

SUBJECT: Prohibiting economic development corporation benefits to political activists

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 13 ayes — Wolens, S. Turner, Bailey, Brimer, Counts, Danburg, Hilbert, Hunter, D. Jones, Longoria, Marchant, McCall, Merritt

0 nays

2 absent — Alvarado, Craddick

WITNESSES: For — Alma A. Allen; Rick Levy, Texas AFL-CIO; Tom “Smitty” Smith, Public Citizen; Samantha Smoot, Texas Freedom Network; Dennis Teal

Against — None

BACKGROUND: An economic development corporation is a local taxing entity that levies a local sales tax for the purpose of attracting and retaining business within the economic development corporation’s taxing district. Texas statutes allow a city, by election, to create an economic development corporation that may collect a sales-and-use tax of up to one-half of one percent.

DIGEST: CSHB 3049 would prohibit an economic development corporation from knowingly entering into an agreement to provide a direct or indirect benefit to paid political activists. The bill would forbid such agreements for people who, for compensation, provide political consultation, advertising, polling, or fund raising for election campaigns.

If the economic development corporation knowingly entered into such an agreement, the bill would provide penalties. Property owned by the corporation no longer would be exempt from ad valorem taxes, sales-and-use taxes, and the franchise tax.

A person other than a corporation who entered into such an agreement would commit a Class A misdemeanor, punishable by up to one year in jail and/or a maximum fine of \$4,000. A person who entered into such an agreement and made false representation to induce the corporation into the agreement would commit a class B misdemeanor, punishable by up to 180 days in jail and/or a

maximum fine of \$2,000. A person who entered into a prohibited agreement would be liable to the state for a civil penalty up to \$10,000.

Anyone residing in the jurisdiction of an economic development corporation could bring a civil action alleging a violation of this bill. That person could seek to enforce the terms of the Development Corporation Act of 1979 (Act) or enforce the terms of the corporation's articles of incorporation or bylaws. The person also could bring action seeking to void an act or agreement of the corporation that violated the act or the articles of incorporation or bylaws of the corporation.

The bill would take effect September 1, 1999, and apply to agreements entered on or after that date.

**SUPPORTERS
SAY:**

CSHB 3049 would close a loophole in the law that allows tax dollars collected by economic development corporations to benefit businesses whose primary purpose is to influence the electoral process. CSHB 3049 would forbid such use of tax dollars to subsidize political activities. It also would provide a mechanism for taxpayers to challenge such expenditures of public money.

In September 1997, the Canton Economic Development Corporation (CEDC) provided a company called Winning Strategies almost \$400,000 in incentives to locate in the town. Winning Strategies is a direct marketing and advertising company that specializes in partisan political activity. In the 1998 election season, Winning Strategies helped more than 30 political campaigns with political advice, advertising, and polling services. It did so in a 24,000-square-foot building purchased by the city and leased to Winning Strategies for free. CEDC paid for repairs to the building as well as the company's electricity and water. This flagrant use of tax money to subsidize partisan political campaigns is inappropriate and should be prevented in the future.

CSHB 3049 would protect taxpayers by preventing a situation like this from happening again. The bill would prevent anyone who provided a candidate, political committee, or political organization with paid services from receiving tax funds from economic development corporations. The bill would prohibit misuse of government funds to promote one party or candidate over another.

The Legislature spells out in statutory detail how local economic development corporations may operate and the type of businesses that may be subsidized, so this additional, justifiable restriction would be wholly consistent with past practice.

OPPONENTS
SAY:

CSHB 3049 would have far too many unintended consequences. It would subject local business owners who take economic development corporation benefits and serve political clients to criminal and civil penalties. It also would directly contradict the philosophy of local control by micromanaging how local economic development corporations may operate.

The bill would go too far in preventing economic development corporations from providing incentives to any business that might take on a political client from time to time. For example, any print shop receiving economic development dollars could not print political advertising for local candidates without violating the law. Any public relations, advertising, polling, financial, or other professional services firm that received economic development benefits would be forbidden from helping political candidates or issues, including bond issues, as part of their business. In effect, CSHB 3049 would limit revenue sources for certain businesses, if they wanted to receive economic development corporation support. This could create a competitive disadvantage for businesses that take economic development benefits.

CSHB 3049 could be interpreted as preventing economic development corporations from seeking professional help with government relations or lobbying. The bill would forbid an agreement between an economic development corporation and anyone who served as a paid political consultant. Economic development corporations thus would be unable to hire professional political help, even if the funds used were privately raised. For example, the corporation might need voter approval for a bond or sales tax issue to entice a business. However, it would be unable to hire professional help to make its case to the public under the prohibition of CSHB 3049.

CSHB 3049 is an over-reaction to one single agreement made by one of 400 economic development corporations in the state. Nevertheless, that agreement made good business sense. The Canton Economic Development Corporation (CEDC) offered \$400,000 of incentives to attract a business that has produced more than 130 jobs. That amounts to a payroll of over \$1 million each year. On that basis alone, the CEDC made a wise investment.

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NOTES: The committee substitute added the definition of political advertising and clarified how the bill would address political polling and analyzing .