

- SUBJECT:** Continuing the Texas Department of Economic Development
- COMMITTEE:** Economic Development — committee substitute recommended
- VOTE:** 8 ayes — Solis, Keffer, Clark, Deshotel, Homer, Luna, Seaman, Yarbrough
0 nays
1 absent — McClendon
- WITNESSES:** For — John A. Breier, Beaumont Chamber of Commerce; Steve Butcher, City of Mineral Wells and Palo Pinto County; Spencer Chambers and Bill Hammond, Texas Association of Business and Chambers of Commerce; David Dunham, Texas Tourism Industry Association; Irma Garcia, Valley Initiative for Development and Advancement; Mario Hernandez, Texas Economic Development Council; Scott Joslove, Texas Hotel and Motel Association; Rosa Muñiz, Capital IDEA; John J. Plotnik, Corpus Christi Regional Economic Development Corp.; Reid Rector, Fort Worth Chamber of Commerce; Robert C. Roberson, Fort Worth and Western Railroad; Paul Serff, Texas Travel Industry Association; Judith Anne Sturrock, TRAIN U.S.A.; Rosalie Tristan, Valley Interfaith; Stuart Whitlow, Austin Interfaith; *Registered but did not testify:* Jim Campbell, City of San Antonio; Tristan “Tris” Castaneda, Jr., Arlington Chamber of Commerce; Joseph E. Oubre, Jr., Metro Alliance; Chris Shields, San Antonio Chamber of Commerce; Joe O. Soliz, San Antonio COPS
- Against — None
- On — Jeff Moseley, executive director, and five other employees of the Texas Department of Economic Development; Nick Villalpando, State Auditor’s Office; Dr. Glenda Barron, Texas Higher Education Coordinating Board; *Registered but did not testify:* Four employees of the Texas Department of Economic Development
- BACKGROUND:** The Texas Department of Economic Development (TDED) is the primary state agency for promoting and developing the state economy. TDED serves as the state’s first point of contact for businesses interested in locating or

expanding in the state and helps match these businesses with interested communities. TDED also funds job training for businesses through the Smart Jobs program; helps businesses and communities obtain capital; promotes tourism in Texas; oversees the state's economic investment programs for struggling communities, including the enterprise zone program and the defense economic readjustment program; and serves as a central source for economic development information.

The Legislature established TDED in 1997 to replace the Texas Department of Commerce. For fiscal 2000-01, TDED's budget was about \$100 million. TDED is subject to the Texas Sunset Act and will expire September 1, 2001, unless continued by the Legislature.

Smart Jobs. The Smart Jobs program provides grants directly to businesses to pay for customized employee training to upgrade the skills of new or existing employees. Employers who receive grants must provide at least a 10 percent match and pay a salary increase to the trained workers. Since its inception, the program has made more than 1,200 grants and has paid out more than \$70 million.

The program is funded by 0.1 percent of the unemployment insurance tax. Money for the program is held in a holding fund each year until the state certifies that there is adequate money in the unemployment compensation trust fund, administered by the Texas Workforce Commission (TWC), to meet the statutory floor. If this threshold is not met, money from the holding fund is transferred into the unemployment fund to prevent a deficit tax from being imposed on employers to bring the fund's balance up to the floor. If, after this transfer, the unemployment fund is still below the statutory floor, a deficit tax must be assessed on all experience-rated employers sufficient to bring the amount of money in the fund up to the floor.

The Smart Jobs program has been frozen since early 2000, when a report by the State Auditor's Office found TDED guilty of gross fiscal mismanagement and concluded that the program had placed state funds at risk of waste and abuse by employers who received grants. The auditor found that grants were not awarded competitively; employers were paid for training employees who did not meet all of the program requirements; TDED had not held employers accountable for meeting the terms of the contracts;

and the program's success could not be measured because TDED does not collect accurate and meaningful data. A second report by the auditor in August 2000 found that the program had trained only about one-third of the employees and had created only one-third as many new jobs as promised by employers between 1995 and 1998. The audit also found that TDED had paid at least \$5 million to contractors for trainees who did not meet contract requirements or never participated in the Smart Jobs program.

Tourism. Tourism promotion, TDED's second largest program, consists mainly of advertising and marketing Texas to potential travelers outside the state. TDED also helps communities to develop local tourist attractions and co-maintains an Internet web site, *TravelTex.com*, with the Texas Department of Transportation (TxDOT). Nearly all funding for this program comes from a portion of the state's hotel-motel occupancy tax.

Financial assistance programs. TDED operates several programs to provide financial assistance to communities to encourage economic development. These programs include the Texas Capital Fund, Infrastructure Program, Real Estate Program, Main Street Program, Capital Access Fund, Texas Leverage Fund, Linked Deposit Program, Texas Small Business Development Corporation, Texas Enterprise Zone Program, and Defense Economic Readjustment Zone Program.

