



THE TEXAS ECONOMIC
DEVELOPMENT COUNCIL
LEGISLATIVE WRAP UP
81ST TEXAS LEGISLATURE



OVERVIEW OF BILLS

The 81st Texas Legislature was a busy one for economic developers. Although the Texas Economic Development Council (TEDC) actively tracked nearly 100 bills, only about 20 made it to the Governor's desk. The 2009 session was also the slowest session on record for the economic development sales tax. Only half a dozen economic development sales tax bills were filed to amend the tax, while only four passed.

Despite challenging budgetary conditions, the TEDC achieved many of its top legislative priorities, including continued funding for the Texas Enterprise Fund, the Texas Emerging Technology Fund, and the Skills Development Fund. In addition, lawmakers passed legislation strongly supported by the TEDC that adds "computer centers" to the list of businesses that can benefit from school property tax limitations authorized under the Texas Economic Development Act (which was also extended until 2015). Other good news for economic developers includes the extension of the Property Redevelopment and Tax Abatement Act to 2019 and the fact that the economic development sales tax, usually a target for legislative action, was left virtually unchanged.

The TEDC legislative agenda also advocated increased funding for rural economic development programs. Several bills were filed and supported by the TEDC, however, no major legislation passed this session. HB 1911 by Isett (SB 1988 by Estes) would have created the Texas Rural Investment Fund. SB 684 by Lucio (HB 1715 by Gonzalez) would have created the Texas Rural Development Fund within the Office of Rural and Community Affairs. Although SB 684 passed the Senate and House committee, it unfortunately didn't make it to the House floor for a vote.

The economic development bills filed this session covered the spectrum. Many were technical in nature and focused on the use of incentives like tax increment financing (TIF) and tax abatements. Nearly 20 bills focused on the Texas Enterprise Fund and the Texas Emerging Technology Fund, although only a few passed. Many of the TEF bills that did not pass attempted to earmark a portion of dollars for specific purposes such as renewable energy projects or rail projects. As described earlier, several major pieces of legislation addressed rural development. HB 4525 by Parker, which would have authorized lucrative tax and financial incentives in designated "manufacturing zones," died during the final days of the legislative session.

DESCRIPTION OF MAJOR LEGISLATION PASSED AND CONSIDERED

ECONOMIC DEVELOPMENT SALES TAX

Only a handful of economic development sales tax bills were filed during the 2009 legislative session, and even fewer passed into law. The TEDC worked with legislative leadership to successfully defeat two bills that would have diverted economic development sales tax revenues to higher education and college scholarships (HB 3956 and SB 2295).

One of the bills that did pass was the re-codification of the economic development sales tax statute (SB 1969 by West) described above. This 460-page bill codifies HB 3440 (2007), SB 1089 (2007), and SB 1523 (2007) into Chapters 501-505 of the Texas Local Government Code.

Two other bills that passed are limited in their applicability. HB 3854 by Eiland is only applicable to Type A or Type B corporations created by cities located within the Hurricane Ike disaster area (located in 34 Texas counties). The bill adds Section 501.451 through 501.453 to Chapter 501 of the Local Government Code, adding a new definition for "project."

Another bill that applies to only certain economic development corporations is HB 3072 by Geren, which adds Section 253.012 to the Local Government Code and allows cities with a population of less than 20,000 to convey real property to Type A or Type B corporations (with the exception of real property acquired by the city by eminent domain). Under this new law, cities may convey real property to EDCs without complying with state notice and bid requirements. However, the transfer agreement (deed) must contain a provision requiring the EDC to use the property "in a manner that primarily promotes a public purpose of the municipality." If the EDC fails to comply with the public purpose provision, the property automatically reverts back to the city.

The only bill that passed with broad application to Texas economic development corporations is SB 2052 by Estes. This bill adds railports, rail switching facilities, marine ports, and inland ports to the definition of "project" contained in Section 501.101 of the Local Government Code.

