HOUSE
RESEARCH
ORGANIZATION bill analysis | 5/4/2005 | HB 2864 | Luna

SUBJECT: Allowing sales tax revenue to be used to pay certain public securities

COMMITTEE: Local Government Ways and Means — favorable, without amendment

VOTE: 5 ayes — Hill, Elkins, Puente, Quintanilla, Uresti

0 nays

2 absent — Hamilton, Laubenberg

WITNESSES: For — Jeff Leuschel; Tom Utter, City of Corpus Christi

Against — None

BACKGROUND: Tax Code, sec. 321.506 prohibits cities from dedicating sales and use tax toward public securities payments. The only exception is the authority granted under the Development Corporation Act of 1979, which authorizes Texas cities to establish nonprofit industrial economic development corporations that can levy local sales taxes for the purpose of financing projects to develop certain businesses and promote the creation and retention of primary jobs.

Under the Tax Increment Financing Act, a city may create a tax increment reinvestment zone 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 go into a tax increment fund, which pays for new or upgraded infrastructure and other public improvements in the zone. The additional tax revenue generated by the property after it is improved represents the increment.

DIGEST: HB 2864 would authorize the dedication of sales and use tax toward public securities payments to finance the acquisition, construction, or improvement of projects in tax increment reinvestment zones, enterprise zones, municipal management districts, public improvement districts, empowerment zones and enterprise communities, and renewal communities.

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, 2005.

SUPPORTERS SAY:

HB 2864 would allow cities to use sales and use tax revenue to pay public securities that finance public projects in designated economic development zones, such as tax increment reinvestment zones. The City of Corpus Christi, for example, has a tax increment reinvestment zone on Padre Island, which has financed bonds to provide local matching funds of $10.5 million for an Army Corps of Engineers project that will dredge the Packery Channel and reopen it for improved public beach access. The project also is designed to increase property values for homes on the adjacent shoreline. HB 2864 would authorize the city to use sales tax revenue toward payment of the bonds, which would save the city millions of dollars, lower its interest payments in the long run, and improve its bond ratings.

Allowing the use of sales tax revenue to pay for public securities makes sound financial sense for some cities with significant sales tax revenues. Cities may continue to rely on property taxes, development fees, and federal funds to finance public projects, but the bill would provide another viable financing option.

Sales tax revenue generally is not used toward public securities payments because it is volatile and less reliable than property tax revenue. However, using sales tax to finance projects in economic development zones is far less risky because these projects are created to generate sales tax revenue. Defaulting on debt would be unlikely if a city chose to dedicate a small percent of its sales tax toward an economic development project because other revenue streams always are available.

OPPONENTS SAY:

The Development Corporation Act already allows the use of municipal sales tax to finance projects to develop certain businesses. A further erosion of the law prohibiting the use of sales tax revenue to pay public securities would be questionable. Sales taxes are a volatile revenue stream, and cities should not hinge important community projects on such a risky source. While the purpose of an economic development project is to increase sales tax revenues, sometimes these projects fail due to national or local economic trends and poor planning.

NOTES: A similar bill, SB 1440 by Hinojosa, was reported favorably, without amendment, by the Senate Intergovernmental Relations Committee on April 29.