International trade and foreign offices. TDED helps Texas companies expand into foreign markets through trade missions, shows, and seminars. The department also aids foreign companies looking for Texas suppliers. TDED operates a foreign office in Mexico City. Funding for TDED offices in Taiwan, Japan, Germany, and Korea was eliminated in 1995.

Border affairs program. TDED created the Border Affairs Program to develop and strengthen economic development in the Texas-Mexico border region. The program helps public and private entities strategically plan for development and provides information about economic development tools available at the agency. TDED also works closely with the secretary of state to promote crossborder development and Texas-Mexico relations.

Rural economic development fund. This fund secures bonds issued by TDED to support economic development projects in rural areas. TDED also

is authorized to makes loans and to guarantee loans made by private lenders for these purposes.

Texas Economic Development Corp. This nonprofit corporation, created by the Legislature in 1987, raises private funds to support TDED programs and activities. In fiscal 1999, the corporation's funds totaled about \$175,000. The governing board of TDED is also the governing board of the corporation.

Texas Strategic Military Planning Commission. This commission serves as an advisory committee to TDED's Office of Defense Affairs on the effect of the military on the Texas economy. The commission is composed of nine members appointed by the governor to serve staggered three-year terms, as well as two ex-officio members.

Governing board. TDED is governed by a nine-member board appointed to represent all regions of the state. Four members must be appointed to represent various economic interests and experience, including a county with a population of less than 30,000, economic development practitioners, experience in international trade, and experience in tourism. Members are appointed by the governor to serve staggered six-year terms.

DIGEST:

CSHB 3452 would continue TDED for a two-year probationary period. The Sunset Advisory Commission would have to evaluate the department's success in implementing the bill's requirements according to specified criteria in the bill before the 2003 legislative session.

Smart Jobs. CSHB 3452 would prohibit TDED from awarding a grant under the Smart Jobs program on or after September 1, 2001. All Smart Jobs contracts in existence on that date would continue to be administered by TDED until their completion. All unspent and unobligated funds in the Smart Jobs Fund on that date, as well as any other funds used by the agency to administer the program or any funds it received under a contract, would be transferred to the unemployment compensation trust fund.

Texas Tourism Coordinating Council. The bill would create a Texas Tourism Coordinating Council to coordinate the tourism functions of different state agencies. The council would have to implement a coordinated

marketing plan and submit a biennial report to the Legislature.

The council would be composed of one representative from each state agency whose work has an impact on tourism. Agencies represented on the council would provide the council with administrative support. The council would have to meet at least quarterly.

TDED would have to develop, in consultation with the council, performance measures for TDED's tourism activities that separate the department's activities from those of other state agencies. TDED also would have to compute and report the return on investment from state funding for tourism to all state agencies.

Foreign offices, international trade, border affairs, and rural economic development fund. CSHB 3452 would transfer TDED's international trade functions to the Secretary of State's Office and would authorize the secretary, rather than TDED, to maintain and operate offices in foreign countries. The bill also would transfer the Texas Exporters Loan Fund, border affairs program, and rural economic development fund to the secretary of state.

Texas Business and Community Economic Development Clearinghouse. The bill would transfer the clearinghouse to the Comptroller's Office.

Texas Economic Development Corp. The bill would prohibit the corporation from engaging in fund-raising activities, except for the Market Texas program, and would limit its fund-raising to \$2 million per biennium.

Governing board. The bill would reduce TDED's board from nine members to five. The governor would have to appoint a new board as soon as possible on or after September 1, 2001.

Sunset evaluation. In determining whether TDED had implemented the bill's requirements successfully, the Sunset Advisory Commission would have to consider whether the department had:

- ! developed and implemented a strategic plan that ensured a clear focus and direction for the department, focused activities based on the policy

directives of the governing board, detailed how TDED would implement the plan, and explained how individual division actions contribute to the department's desired results;

- ! established subcommittees relating to the key administrative and programmatic functions;
- ! established effective, department-wide contracting standards and methods;
- ! developed and implemented consistent, department-wide policies, procedures, and controls over daily operations;
- ! developed and implemented a centralized information and accounting system to provide single management reports for key areas; and
- ! implemented management responses to internal audits.

TDED would have to report to the Sunset Advisory Commission on the status of these criteria by September 1, 2002.

CSHB 3452 would apply standard sunset provisions regarding grounds for removal of a board member, separation of the department's policy-making and management functions, board member training, and handling of complaints received. The bill also would:

- ! prohibit TDED's advisory committees from being involved in setting department policy or in managing the department's operations, or from including a board member;
- ! prohibit the Texas Strategic Military Planning Commission from deliberating the purchase, exchange, lease, or value of real property, the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a TDED officer or employee, or a complaint or charge against a TDED officer or employee; and
- ! require TDED to adopt rules regulating fund-raising activities and accounting for all general revenue contributed to outside projects.

