

- SUBJECT:** Revising provisions for tax increment reinvestment zones
- COMMITTEE:** Ways and Means — committee substitute recommended
- VOTE:** 10 ayes — Oliveira, Otto, Bohac, Hilderbran, C. Howard, P. King, Paxton, Peña, Taylor, Villarreal
- 0 nays
- 1 absent — Hartnett
- WITNESSES:** For — (*Registered, but did not testify:* Larry Anderson, San Antonio River Authority; Timothy Austin, GR-M1, LP; Donald Lee, Texas Conference of Urban Counties; Tom Reid, City of Pearland; Frank Turner, City of Plano)
- Against — None
- BACKGROUND:** Tax Code, ch. 311 outlines statutes governing tax increment financing. Local governments use tax increment financing for structural improvements and infrastructure enhancements needed within a reinvestment area. These improvements often are undertaken to promote the viability of existing businesses and to attract new commercial enterprises to the area. Costs of improvements to the area are repaid by the contribution of future tax revenues levied against the property.
- DIGEST:** CSHB 4613 would amend several provisions within Tax Code, ch. 31 regarding tax increment financing, including expanding allowances for capital costs, expanding a reinvestment zone to a non-contiguous area, allowing the establishment of joint reinvestment zones, and extending the term of a reinvestment zone.
- Eligible project costs.*** Project costs for a reinvestment zone would be revised to include:
- actual capital costs of the remediation of conditions that contaminate public or private land or buildings, the preservation of the façade of a private or public building, and demolition;
 - a program to administer the development of the reinvestment zone;

- educational building costs, including schools or other education facilities owned by or on behalf of a school district, community college district, or other local political entity; and
- costs of providing affordable housing or public areas inside or outside the zone.

Expansion of a reinvestment zone. A county, by order, could designate an area in the county, or a municipality by ordinance could designate an area that was within a municipality's corporate limits, extraterritorial jurisdiction (ETJ), or both, instead of a contiguous area. The area would not need to be contiguous if the local government entity found that the areas were substantially related. The designation of an area that was partly or entirely located within the municipality's ETJ would not be affected by a subsequent annexation of property in the reinvestment zone by the municipality. The tax increment base for an area in a zone subsequently annexed into a municipality would be computed with regard to the taxable value of the area had it been in the municipality the year it was included in the zone.

Joint reinvestment zones. Two or more municipalities could designate a contiguous area in the jurisdiction of each of the municipalities to be a joint reinvestment zone. The ordinances of the participating municipalities would include specific terms, including:

- description of the zone's boundaries;
- creation of a board of directors for the zone, and its governing terms;
- providing that the zone would take effect immediately after the last participating municipality adopted its ordinance related to the joint reinvestment zone;
- the termination date for the zone and its name;
- establishing a tax increment fund for the zone; and
- containing findings that the improvements in the zone would significantly enhance the value of all taxable property and meet established requirements.

Expenditures from tax increment financing funds or bonds secured by tax increment financing would be made without regard to the location from where the funds originated or where in the joint reinvestment zone the funds would be spent.

Extending the term of an existing reinvestment zone. A municipality or county could, by ordinance, order, or resolution, extend the term of all or a portion of its reinvestment zone after notice and hearing proceedings, as long as no other taxing entity, except through written agreement, would be required to participate in the extended portion of the zone for its extended term.

Tax increment determination. The bill would amend the tax increment base of a taxing local government entity from the total appraised value to the taxable value of all taxable property by the government entity and located in a reinvestment zone for the year in which the zone was designated.

Other provisions: The bill would amend or add several other provisions to the Tax Code regarding tax increment financing of reinvestment zones, including:

- provisions detailing the administration of reinvestment zone-related funds following the zone's termination;
- implementing the participation of school districts in reinvestment zones;
- a statute of limitations of two years for action regarding a governmental act or proceeding relating to the designation, operation, or administration of a reinvestment zone or its related financing; and
- repealing provisions regarding the composition of a reinvestment zone.

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, 2009.

SUPPORTERS
SAY:

CSHB 4639 would revise existing law related to the funding, creation, and operation of tax increment financing for reinvestment zones. The tax increment financing act was written over 20 years ago and has become cumbersome due to the number of amendments, some duplicative, over the years. The bill would clarify the Tax Code in this area to remove current ambiguity in the statutes. Additionally, the bill would expand provisions related to reinvestment zones by incorporating several pieces of legislation also approved by the House Ways and Means Committee, and would ensure they were consistent with the Tax Code. These changes

would further realize the aims of reinvestment zones to encourage economic development, attract businesses to locate to underutilized areas, spur investment, and improve property values of the surrounding area.

Expansion of a reinvestment zone. Currently, a municipality can only designate a contiguous geographic area as a reinvestment zone. CSHB 4613 would allow a reinvestment zone to extend to an area even if it does not immediately border an existing area. This change would provide needed flexibility for a municipality selectively to target an area for reinvestments to attract economic development.

Joint reinvestment zones. The bill would allow municipalities jointly to develop a reinvestment zone using their combined resources. Currently, an area that needs infrastructure improvement may lie between two municipalities. The bill would allow two or more cities to work together on improvement projects that might not otherwise occur.

OPPONENTS
SAY:

Any attempt to increase the reach of economic development areas, such as is proposed with CSHB 4613 to expand reinvestment zones, would further decrease the tax revenue that counties and municipalities would otherwise use for their operations and administration of public services.

Additionally, infrastructure investments in reinvestment zones are conducted under the assumption that businesses would not locate to an area unless the investments were made. As Texas continues to be a friendly state for business, it is doubtful that expansion of existing programs such as reinvestment zones are needed.

NOTES:

The committee substitute incorporates legislative council revisions and included provisions introduced in related legislation.

The Legislative Budget Board determined that the bill would create a cost to local governments and the state, but as the information regarding the amount of new property or extensions of tax increment financing agreements is not available, the cost to the state cannot be determined.

The companion bill, SB 2338 by Shapiro, has been referred to the Senate Economic Development Committee.