

- SUBJECT:** Revising requirements for economic development corporations
- COMMITTEE:** Economic Development — committee substitute recommended
- VOTE:** 5 ayes — J. Keffer, Homer, Hughes, Rodriguez, Thompson
0 nays
2 absent — Isett, Wong
- WITNESSES:** For — Brad Mink, City of Carrollton; Norma Nichols, City of Farmers Branch; Amanda Nobles and Chris Shields, Texas Economic Development Sales Tax Association; David Pinkus, Small Business United of Texas; Gary Slagel, City of Richardson; (*Registered, but did not testify:*) Bill Clayton, City of Mesquite; Donald Wall, Paris Economic Development Corp.

Against — None

On — Bob Beardon, Comptroller's Office
- BACKGROUND:** The Development Corporation Act of 1979 (V.T.C.S., art. 5190.6) authorizes Texas cities to establish nonprofit economic development corporations. The purpose of a development corporation created under this act is to develop industrial and manufacturing enterprises to promote employment and the public welfare. Sec. 4(b) establishes the Texas Small Business Industrial Development Corp. (TSBIDC), which can make loans to development corporations in the state. A city may levy a sales and use tax for the benefit of a corporation. Two types of development corporations, known as 4A and 4B, are named after the section of the act in which they are established. These two sections govern development corporations in cities of different size that have different taxing structures. Sec. 4(i) defines an economic development project as the use of funds financed through the purchase of bonds by TSBIDC that are suitable for the promotion of economic development.
- DIGEST:** CSHB 2912 would revise the types of projects eligible for support by an economic development corporation and would establish guidelines for investment agreements among development corporations and taxing units. It

would require performance agreements between corporations and businesses receiving aid from development corporations. Also, it would require written contracts with third-party entities that performed services for development corporations for a commission, fee, or other compensation.

Eligible projects. CSHB 2912 would expand the definition of an economic development project to include infrastructure projects limited to street, road, water utility, electric utility, gas utility, drainage, telecommunications, and Internet improvements that are necessary to create or retain “primary jobs.” It would define a primary job as a job in a company of which the majority of products or services ultimately are exported. A primary job also would fall into one of the following sectors defined under the North American Industry Classification System:

- crop production;
- animal production;
- forestry and logging;
- commercial fishing;
- support activities for agriculture and forestry;
- mining;
- utilities;
- manufacturing;
- wholesale trade;
- transportation and warehousing;
- information (excluding movie and drive-in theaters);
- securities, commodity contracts, and other financial investments;
- insurance carriers and related activities;
- funds, trusts, and other financial vehicles;
- scientific research and development services; and
- management of companies and enterprises.

CSHB 2912 would include corporate headquarters facilities among eligible economic development projects. It would remove learning centers and municipal buildings from the list of qualified 4B development projects.

Investment outside of a corporation’s jurisdiction. The bill would allow a taxing unit other than a school district to enter into an agreement with a 4A development corporation, allowing the taxing unit to invest in a project

outside of the unit's territory. The agreement would have to define the base taxable value in the area defined in the agreement. The tax would be determined as of January 1 of the year of the agreement. The taxing unit could receive from the development corporation a percentage of the revenue from taxes imposed by the corresponding taxing unit in which the development project actually was located. The tax revenue paid to the investing taxing unit would be based on the incremental taxable value of the property exceeding the original base taxable value. It would be paid for as long as the corresponding unit imposed taxes on the property. A corporation entering into an agreement with an investing taxing unit also would have to enter into an agreement with the corresponding unit in which the project was located in order to recover the money that the corporation would have to pay to the investing taxing unit.

CSHB 2912 would allow one development corporation to invest in a project undertaken by another corporation. This investment agreement could entitle the corporation making the investment to receive from the city in which the investment was made a portion of the incremental tax revenue over the original base value of the property, as long as the city imposed tax on the property.

Performance agreements. CSHB 2912 would prohibit any development corporation created under the act from providing a direct incentive to or making an expenditure on behalf of a business unless the development corporation entered into a performance agreement with the business. A performance agreement would have to provide a schedule of jobs and capital investment to be created as a consideration for incentives or expenditures for the business. The performance agreement also would have to specify how the business would repay the resources if the business did not meet the requirements specified in the agreement.

Third-party contracts. A corporation would have to enter into a written contract with any third party who was paid by the development corporation for services relating to a business development project. This contract would have to be approved by the development corporation's board of directors. A corporation violating this requirement would be liable to the state for a civil penalty of up to \$10,000, and the attorney general could bring action to recover this penalty.

Other provisions. The bill would repeal a section of the Development Corporation Act defining a development area that a city determines to be developed in order to meet the city's objectives.

This 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, 2003.

NOTES:

The committee substitute made several changes to the original bill, including:

- requiring that infrastructure improvement projects be tied to developing or expanding primary jobs;
- defining primary jobs according to the North American Industrial Classification System;
- allowing development corporations to enter into agreements with other taxing units or development corporations; and
- requiring that third-party contracts for services be approved by the development corporation's board of directors.