The bill would take effect September 1, 2001.

SUPPORTERS
SAY:

CSHB 3452 would streamline TDED to enable the department to focus on its core economic development activities of providing assistance to businesses and communities interested in business expansion, as well as promoting tourism. The bill would help correct long-standing problems at the department identified by sunset review and would ensure proper accountability by requiring TDED to develop and implement effective board leadership and executive management, a focused strategic plan, and department-wide contracting standards and controls over daily operations. The bill would ensure compliance with these changes by requiring TDED to undergo sunset review again before the next legislative session.

Smart Jobs. CSHB 3452 would leave the Smart Jobs program at TDED to give the Legislature time to study the program over the interim and to determine the best place and focus for the program. The intense debate over this program during sunset review indicated a clear need for further review to evaluate the program's effectiveness and how it should be tailored to meet the needs of Texas employers. The Legislature also needs time to define the program's purpose, which has strayed considerably from its original formulation as an incentive to retain General Motors operations in Arlington.

The bill also would sweep all Smart Jobs funds at TDED into the unemployment compensation trust fund to ensure that it could cover unemployment compensation payments and prevent a deficit tax from being imposed on Texas employers. TWC now estimates that the fund will drop almost \$110 million below the floor, and that even after the required transfer from the Smart Jobs fund, the unemployment fund would only be \$7 million above the floor. Even the slightest increase in unemployment rates, which is quite likely in the current economy, could reduce the fund below the floor and require an additional deficit tax on employers. Sweeping all of the money for Smart Jobs at TDED, including administrative funds, would ensure that the state would not have to impose a deficit tax on employers.

Texas Tourism Coordinating Council. Creating this council would provide a forum for the 11 state agencies involved in tourism activities to coordinate their efforts and would ensure a consistent, unified tourism message across the agencies. The fragmentation of these functions across so many state agencies has led to duplication, inconsistencies, and poor customer service in the state's tourism activities, according to the Sunset Commission.

Coordination failures also have resulted in mistakes, such as incorrect information and misrepresentation of services in publications. The state needs a mechanism to coordinate the functions of these various agencies to prevent such problems, which the coordinating council would provide.

Keeping TDED's tourism functions at the department is crucial for the state's tourism industry. As the third largest industry and employer in the state, the tourism industry needs an effective advocate and a central point of contact for industry information. The state also needs a strong promotional campaign to help increase tourism revenues and create jobs. TDED has been successful in this capacity; for each dollar spent on tourism promotion, the state has received \$3 in return, and direct spending by travelers in Texas increased by more than 60 percent from 1990 to 1998. Small cities in particular need a statewide campaign, as they cannot conduct their own promotion. If moved to TxDOT, these functions would be unlikely to receive the same priority as they do at TDED, which could harm the tourism industry in Texas.

Foreign offices, international trade, border affairs, and rural economic development fund. As the unofficial designee for crossborder relations and border economic development, the Secretary of State's Office is the most appropriate entity in which to house these related programs now at TDED. The secretary of state would provide a higher profile for Texas-Mexico relations and border development, and moving these programs to this office would give the secretary more tools with which to pursue these functions. TDED has also failed to adequately promote economic development in rural areas, instead focusing on cities, and moving the rural economic development fund to the Secretary of State would provide more emphasis on this program.

Texas Economic Development Corp. CSHB 3452 would provide TDED with a means of raising money for the Market Texas program, which the department requested as an exceptional item in the budget for the next biennium. According to TDED, Texas has fallen from first to fourth among states in attracting new and expanded business facilities. A marketing campaign, similar to the successful tourism marketing campaign, could identify markets likely to be interested in moving to or expanding in Texas, advertise the state to those businesses and industries, and generate economic development leads for Texas cities. The \$2 million fund-raising limit would

not have an impact on the corporation, as it has not come close to raising this amount of money in the past.

Texas Strategic Military Planning Commission. Reforming this commission would ensure that it served solely in an advisory capacity. TDED needs the commission to ensure adequate expertise and input on defense issues, particularly as many areas of the state formerly dependent on defense make the transition into a new economy. The commission also is crucial in helping the state's 17 communities with active military installations plan how to maintain those bases so that they are not closed in the upcoming round of base closures by the federal Base Realignment and Closure Commission. Having a base closed can be devastating to these communities, more than a quarter of whose population may be employed by the base.

Texas Business and Community Economic Development Clearinghouse. Moving this information to the comptroller, who already keeps extensive data on businesses in the state and on taxes, would consolidate this information in a single location and would provide a single point of contact for people or businesses looking for economic development information.

