

- SUBJECT:** Revising provisions for financing sports and community venues
- COMMITTEE:** State Affairs — committee substitute recommended
- VOTE:** 11 ayes — Wolens, S. Turner, Brimer, Counts, Craddick, Danburg, Hunter, Longoria, McCall, McClendon, Merritt
- 0 nays
- 4 absent — Bailey, Hilbert, D. Jones, Marchant
- WITNESSES:** For — *Registered but not testify:* Scott Joslove, Texas Hotel and Motel Association
- Against — None
- BACKGROUND:** The 75th Legislature enacted HB 92 by Brimer, et al. (Local Government Code, chapters 334 and 335), authorizing the use of certain local taxes and bonds to pay for sports and community venues and related infrastructure. Local Government Code, sec. 334.001(4) defines “venue” as:
- ! an arena, coliseum, stadium, or other type of area or facility that is used for certain events and charges an admission fee;
  - ! a convention center or related facility owned by a municipality or county;
  - ! a tourist development area along an inland waterway;
  - ! a municipal parks and recreation system, related improvements or additions, or an area or facility that is part of such a system; and
  - ! any other economic development project authorized by other law.
- The Development Corporation Act of 1979 (VACS, art. 5190.6) allows development corporations to issue bonds and levy taxes to service bond debt. SB 376 by C. Harris, enacted in 1991, expanded the scope of development corporations to include tourism, athletic, and entertainment facilities by authorizing the establishment of 4B corporations in addition to existing 4A industrial and manufacturing corporations. Laws enacted in each of the past four sessions have amended provisions for 4A and 4B corporations.

**DIGEST:** CSHB 1772 would amend the Local Government Code to change the definition of a venue as “any other economic development project authorized by other law” by defining venue as a project authorized by the Development Corporation Act as it existed on September 1, 1997.

**False or misleading campaign material.** CSHB 1772 would make it an offense to knowingly and recklessly print, broadcast, or publish or cause to be printed, broadcasted, or published campaign material that contained false or misleading information in connection with an election to authorize a venue project under Local Government Code, chapters 334 and 335. The bill would define “campaign material” as a communication supporting or opposing the authorization of a venue project that:

- ! in return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television, or
- ! appears in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication.

The offense would be a Class A misdemeanor, punishable by fine only. If the person committing the offense had been convicted previously of a similar offense, the repeat offense would be a punishable by a fine up to \$10,000.

A person could file a complaint with the Texas Ethics Commission alleging such an offense. The commission could impose a penalty if it determined that the campaign materials contained false or misleading information. This penalty would be in addition to the authorized fines. The commission would have jurisdiction to consider and investigate a complaint about false or misleading campaign material and to impose a penalty.

**Application.** CSHB 1772 would amend Local Government Code, chapter 334, subchapter H so that provisions governing the hotel occupancy tax would not apply to the financing of a venue project that is part of a municipal parks and recreation system or that is a 4A or 4B development corporation subject to the law as it existed on September 1, 1997.

CSHB 1772 would take effect September 1, 2001. It would not apply to a sports and community venue project approved before that date; to the use of tax revenue pledged to secure bonds or pledged or dedicated for site

acquisition, construction, improvement, enlarging, equipping, repairing, operation, and maintenance of sports and community venue projects before that date; or to the use of tax revenue for a sports and community venue project that was under construction on that date.

**SUPPORTERS  
SAY:**

CSHB 1772 would clarify the type of sports and community venue projects the 75th Legislature intended to authorize under HB 92. By limiting the definition of an acceptable 4A or 4B venue to the definitions that existed in law in 1997, it would ensure that local taxes and bond issuances approved for development of sports and community venues could not be used for unrelated projects. For instance, localities often levy hotel/motel taxes to fund sports and community venue projects authorized under HB 92. CSHB 1772 would limit the use of hotel/motel taxes in venue elections to arenas, stadiums, civic centers, and other projects that are related to promoting tourism or convention activity, rather than allowing these taxes to be spent on general economic development projects.

CSHB 1772 also would help bring campaign fairness to local elections for these tax and bond measures and would help to ensure that voters are not subjected to deliberately false and misleading advertising in election campaigns. A person who knowingly and recklessly produced or distributed such materials would be subject to a fine, with a larger penalty for repeat offenders to deter continued use of false and misleading material.

While the Election Code closely regulates political campaigns involving candidates, referendum campaigns involving measures are relatively unregulated. CSHB 1772 would establish a means of recourse in measure elections in the limited circumstances when false and misleading statements are made knowingly and recklessly. Only those who deliberately disseminated such campaign material would be subject to criminal prosecution or sanction by the Texas Ethics Commission.

**OPPONENTS  
SAY:**

HB 92, the existing sports and community venue statute, provides an alternative means for localities to finance beneficial economic development projects. Eliminating the 1999 amendments to the Development Corporation Act from the definition of "venue" would contradict the intentions of the 76th Legislature in adding projects that could be financed under the act.

Communities should not be unduly restricted in using this economic development tool to finance needed local projects.

The bill would go too far in making a criminal offense of political speech in elections involving issues of taxation and potentially large public expenditures for sports facilities. Participants in an election should be able to express themselves freely without being intimidated by the risk of criminal prosecution. Voters should be the ultimate judges of the relative merits of political discourse, including campaign material that some may consider false or misleading.

NOTES:

The committee substitute amended the original bill to specify that the offense of knowingly publishing or distributing false and misleading campaign material would be a Class A misdemeanor, punishable by fine only, and that repeat offenders would be subject to a fine not to exceed \$10,000. It also added the offense of false or misleading campaign material to Local Government Code, chapter 335 in addition to chapter 334.