

- SUBJECT:** Allowing municipalities to transfer property in Chapter 380 agreements
- COMMITTEE:** Economic and Small Business Development — favorable, without amendment
- VOTE:** 7 ayes — Button, Vo, Bailes, Deshotel, Hinojosa, Metcalf, Ortega
- 0 nays
- 2 absent — Leach, Villalba
- WITNESSES:** For — Jessica Herrera, City of El Paso; Donnis Baggett, Texas Press Association; (*Registered, but did not testify:* Brie Franco, City of Austin; Tom Tagliabue, City of Corpus Christi; Lindsey Baker, City of Denton; Guadalupe Cuellar, City of El Paso; Michael Kovacs, City of Fate; TJ Patterson, City of Fort Worth; Tom Hart, City of Grand Prairie; Jon Weist, City of Irving; James McCarley, City of Plano; Jeff Coyle, City of San Antonio; Rick Ramirez, City of Sugarland; Edward Broussard, City of Tyler; Carlton Schwab, Texas Economic Development Council; Monty Wynn, Texas Municipal League)
- Against — None
- BACKGROUND:** Local Government Code, sec. 380.001 allows municipalities to establish and administer economic development programs, including those for making loans and grants of public money, providing personnel and services, and stimulating business and commercial activity. Under sec. 272.001(a), before land owned by a municipality may be sold or exchanged, notice must be published in a local newspaper with a description of the bidding procedure and of the land and its location.
- DIGEST:** HB 1352 would allow municipalities participating in Chapter 380 economic development agreements to transfer real property or an interest in real property to an entity to use in a manner that primarily promotes a public purpose related to economic development.

Property conveyance agreements would have to include provisions ensuring that the municipality retained sufficient control to ensure that the public purpose of the transfer was fulfilled.

Before making such a property transfer, a municipality would have to provide notice to the general public by publication in a local newspaper. Notice would have to be published on two separate days within 10 days before the date of transfer and would have to include a description of the real property and its location.

HB 1352 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:**

HB 1352 would allow Texas to become more economically competitive by increasing the scope of incentives municipalities could offer to recruit corporations and projects for economic development initiatives. The availability of property can be a determining factor for companies considering relocation to Texas. The bill would clarify the authority of municipalities to transfer property for economic development purposes, which is not explicitly stated in current law.

The bill would increase local control by expanding the tools municipalities could leverage in recruitment negotiations. Currently, municipalities that wish to convey property are subject to burdensome bidding requirements, and the bill would allow them to maximize the utility of their land by more quickly transferring property. It also could increase property tax revenue by allowing for the transfer of state-owned land that is not currently taxable to the private sector.

HB 1352 would increase public awareness about municipally led economic development initiatives. Requiring published notice well in advance of the property transfer would help constituents become better informed about local economic development and would provide them an opportunity to voice any potential opposition to the conveyance of property. The method of notice required by the bill would conform to

current standards in the Local Government Code about municipal conveyance of property.

The bill would not increase the power of municipalities to seize private property through eminent domain. Government Code, sec. 2206.001 prevents governmental entities from using eminent domain to take private property for economic development purposes.

Allowing municipalities to avoid the competitive bidding process would not harm local economies. The bidding process required by current statute can be burdensome for both municipalities and bidders. In cases where municipalities quickly need to guarantee an offer of property transfer to secure an economic development agreement, the potential benefits of job creation and sales tax revenues outweigh the potential losses incurred by foregoing the bidding process.

The bill could be amended to specify that public parks and squares could not be transferred under the provisions of HB 1352.

OPPONENTS
SAY:

HB 1352 could expand the state's eminent domain powers by not specifying that property conveyed under a Chapter 380 agreement would have to be owned by the municipality. This ambiguity could create the potential for the government to infringe on property ownership rights.

The bill could deprive municipalities of potential revenue from the sale of property earned through the process of competitive bidding required by current law. The free market, not municipal government, ultimately should guide the sale and transfer of property.

The bill also could allow municipalities to corporatize public parks and squares, potentially depriving citizens of a public good that aids tourism.

OTHER
OPPONENTS
SAY:

The bill's requirements would not be sufficient to provide public notice about the sale or transfer of property because much of the public does not read local newspapers. A better alternative would be to require municipalities to provide notice of sale or transfer in the same way in

which they typically provide public notice, whether that is through a website, kiosk, or other means.

NOTES:

The author plans to offer a floor amendment specifying that the bill would not allow municipalities to sell or transfer property designated as a public park or square.

A companion bill, SB 438 by Rodríguez, was referred to the Senate Committee on Natural Resources and Economic Development on February 6.