TEXAS ENTERPRISE FUND

The Texas Enterprise Fund (TEF) was created during the 2003 legislative session to help jump-start the Texas economy and give Texas the financial resources to successfully compete with other states and nations for major economic development projects. One of the top five legislative priorities for the TEDC during the 2009 session was continued funding for the TEF at current levels or higher and no mandatory geographic "set-asides" to guarantee equal allocation of funds. Lawmakers ultimately appropriated \$20 million in new revenue to the TEF for the biennium and allocated unexpended balances estimated at \$160-180 million. Although the appropriation falls short of TEDC's legislative goal, the fact that the TEF was funded bodes well for the state's economic development efforts and shows the state's continued commitment to creating new jobs.

Although more than a dozen bills were filed to amend the Texas Enterprise Fund, very few bills passed. One of the bills that did pass is HB 394 by Rose (SB 355 by Van de Putte) which requires the governor to consider making grants from the TEF to recipients that are small businesses or other businesses that commit to using the grants to create new small businesses in Texas or relocate small businesses from outside the state to Texas. The bill defines a small business as one with less than 100 employees. Because the bill is permissive in nature (in other words, it does not require the governor to allocate a specific amount to small business), the TEDC did not actively oppose this bill.

Other TEF bills that failed to pass include HB 1277 by Button which would have authorized the use of TEF revenues to retain Texas businesses. The TEDC did not oppose HB 1277, but did not actively promote its passage. The TEDC did oppose and successfully defeat several bills which would have earmarked TEF funds for specific types of projects.

TEXAS EMERGING TECHNOLOGY FUND

Another top legislative priority for the TEDC was continued funding for the Texas Emerging Technology Fund (TETF), which was created two years after the TEF, as a way to boost Texas' competitiveness in the areas of science and technology.

Although funding levels for the TETF were less generous than the previous biennium, the appropriations bill, directed about \$203.5 million for the 2010-11 biennium for the Texas Emerging Technology Fund in new money.

HB 2531 by Chavez was one of the few TETF bills that passed during the 2009 legislative session. The bill requires that the governor's office submit to the legislature and post on its website, a report containing detailed (but not confidential) information about the use of the TETF for the past three years.

SKILLS DEVELOPMENT FUND & WORKFORCE DEVELOPMENT

More good news on the economic development front is continued funding for the Skills Development Fund, the state's only customized job training program. The appropriations bill allocated approximately \$80 million to the popular program for the biennium (\$40,482,305 for the first year and \$40,503,971 for the second year).

Another bill, which was supported by the TEDC, HB 2169, also passed. This bill authorizes the Texas Workforce Commission (TWC) by rule to establish and develop additional job incentive programs using Skills Development Fund dollars. Under a program established by this new legislation, the TWC would be authorized to commit incentives money to a prospective employer contingent on the employer's establishment of a place of business in this state. The award would still be made in partnership with a community or technical college and would be used for training only.

Another bill by Representative Chavez did not pass. HB 1180 would have altered the way funds are transferred from the UI Trust Fund to the Texas Enterprise Fund and Skills Development Fund.

The 2009 Texas Legislature also appropriated \$46 million to support Career and Technology Education (CTE) over the next two years. A new program called the "Jobs and Education for Texas (JET) grant program" was created which will help two-year colleges defray start-up costs connected with creating new CTE program and courses.

TEXAS ECONOMIC DEVELOPMENT ACT

The Texas Development Act was enacted in 2003 to create a mechanism for school districts to offer property tax relief to businesses undertaking major economic development projects in their community. Under the Act (which is located in Chapter 313 of the Texas Tax Code), a school district is allowed to limit the appraised property value of certain eligible projects ("value limitations") without losing state education funding.

One of the top TEDC legislative priorities during the 2009 session was to amend the Texas Economic Development Act to include computer centers as eligible projects. HB 3676 by Hefflin (SB 1593 by

Seliger) included this important provision in addition to extending the Act from December 31, 2011 to December 31, 2014. The bill also makes a number of significant substantive changes to the program.

TAX INCREMENT FINANCING

The growing popularity of tax increment financing (TIF) as an economic development tool is evidenced by the large number of bills filed during the 2009 session to amend Chapter 311 of the Tax Code, the Tax Increment Financing Act.

