HOUSE RESEARCH ORGANIZATION bill analysis | 5/24/2005 | SJR 44 Deuell (Flynn)

SUBJECT: Authorizing counties to finance reinvestment zones

COMMITTEE: County Affairs — favorable, without amendment

VOTE: 7 ayes — R. Allen, Casteel, Farabee, Laney, Naishtat, Olivo, Otto

0 nays

2 absent — W. Smith, Coleman

SENATE VOTE: On final passage, May 9 — 31-0

WITNESSES: For — Donald Lee, Texas Conference of Urban Counties

Against — None

On — Jim Allison, County Judges and Commissioners Association of Texas

BACKGROUND: Tax increment financing is a process by which local governments can publicly finance needed structural improvements and enhanced infrastructure within a defined area. These improvements usually are undertaken to promote the viability of existing businesses and to attract new commercial enterprises to the area.

Texas Constitution, Art. 8, sec. 1-g(b) authorizes municipalities to issue bonds to create tax increment finance zones for specified periods of time to upgrade an area and increase its taxable value. The Tax Increment Financing Act, Tax Code, ch. 311, governs the establishment of tax increment finance zones by municipalities. Currently, reinvestment zones can be created only in municipalities and annexed areas.

Taxes paid by landowners and/or developers on improvements they make to property in a tax increment zone are deposited into a tax increment fund, which pays for the costs of 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. The additional taxable value of the property derived from the improvements is called "captured appraised value."

The Tax Increment Financing Act authorizes the designation of areas that impair economic development in a city as a result of:

- many dilapidated buildings;
- defective or inadequate sidewalks or streets;
- inadequate layout in relation to size, adequacy, accessibility or usefulness;
- sanitary or unsafe conditions;
- deterioration;
- severe tax delinquency;
- a defective title; or
- dangerous conditions, such as existence of a fire hazard.

DIGEST:

SJR 44 would amend Texas Constitution, Art. 8, sec. 1-g(b) to allow counties to issue bonds to finance reinvestment zones in unproductive, underdeveloped, or blighted unincorporated areas.

The proposal would be presented to the voters at an election on Tuesday, November 8, 2005. The ballot proposal would read: "The constitutional amendment providing authorization for a county to issue bonds or notes to finance the development or redevelopment of an unproductive, underdeveloped or blighted area within the county."

SUPPORTERS SAY:

SJR 44 would empower counties with the same financing mechanism currently used by cities to revamp blighted areas. Numerous counties around the state, both urban and rural, stand to benefit from the ability to use tax increment financing. Counties, like cities, should be able to initiate tax increment financing in areas of the county that present conditions that substantially impair the county's growth, retard the provision of housing, or constitute an economic or social liability to public health, safety, morals or welfare. Reinvestment zones provide a way for local governments to finance much needed infrastructure enhancements and promote economic development in a region.

Tax increment financing is an innovative tool with numerous advantages over other methods of financing infrastructure improvements in underdeveloped areas. Tax increment financing is unique in that it does not rely on raising taxes or imposing new taxes to obtain funding for economic development projects. With tax increment financing, infrastructure improvements essentially pay for themselves through the revenue gained from taxes on developments that have a constantly increasing taxable value. SJR 44 would provide a way to finance infrastructure improvements without relying on state funding.

Extending the authority to create reinvestment zones to counties would be a necessary step in sustaining state economic growth. Major Texas cities such as Houston and Dallas no longer are growing as rapidly as they once were. Counties, on the other hand, have experienced dramatic surges in population growth in recent years. As counties around the state increase in size, they need additional ways of financing important infrastructure improvements and supporting economic development. SJR 44 would enable growing counties to use a method of financing that allowed them to meet new challenges associated with rapid population growth.

SJR 44 would give Texas counties access to an important financing tool that already has been made available to Texas cities and to counties in other states. Tax increment financing has proven an effective tool for counties in revitalizing economically depressed regions throughout the nation. A majority of states have granted counties as well as municipalities the authority to create reinvestment zones. Texas counties also should have the statutory authority to use tax increment financing to make needed improvements in unincorporated areas.

SJR 44 would not impose any mandatory rules or restrictions on businesses in unincorporated parts of counties. Tax increment zones allow landowners and/or developers to decide whether or not to contribute their property taxes to the reinvestment funds. In a tax increment zone, each taxing unit can choose to dedicate all, a portion of, or none of the tax revenue that is attributable to the increase in property values due to the improvements within the reinvestment zone. Each taxing unit determines what percentage of its tax increment, if any, it will commit to repayment of the cost of financing public improvements.

OPPONENTS SAY:

SJR 44 could impose additional administrative burdens on county governments by giving them the responsibility of creating entirely new taxing districts. The process of creating and managing a reinvestment zone is more complicated than administering a grant. In order to set up new reinvestment zones, counties would have to perform an initial market analysis and financial feasibility studies as well as enter into agreements with developers and other local government entities.

Allowing counties to establish reinvestment zones in unincorporated areas potentially could harm existing poor communities. While tax increment finance zones provide substantial economic benefits to businesses in the area, they often result in the displacement of low-income residents. Tax increment financing allows local governments to exercise eminent domain to condemn property for use by private enterprise. The condemnation of property to attract outside investment can cause the forced relocation of low-income residents to other areas.

NOTES: The enabling legislation for SJR 44, SB 1856 by Deuell, authorizing counties to create tax increment financing zones, passed the Senate by 31-0 on May 9, was reported favorably, without amendment, by the House Local Government Ways and Means Committee on May 17, and has been set on the Local, Consent, and Resolutions Calendar for May 25.