

SUBJECT: Allowing cities to abate taxes of leaseholders in reinvestment zones

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 7 ayes — Oliveira, McCall, Bonnen, Y. Davis, Keffer, Ramsay, Ritter
0 nays
4 absent — Craddick, Hartnett, Heflin, Hilbert

SENATE VOTE: On final passage, April 26 — 30-0, on Local and Uncontested Calendar

WITNESSES: For — Anita Burgess, City of Lubbock
Against — None

BACKGROUND: In 1987, the 70th Legislature enacted the Tax Increment Financing Act (Tax Code, ch. 311) and the Property Redevelopment and Tax Abatement Act (Tax Code, ch. 312).

Subchapter B of the Property Redevelopment and Tax Abatement Act allows cities to create reinvestment zones in specific geographic areas or on pieces of real estate that meet certain economic or social conditions. Sec. 312.204(a) allows cities to abate taxes on taxable real property in a reinvestment zone if the owner makes specific improvements or repairs to the property.

Under Tax Code, sec. 311.0125, a city may agree to a tax abatement for a reinvestment zone, which exempts a portion of the property's valuation from taxation. In a tax increment reinvestment zone, the difference in revenue generated by the original taxable value of the property and the revenue generated by the higher value due to improvements made by the private developer — known as the increment — can be used to repay debt issued for public improvements made in the zone.

Attorney General's Opinion JC-0300, issued in October 2000, determined with regard to sec. 312.206(a) that a commissioners court may enter into a

tax abatement agreement only with the “owner of taxable real property.” Because leaseholders located on tax-exempt real property do not own the property, they may not enter into tax abatement agreements with counties.

DIGEST:

CSSB 985 would allow municipal governing bodies to exempt portions of the value of taxable leasehold interests, real property improvements, or tangible personal property located on real property subject to leasehold interests. The exemption could not last more than 10 years. To be eligible, the leasehold interest owner would have to make specific improvements or repairs to the real property. Such tax abatements would be subject to the rights of outstanding municipal bondholders.

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:**

Current law allows city councils that create reinvestment zones to abate taxes only for real property owners. At best, this limits cities’ economic development efforts by hampering their ability to attract business and industry that might need or prefer to lease property owned by another company or entity. At worst, it could jeopardize existing or pending tax abatement agreements cities have made or are negotiating with leaseholders based on the notion that they are eligible for such tax relief.

CSSB 985 would clarify the law to conform it with policymakers’ intent and with local government officials’ understanding and practice. The bill would remove ambiguity about whether tax abatements apply to buildings and equipment owned by businesses operating in reinvestment zones and leasing real estate or other property that otherwise is tax-exempt. City officials have made such agreements with businesses based on that legal interpretation. The Tax Abatement Act was not intended to exclude businesses who happen to lease tax-exempt land. If landlords pay no taxes, the benefit of any abatements should accrue to their tenants.

Cities need the option of offering tax abatements to leaseholders to attract them to communities having publicly owned property, including industrial parks, airports, arenas, and stadiums. Without this flexibility, cities may be

limited in how they can develop blighted areas or convert closed military installations to commercial use.

CSSB 985 would not create any new tax abatements, nor would it expand local governments' authority beyond what the law originally envisioned. The bill would incur no cost to the state.

OPPONENTS
SAY:

Tax abatements are not the urban panacea they have been touted to be. Texas has an excellent business climate, and the Legislature should not be encouraging local governments to mortgage their economic futures for dubious short-term gains.

CSSB 985 could be used to benefit a few large companies at the expense of all municipal taxpayers. Instead of creating a new tax break that would further erode cities' taxable property values, the Legislature should require property owners receiving tax abatements to pass the savings on to their tenants. Leaseholders are limited in how much additional taxable value they can generate. Abating their taxes would put pressure on other city property owners who might see little, if any, benefit from such agreements.

NOTES:

The Senate engrossed version of SB 985 would have applied the partial exemption only to tangible personal property.

At least three similar bills have been filed this session. On April 25, the House passed HB 1448 by Oliveira, which would allow cities and counties to abate taxes on tangible personal property for leaseholders of tax-exempt real property in reinvestment zones, unless they were part of improvement projects financed by tax increment bonds. HB 1448 was reported favorably, without amendment, by the Senate Intergovernmental Relations Committee on May 9. HB 2965 by Longoria and SB 1711 by Van de Putte would allow taxing units to exempt leaseholders in reinvestment zones. SB 1711 passed the Senate on April 26 on the Local and Uncontested Calendar and is pending in the House Ways and Means Committee. HB 2965 was considered by the Ways and Means Committee in a public hearing on March 28 and left pending.