

SUBJECT: Excluding captured value from TIF zone tax-rate calculations

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 10 ayes — Oliveira, McCall, Craddick, Hartnett, Bonnen, Y. Davis, Heflin, Keffer, Ramsay, Ritter

0 nays

1 absent — Hilbert

WITNESSES: For — Kathy Rodrigue, Ellis County Appraisal District

Against — None

On — Glenn Opel, Texas Industries

BACKGROUND: Under the Tax Increment Financing Act (Property Code, ch. 311), a city may create a tax increment reinvestment zone (TIRZ) for a specified period to upgrade an area and increase its taxable value. Taxes paid by landowners and/or developers on improvements they make to property in the zone are deposited into a tax increment fund (TIF), which pays for the costs of new or upgraded infrastructure and other public improvements within the zone. The additional tax revenue generated by the property after it is improved represents the increment. The additional taxable value of the property derived from the improvements is called captured appraised value.

Each tax year, every local taxing entity must calculate and publish its effective tax rate — the rate required to generate the same amount of revenue from the revalued property tax base as generated in the prior year — and its rollback tax rate, the rate above which citizens may petition the entity for an election to reduce (roll back) the rate to its prior level. Currently, only school districts participating in TIRZs do not have to include captured appraised value in their effective and rollback tax-rate calculations.

DIGEST: CSHB 1468 would add allow local taxing entities, other than school districts, in TIRZs in counties of less than 500,000 population to omit captured appraised value and TIF revenue from their rollback and effective tax-rate calculations.

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, 2001.

SUPPORTERS SAY: CSHB 1468 would restore truth in taxation to entities participating in TIRZs. It would give taxpayers a much clearer picture of entities' taxing efforts and the actual rates required to maintain current revenue and services or to trigger a rollback election.

Because property in these zones receives special tax treatment, its value is not taxed in the same manner as other property in the entities' jurisdictions. This bill merely would allow tax rates to be set according to the value of property not receiving this special treatment, including property in the zone. Doing so would give the taxing entities' governing bodies and their taxpayers a better indication of the actual revenue the tax rate would generate.

Including the captured appraised value of TIRZ property in those calculations is misleading. It artificially lowers rates by counting toward the rates property that, in effect, has been taken out of the overall tax base. Entities continue to collect taxes on the zone's unimproved property and use the revenue to provide services in general, just as they did before the zone was created. But the additional revenue collected on the improvements (increment) is dedicated to the zone. An entire entity does not benefit from that increase in taxable property value (captured appraised value), so its tax rates should reflect that fact. The increases should not be used in rate calculation because, in fact, the rates must be higher to make up for the dedicated revenue the entity cannot spend elsewhere until the TIRZ expires, after which all taxpayers benefit. In the meantime, tax-paying businesses must have some incentive to upgrade blighted and underdeveloped areas.

The detrimental effect of not allowing this exclusion is much more pronounced in communities with smaller tax bases. For example, Midlothian, south of Dallas, has a 1,700-acre TIRZ containing a power plant and cement

factory worth hundreds of millions of dollars. Fifteen percent of Midlothian's taxable property value is captured appraised value in the TIRZ. It is unfair for the city to lower its rate to participate in the TIRZ when the school districts do not. Tax equity dictates that all entities be treated the same.

It is irrelevant that most school districts no longer are participating in newly-created TIRZs, because the Legislature decided in 1999 no longer to deduct TIRZ property from taxable value in school-finance calculations. School districts' participation in pre-1999 TIRZs was grandfathered, so they may continue to be held harmless in state aid formulas. But even if school districts were not involved in TIRZs at all, entities that are involved should be allowed to base their rates on reality.

Larger cities and counties do not feel nearly the same impact as smaller communities and, therefore, should be exempt from this provision. Thus, the bill would exclude entities in Bexar, Dallas, El Paso, Harris, Hidalgo, Tarrant, and Travis counties.

CSHB 1468 would make only technical, nonsubstantive changes in the code. The bill is not designed to circumvent effective or rollback tax-rate statutes. It probably would affect less than 100 zones across the state.

OPPONENTS
SAY:

Cities and counties are trying to have it both ways. They want to attract big business to increase property values and spend the additional revenue only on those few taxpayers, instead of on everyone. If companies are going to receive the benefit of direct tax expenditures, other taxpayers who do not benefit directly should get a rate break. If property is being taxed and the tax revenue is being spent by elected public officials, the tax rates should be figured into the rates that the entire electorate pays.

Comparing cities and counties to school districts is inappropriate. Unlike cities and counties, school districts are not totally self-sustaining. They receive large portions of their budgets from the state based on their tax efforts and taxable property values. In 1993, the 73rd Legislature discontinued the policy of allowing school districts to exclude property in tax-abatement agreements from the taxable value used to calculate their share of state education aid. In 1999, the 76th Legislature extended that treatment to

taxable school property in new TIRZs. Although school districts (including those still participating in grandfathered TIRZs) may exclude captured appraised value from their tax-rate calculations, the change in state policy virtually has eliminated TIRZs as a viable option for school districts not already in one. So, in effect, cities and counties are seeking something that school districts no longer have.

OTHER
OPPONENTS
SAY:

If the state intends to force most taxing entities to tell the truth, then it should force all of them to do so, even if it raises their rates imperceptibly. The large urban counties should not be exempt.

NOTES:

HB 1468 as filed did not have a population limitation.