

SUBJECT: Barring tax exemption on certain local government corporation property

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 6 ayes — Hilderbran, Otto, Gonzalez, Lyne, Murphy, Woolley

0 nays

5 absent — Christian, Elkins, Martinez Fischer, Ritter, Villarreal

SENATE VOTE: On final passage, May 5 — 30-1 (Duncan)

WITNESSES: *(On House companion bill, HB 2100:)*

For — Geoffrey Gay, Richard Morton, City of Odessa; Susan Redford, Ector County; *(Registered, but did not testify: David Holt, Larry Long, City of Odessa; Hector Mendez, Ray Pace, Ector County ISD; Walter Smith, Odessa College Trustees; Mary Thompson, Ector County Hospital District; Phillip McCord)*

Against — Bradford Moore, High Plains Diversified Energy Corporation

On — Karen McCord, Ector County Appraisal District

BACKGROUND: Under Transportation Code, ch. 431, subch. D, a local government corporation (LGC) may be created to aid and act on behalf of one or more local governments to accomplish any governmental purpose of those governments. An LGC is a corporate entity formed by a municipality or county to act on its behalf. LGCs fund transportation, water and sewer infrastructure, economic development ventures, and other projects intended to benefit the public.

Ch. 341 of the Transportation Code provides that all property of an LGC and the transaction to acquire the property are exempt from ad valorem taxation.

DIGEST: SB 1120 would amend ch. 431 of the Transportation Code by specifying that LGC property created by a municipal power agency would not be exempt from ad valorem taxation if the property was located outside the

boundaries of each of the municipalities that created the municipal power agency.

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, 2011.

**SUPPORTERS  
SAY:**

When originally written, ch. 431 of the Transportation Code was intended to benefit municipalities working on transportation, specifically in developing toll roads. It later was amended to give LGCs the same powers as municipalities. Unfortunately, this leaves a broad tax exemption for property acquired by an LGC. LGCs are able to go beyond their boundaries, acquire properties, and use their tax exemption for their own benefit. This has become a new model for creating a business enterprise that takes properties off the local tax rolls to the detriment of local areas. For example, an LGC in West Texas went outside of its boundaries and tried to purchase two power plants in Ector County, which would remove millions of dollars in annual property tax revenue from the property rolls.

SB 1120 would limit the exemption from property tax to only the property of an LGC created by a municipal power agency that was located within the boundaries of each of the municipalities that created the municipal power agency. LGCs created in this fashion still could obtain exemption from property taxes, but would have to do so through direct agreement with other cities or counties when leaving the boundaries of the tax area. They would not automatically obtain an exemption from taxation as under current law.

**OPPONENTS  
SAY:**

SB 1120 would address a situation in West Texas involving the purchase of power plants by an LGC located several hundred miles away from the power plants. Although the bill is aimed at addressing that situation, it could possibly affect other similar entities. There is a history of government entities being exempt from taxation, and a history of property purchases similar to this. This bill would, effectively, start taxing a governmental entity when it was performing a governmental function.

**NOTES:**

The companion bill, HB 2100 by Lewis, passed the House by 142-2 on May 5 and was referred to the Senate Intergovernmental Relations Committee on May 9.

According to the fiscal note, SB 1120 could increase local tax revenues. As taxable property values increased, the related costs to the Foundation School Fund could decrease through the operation of the school finance formulas.