

SUBJECT: Creating database for ch. 380 and 381 economic development agreements

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 10 ayes — Meyer, Thierry, Button, Cole, Guerra, Martinez Fischer,
Murphy, Noble, Sanford, Shine

0 nays

1 absent — Rodriguez

WITNESSES: For — Carine Martinez, Texas Public Policy Foundation; (*Registered, but did not testify*: Jamaal Smith, City of Houston, Office of the Mayor Sylvester Turner; Jim Allison, County Judges and Commissioners Association of Texas; John Kroll, HMWK; James LeBas, Texas Association of Manufacturers; Bill Longley, Texas Municipal League; Dale Craymer, Texas Taxpayers and Research Association)

Against — None

On — (*Registered, but did not testify*: Will Counihan, Comptroller of Public Accounts; Daniel Collins, County of El Paso)

BACKGROUND: Local Government Code chs. 380 and 381 authorize municipalities and counties to enter into certain local economic development agreements.

Ch. 380 allows the governing body of a municipality to establish programs that loan or grant municipal funds, personnel, or services to promote state or local economic development and to stimulate business and commercial activity in the municipality.

Ch. 381 allows a county commissioners court to develop programs including, but not limited to, programs for state or local economic development, for small or disadvantaged business development, or to stimulate, encourage, and develop business location and commercial activity in the county.

DIGEST: HB 2404 would require the comptroller to create an online database of information on local economic development agreements entered into by local governments under Local Government Code ch. 380 or ch. 381. Such local governments would include a municipality, county, county industrial commission, or board of development.

Database creation and contents. The comptroller would create and make accessible on the internet a database called the Chapter 380 and 381 Agreement Database. The database would have to include:

- the name of the local government entering into the agreement;
- a numerical code assigned to the government by the comptroller;
- the contact information for the local government's administrative offices and a person representing the local government;
- the name of any entity that entered into the agreement;
- the dates the agreement went into effect and expired;
- the focus or scope of the agreement;
- an electronic copy of the agreement; and
- the contact information of the individual reporting the information to the comptroller.

Within seven days of entering into, amending, or renewing an agreement, a local government would have to submit to the comptroller the above information and any other information the comptroller considered necessary for the database.

Database accessibility. The bill would require the comptroller to enter information into the database for public access within 15 days of receiving the information from a local government. The information would have to remain accessible during the period the agreement was in effect.

The comptroller could not charge a fee to the public to access the database.

If a local government maintained a website, it would be required to

provide on the website a direct link to local development agreement information published on the comptroller's website.

Noncompliance and penalty. If a local government did not comply with the requirements of this bill, the comptroller would be required to send a written notice describing the information required to be submitted and inform the government of its liability. If such information were not provided within 30 days of the notice, the local government would be liable to the state for a civil penalty of \$1,000. The attorney general could sue to collect the penalty.

It would be a defense to an action under these provisions that the local government provided the required information or documents to the extent they were not exempt from disclosure or confidential under state law.

Dates. For each local development agreement in effect on the effective date of this act, the local government would have to submit the required database information to the comptroller by January 1, 2022.

The comptroller would have to publish the received information and create and post the database by September 1, 2022.

The bill would take effect September 1, 2021.

SUPPORTERS
SAY:

HB 2404 would increase government transparency by requiring the comptroller to create an online database of information on ch. 380 and ch. 381 agreements. Cities and counties enter into these local development agreements to provide certain incentives using public funds, but there currently is no statewide system for public access to this information. This bill would improve the accessibility of local economic development agreements by outlining the information local governments were required to submit, prohibiting the public from being charged a fee to access the database, and ensuring that the information was posted for the duration of the agreement.

Local governments would have significant time — until January 1, 2022

— to submit information on all current economic development agreements. Any future agreements entered into would fall under a seven-day submission deadline, which is appropriate. Because this information is considered public information that can be requested by any individual, it should be readily available. A \$1,000 penalty for local governments that did not comply with the bill would work as an enforcement mechanism and incentivize transparency.

CRITICS
SAY:

HB 2404 would amount to an unfunded mandate for local governments, requiring additional staff and resources to transmit the required information on local economic development agreements to the comptroller. Also, the process of gathering and sending such information could take longer than the bill's submission deadline of seven days after entering into an agreement. Local governments would then face an onerous \$1,000 penalty for being unable to comply with this short timeframe. The bill should allow for a longer deadline, such as 30 days, and the penalty should be eliminated.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact of \$440,000 in general revenue related funds in fiscal 2022-23 and \$220,000 each fiscal year thereafter for administrative costs incurred by the comptroller to implement the bill.