HB 1770 by Miklos authorizes counties to designate contiguous areas as a reinvestment zone. The bill also authorizes municipalities to designate a non-contiguous geographic area within their corporate limits or extraterritorial jurisdiction (or both) as a reinvestment zone. The bill further provides that the designation of an area that is wholly or partly located in the extraterritorial jurisdiction of a municipality is not affected by a subsequent annexation of real property in the reinvestment zone by the municipality.

HB 752 by England amends the TIF Act to specify that only municipalities with a population less than 130,000 (as shown by the 2000 federal census) can enter into an agreement with a school district to pledge revenue from a TIF fund to the district for the acquisition, construction, or reconstruction of an educational facility. Several other TIF bills, including SB 313 by Wentworth and SB 1633 by Nichols also passed, but are limited in their applicability.

TAX ABATEMENT

HB 773 by Oliveira extends the Property Redevelopment and Tax Abatement Act to 2019 (the law which authorizes cities and counties to grant the property tax abatements was due to expire on September 1, 2009).

Another major tax abatement bill that passed this session is HB 3896 by Oliveira. This bill clarifies that under existing law a municipality or county may agree with the owner of the property subject to an abatement to delay the commencement of the abatement period, but that under no circumstances can the actual period during which all or a portion of real/personal property is exempt from taxation exceed 10 years. The bill also contains language related to county authority to execute tax abatement agreements with the owner of tangible personal property located on real property in a reinvestment zone, as well as with the owner of a leasehold interest in tax-exempt real property located in a reinvestment zone.

SB 1458 by Seliger also extends the expiration date of the Property Redevelopment and Tax Abatement Act. In addition, the bill allows cities and counties to defer the commencement of a 10-year abatement period for an unspecified length of time. The bill also authorizes abatements of real property, personal property and leasehold interests.

ENTERPRISE ZONES

The Texas Enterprise Zone program remains a popular tool for some Texas communities to attract jobs and investment in targeted geographic areas. HB 271 by Ortiz increases the number of enterprise projects that can be designated in a given biennium to: (1) six in municipalities or counties with less than 250,000 residents (current law is four plus two bonuses in city or country with population above 250,000 and (2) nine in municipalities with more than 250,000 residents (current law is six).

RURAL ECONOMIC DEVELOPMENT

Another top legislative priority for the TEDC was increased state resources for rural economic development. Several major pieces of legislation were filed which focused on rural development, including HB 1911 by Isett (SB 1988 by Estes) which would have created a dedicated account in the General Revenue Fund called the Texas Rural Investment Fund. Another rural development bill, SB 684 by Lucio (HB 1715 by Gonzalez-companion) would have created the Texas Rural Development Fund and a comprehensive rural economic development program within the Office of Rural and Community Affairs. Although SB 684 passed the Senate and House committee, it unfortunately didn't make it to the House floor for a vote. One bill that did pass was HB 1918 by Darby, which changes the name of the Office of Rural Community Affairs to the Texas Department of Rural Affairs.

FILM INCENTIVES

Two major pieces of legislation passed which will make Texas a more competitive venue for film and other media productions. One bill, HB 873 by Dukes (SB 605 by Duell) strengthens the Moving Image Industry Incentive Program, which provides grants to companies that make films, television shows, or other qualified media productions in Texas. In addition to expanding eligibility for the program (for example, educational and instructional videos are now eligible for incentives), HB 873 makes it easier for companies to qualify for incentives (for example, by lowering the minimum in-state spending requirement for a film or television program from \$1 million to \$250,000) and allows the Music, Film, Television, and Multimedia Office to adopt rules to develop a method for calculating the amount of grants. Additional bonus incentives are available to companies that make films or other qualified media productions in what the bill calls "under utilized and economically distressed areas."

Another bill, SB 1929 by Watson (HB 1142 by Anchia) authorizes the creation of up to ten media production zones in the state of Texas (no more than five in any one region of the state), which will provide special incentives, including a special sales tax exemption for items sold or used to construct, maintain, expand, improve, renovate, or equip a media production facility at a qualified media production location; or to renovate a building or facility to be used exclusively as a media production facility.

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