increase.

Including job training as an eligible project would adversely affect businesses in cities that have adopted a local economic development sales tax. TDED and the Texas Workforce Commission, which administer the funds for the highly competitive Smart Jobs Fund and Skills Development Fund programs, might be less likely to award grants for job-training programs in these cities if it was apparent that they could raise money through local taxes.

NOTES:

The committee amendments would increase the maximum sales tax rate that could be imposed in 4B cities from 7.25 percent to 8.25 percent, validate acts of defense base development corporations, and add spaceport facilities as an eligible project for development corporations.

A related bill, HB 1916 by Oliveira, which would allow development corporation taxes to be used for job training programs, also is on today's calendar.

HB 3035 by Oliveira and its companion bill, SB 1092 by Brown, would authorize a county to establish a spaceport authority as a political subdivision of the state and as a special district. HB 3035 has been referred to the House State Affairs Committee, and SB 3029 has been referred to the Senate State Affairs Committee.