

SUBJECT: Number and terms for “4A” development corporation board members

COMMITTEE: Economic Development — favorable, without amendment

VOTE: 7 ayes — Ritter, B. Cook, Anchia, Deshotel, Kolkhorst, McCall, Seaman
0 nays

WITNESSES: For — Carl Parker, City of Port Arthur
Against — None

BACKGROUND: The Development Corporation Act of 1979 (V.T.C.S., art. 5190.6) authorizes Texas cities to establish nonprofit industrial economic development corporations for the purpose of financing projects to develop certain businesses and promote the creation and retention of primary jobs.

Sec. 11 applies to all development corporations authorized under the act. It specifies that a corporation’s board directors must have no less than three members, that each director serves a term of no more than six years, and that a city council can remove a board member for cause or at will.

One type of corporation allowed under the act is described in sec. 4A. The board of a so-called “4A” development corporation consists of five directors who serve for terms of unspecified length at the pleasure of the city council.

DIGEST: HB 3036 would require that boards of 4A development corporations have no fewer than three directors who serve terms no longer than six years. City councils would determine the number of directors and term lengths within these parameters. The bill also would allow city councils to remove board members at any time without cause.

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, 2005. City councils of municipalities that had created 4A corporations would have until January 1, 2006, to apply the requirements of this bill to those boards.

**SUPPORTERS
SAY:**

HB 3036 would grant flexibility to cities in determining the number of directors on the boards of 4A corporations. Requiring a fixed number of directors can create problems in the process of appointing board members. For example, a city council may have seven members, all of whom want to appoint one director to the board of the local development corporation. Cities should be allowed to accommodate such requests within reason, which this bill would allow. It appropriately would set a minimum number while leaving the maximum number to the city council based on the needs of the local community.

HB 3036 would not complicate the process of appointing board members. If a city government decided to change the number of members on a board, it easily could do so.

The bill would clarify and strengthen existing language in the statute. Although current law says that the board of directors serves at the pleasure of the governing body, HB 3036 would make it clear that 4A board members could be removed by the governing body at any time without cause, which could prevent lawsuits by directors who felt they were unjustly removed from the board. HB 3036 would not change the balance of power between development boards and city governments — it simply would clarify existing law and make the language in sec. 4A consistent with the language in sec. 11, which applies to all corporations authorized under the act.

**OPPONENTS
SAY:**

While cities should have the right to remove board members who are not fulfilling their duties, this bill could embolden city councils to fire an entire board of directors because it disagreed with the development direction the board was taking. Current law supports the delicate balance of power between the city council and the development boards, including the degree of autonomy that the board must have to be productive. HB 3036 could upset this balance.

The process of selecting board members already is political enough. Having the city council decide the number of directors and term lengths would further complicate and politicize the process.

OTHER
OPPONENTS
SAY:

Establishing a minimum of three board members would concentrate power in too few hands, inviting the potential abuse of power by one or more directors. Instead, the bill should require that boards consist of no fewer than five members.