

- SUBJECT:** Expanding permissible uses for 4B sales tax for smaller cities
- COMMITTEE:** Economic Development — committee substitute recommended
- VOTE:** 4 ayes — B. Cook, Anchia, Kolkhorst, McCall
0 nays
3 absent — Ritter, Deshotel, Seaman
- WITNESSES:** For — Rick Williams, Nederland EIDC; (*Registered, but did not testify:* Donna Chatham, Association of Rural Communities in Texas; Debra Farst, Texas Downtown Association; Vicky Rudy, Association of Rural Communities in Texas and City of Montgomery and Montgomery Industrial Development Corporation)

Against — None
- BACKGROUND:** The Development Corporation Act of 1979, V.T.C.S., art. 5190.6, authorizes Texas cities to establish nonprofit industrial economic development corporations for the purpose of financing projects to develop certain businesses and promote the creation and retention of primary jobs. Development corporations are the legal entities with statutory authority to spend economic development sales tax dollars.
- A city may levy a sales and use tax, which is approved by local voters, for the benefit of a development corporation and the projects it finances. Two types of development corporations, known as “4A” and “4B,” are named after the sections of the act in which they were established. A 4B development corporation dedicates proceeds of this tax for use in financing and promoting a wide range of economic development projects, including for specific quality-of-life improvements such as parks, affordable housing, entertainment facilities, and other similar categories defined by the act.
- The general definition of an economic development project includes infrastructure developments — such as streets and utilities — and job training, both for the purpose of developing primary jobs. A primary job is a job in a company of which the majority of products or services

ultimately are exported to markets outside the city where the company is located. A primary job also is one that is included on the act's list of specific qualifying job sectors, examples of which include manufacturing, management of companies, and scientific research. HB 2912 by Homer, enacted by the 78th Legislature in 2003 restricted the purpose of economic development projects to the creation of primary jobs.

Most 4B projects require a performance agreement, which provides a schedule of jobs and capital investment that a partnering business is expected to produce. The agreement also specifies how the business would repay the resources if the business did not meet the requirements specified in the agreement.

DIGEST:

CSHB 2928 would amend the definition of an economic development project to include sewer utilities and site improvements as suitable infrastructure expenditures.

The bill would allow a 4B development corporation that was created by a town with a population of 20,000 or less to use funds in connection with land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements that the board of directors believed would promote new or expanded business development. If funds were granted to a partnering business for such purposes, the city would be required to enter into a performance agreement with that business.

This bill would take effect September 1, 2005.

**SUPPORTERS
SAY:**

CSHB 2928 would grant greater flexibility to towns in how they spend 4B sales tax funds. Some of the reforms to the Development Corporation Act enacted by the 78th Legislature were too restrictive, and towns with economic development corporations need more freedom to use 4B funds in ways that these corporations have determined would benefit their communities.

The bill would allow smaller communities with constraints on growth potential to expand their economic opportunities and improve their town's quality of life through investment retail business, if appropriate. This would be in keeping with the original mission of 4B development corporations, which recognized that each community in Texas is different and requires flexibility and local control to follow the most appropriate economic development actions.

A statewide survey found that 85 percent of development corporations in rural communities favor a change in law to allow them to better use their development corporation tax funds. This bill would help approximately 340 Texas communities, while still maintaining reasonable limits on the wider application of its provisions.

Economic development is different in towns of 20,000 people or less than it is in big cities. Any jobs, primary or otherwise, stand to improve economic development in rural communities. Rural communities increasingly have difficulty recruiting industrial companies and must compete with cities around the world to attract these businesses. The focus should turn in part to developing local entrepreneurship as a means to economic development, which CSHB 2928 would support.

**OPPONENTS
SAY:**

It would not be in keeping with the mission of the act to use 4B development corporation sales tax funds to promote businesses, such as local retail and restaurants, that do not create primary jobs. Development corporation tax dollars instead should be used to attract new jobs from companies with ties outside of the community, which in turn would attract and support local retailers by pumping new dollars into the town. Giving 4B funds to local retailers may support those businesses at the expense of other local businesses. Such an investment would not create new dollars for a community, but simply would recycle local dollars.

This bill would not just serve as an exception for a handful of communities. It would influence about 60 percent of all economic development corporations.

NOTES:

The original bill contained bracketing language that would have defined a city's eligibility for the new uses of 4B funds. The committee substitute replaced the bracketing language with a single definition that would include a development corporation in a city with a population of 20,000 or less. The substitute also would require a development corporation in such a city to enter into a performance agreement with a relevant business, and provided a more specific definition of eligible projects.