

SUBJECT: Exempting certain defense base projects from property taxes

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 9 ayes — Oliveira, McCall, Craddick, Hartnett, Bonnen, Y. Davis, Heflin, Keffer, Ritter

0 nays

2 absent — Hilbert, Ramsay

SENATE VOTE: On final passage, May 8 — 22-6 (Bivins, Ellis, Jackson, Ogden, Shapleigh, Truan)

WITNESSES: No public hearing

BACKGROUND: Local Government Code, ch. 378 allows cities to create defense base development authorities to promote the redevelopment of military installations closed or realigned under the federal Defense Base Closure and Realignment Act of 1990 (10 U.S.C., sec. 2687) and its subsequent amendments. These authorities are considered special districts and political subdivisions of the state. Authorities are exempt from taxation of their property, income, and operations.

A defense base development authority may designate a project to redevelop the base or base property. These redevelopment projects must pay local ad valorem taxes on property owned by the authority that the authority leases or in which it holds possessory interest.

The Development Corporation Act of 1979 (V.T.C.S., art. 5190.6) authorizes cities to create “4A” or “4B” industrial development corporations, depending on a city’s size, to conduct a wide variety of economic development projects. Property owned by “4B” corporations, regardless of whether it is leased to another party, is exempt from ad valorem taxes if the city has held an election to impose a sales tax to fund the corporation. Nearly all cities with “4B” corporations have imposed a tax for this purpose with voter approval.

DIGEST: SB 1558 would exempt from ad valorem taxes property owned by a defense base development authority and leased to a redevelopment project. This exemption would expire September 1, 2007.

The bill also would expand the definition of “defense base” to allow a city to create a development authority for a closed military installation operated by a public technical institute in a county with a population between 210,000 and 230,000 (James Connally Air Force Base), Ellington Air Force Base, and the former Amarillo Air Force Base.

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, 2001.

SUPPORTERS SAY: SB 1558 would help Kelly Air Force Base, which soon will be closed, to attract private investment by granting it the same ad valorem tax exemption as allowed for “4B” economic development corporations. San Antonio lost 19,000 jobs from closure of the base, which had been the city’s largest employer. Although the city established a defense base development authority to redevelop the base and replace those jobs, the authority has faced a disadvantage in attracting private investment compared with Texas’ more than 300 “4B” corporations, because the authority cannot offer businesses the same tax incentives as the 4B corporations can. SB 1558 would allow the authority, which fulfills the same role as economic development corporations, to compete fairly in attracting economic development by granting it the same ad valorem tax exemption as these corporations enjoy.

This bill would not take money away from local school districts, which now receive no tax revenue from the base’s property since, as a federal base, it is exempt from taxation. The proposed exemption would be limited to five years, after which the school districts could receive the full tax revenue from the property. These districts would be better off than districts that contain economic development corporations, which receive a permanent exemption. Moreover, without the incentive of a five-year exemption, businesses could choose to locate elsewhere, leaving the school districts without a significant source of tax revenue. The state is no more responsible for redirecting money to these school districts due to the exemption of property from the

district's tax rolls than it is for property exempted for development corporations.

SB 1558 would not set a precedent for exempting property from ad valorem taxation. That precedent was set by the Development Corporation Act of 1979. SB 1558 simply would extend this exemption to cover very similar development corporations to ensure that they had the same ability to attract investment.

San Antonio should not have to create a "4B" corporation to receive this exemption. The city initially tried this route but found that the statute for these corporations did not cover the unique circumstances of defense base closures, such as the transfer of title or tangible property from the federal government. The Legislature enacted the defense base development authority act in 1999 to provide the necessary authority, which was a more appropriate solution than amending the Development Corporation Act of 1979 in ways that other corporations would find unnecessary. Rather than forcing the city to create a second, overlapping and duplicative corporation, the city's defense base development authority should receive the same ad valorem tax exemption as those corporations receive. Moreover, if the city were to create a "4B" corporation, the base would be exempted permanently from ad valorem taxes, rather than receiving a temporary exemption.

OPPONENTS
SAY:

SB 1558 would force the entire state to pay for the redevelopment of a single base to benefit a single city. By removing this property from the tax rolls of the area's already property-poor school districts — including the Edgewood ISD, which sued the state for disparities in school financing — the state would have to continue to redirect large amounts of money from other parts of the state to these districts under the school finance system. If San Antonio wants to offer businesses tax incentives to locate there, it can do so through tax abatements, the cost of which the city, rather than the state, would absorb.

SB 1558 could set a precedent for exempting closed bases or other property from ad valorem taxation. The state already has a vehicle for exempting property from these taxes for economic development purposes and should limit this exemption to those corporations, or else risk being inundated with

requests for exemptions. If San Antonio wants to exempt Kelly from ad valorem taxes, it can do so by creating a “4B” corporation.