Governing board. Reducing the size of the board would encourage board members to take a more active, interested role in steering TDED and would reduce the high turnover that the board has experienced. Board members could get the necessary program-specific expertise through advisory committees.

OPPONENTS
SAY:

Sunset date. TDED should be continued for a probationary period of four years. Two years is not enough time to make comprehensive changes and to compile a record with which to demonstrate the effectiveness of those changes.

Move Smart Jobs to TWC. Transferring the Smart Jobs program to TWC would bring the state's job training programs under one agency and would increase coordination with other workforce development efforts. As the primary state agency for workforce development, TWC is the most appropriate agency for these programs, and the commission has a strong record of managing similar programs, such as the Skills Development Fund. Moving Smart Jobs to TWC also would provide a central point of contact for

businesses interested in accessing the state's job training programs. There is no need to suspend the valuable Smart Jobs program for two years while the Legislature considers its future, particularly as TWC could manage the program effectively. Some money could be left at TDED for use as a financial incentive to bring investment into the state.

Keep Smart Jobs at TDED. Since the Smart Jobs program was frozen, TDED has made remarkable strides toward re-engineering the program to provide proper safeguards and ensure accountability. TDED should have an opportunity to demonstrate the effectiveness of these changes by continuing funding for the program while the Legislature deliberates its future. Freezing the program's funding also would impair the state's ability to attract business to Texas by removing one of the state's key incentives. The state cannot afford to lose this important incentive for attracting business to Texas, particularly as the economy is entering a downturn. Smart Jobs should remain at TDED because its purpose as an incentive for economic development fits more with the agency's mission.

Tourism. TDED's tourism functions should be transferred to TxDOT. Having two state agencies charged with promoting tourism in Texas results in inefficiencies and duplication of effort. Poor communication between the two agencies has harmed customer service; for example, the staff who operate the agencies' 800 numbers are not always informed about the programs of the other agency and cannot offer callers the information they seek. Moving all functions to TDED would be impossible, as TDED does not have a statewide structure to handle TxDOT's travel information centers and because many of TxDOT's tourism functions are tied integrally to its other functions. TxDOT, on the other hand, has the capacity to integrate TDED's tourism activities with its own and to provide more comprehensive, unified tourism promotion.

Foreign offices and international trade. International trade is an integral part of corporate expansion and recruitment, and as such should be left at TDED. It is unwise to separate corporate expansion and recruitment into two parts — domestic and international — and then house these functions at different entities. Moreover, the secretary of state generally has focused solely on relations with Mexico, while TDED has pursued business leads in more than 60 countries worldwide. Since the duties of the secretary of state

often change with the priorities of each new secretary, these functions could receive a lower priority under the next secretary. These functions would always remain a priority at TDED since they are a fundamental part of the department's mission.

Texas Economic Development Corp. The corporation is unnecessary and should be abolished. TDED already has the statutory authority to raise and spend private funds and does not need a private corporation for this purpose. Moreover, TDED has no method of demonstrating whether the corporation's benefits outweigh its costs, and the lack of controls over this money has led to the appearance of impropriety.

Texas Strategic Military Planning Commission. The commission is unnecessary and should be abolished. It has completed its primary mission of helping the Office of Defense Affairs assess active military installations in the state for action by the 76th Legislature.

Texas Business and Community Economic Development Clearinghouse. The information in the clearinghouse is integral to support existing TDED programs and should remain at the department. For example, the clearinghouse provides research for the department's recruitment program. As the first point of contact for businesses looking to expand, TDED should house the clearinghouse to provide information to these businesses.

Governing board. TDED's board should remain at nine members to ensure adequate geographic and ethnic diversity. Economic development needs across the state are highly diverse, and the board needs members who understand and can provide expertise on these different needs.

OTHER
OPPONENTS
SAY:

TDED should be abolished. The department never has had a clear purpose and has mismanaged and wasted taxpayer money. Continuing TDED under CSHB 3452's provisions would leave little more than a glorified tourism agency, a function that should be handled by the tourism industry anyway. Economic development is primarily a local activity, and the only important state function of providing a contact point for businesses and communities interested in business expansion could be provided through the Governor's Office or the Secretary of State's Office.

NOTES:

The committee substitute removed a provision in the filed version that would have transferred the Smart Jobs program to TWC and added provisions that would transfer all funds related to Smart Jobs, including money in the Smart Jobs Fund, to the unemployment compensation trust fund. The substitute added provisions transferring the administration of foreign offices and the international trade program to the secretary of state and transferring the Texas Business and Community Economic Development Clearinghouse to the comptroller. The substitute removed a provision that would have abolished the Texas Economic Development Corp. and added a provision limiting fund-raising by the corporation. The substitute added provisions requiring TDED to create performance measures for tourism and decreasing the number of board members.

The companion bill, SB 321 by Sibley, has been referred to the Senate Business and Commerce Committee.