HOUSE
RESEARCH
ORGANIZATION bill analysis 3/30/2009

HB 773
Oliveira

SUBJECT: Extending the Property Redevelopment and Tax Abatement Act to 2021

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 9 ayes — Oliveira, Otto, Bohac, Hartnett, C. Howard, P. King, Paxton, Peña, Taylor

0 nays

2 absent — Hilderbran, Villarreal

WITNESSES: For — George Christian, Texas Taxpayers and Research Association; Patrick Woodon, E.ON Climate & Renewables, Wind Coalition; (*Registered, but did not testify:* Rudy Garza, City of Corpus Christi; Michelle Gregg, Texas Apartment Association; Bill Hammond, Texas Association of Business; Steve Hazlewood, Dow Chemical Co.; Robert Kemmey; James LeBas, Koch Cos., Association of Electric Companies of Texas, Texas Oil & Gas Association; Mark Mendez, Tarrant County; T.J. Patterson, City of Fort Worth; Brinton Payne, Fort Worth Chamber of Commerce; Bennett Sandlin, Texas Municipal League; Chris Shields, Greater San Antonio Chamber of Commerce, City of San Antonio; Jon Weist, Arlington Chamber of Commerce)

Against — None

BACKGROUND: Tax Code, sec. 312 authorizes counties and cities to enter into property-tax abatement agreements with a private interest. A property-tax abatement is an agreement to limit the increase in the taxable value of real property due to improvements or repairs. The county or city must first establish a reinvestment zone within which property-tax abatements may be created. The abatements may last a maximum of ten years. There is no minimum job creation requirement. School districts may not enter into tax abatement agreements. Currently, around 2,000 property-tax abatements are in existence under sec. 312.

The Property Redevelopment and Tax Abatement Act expires on September 1, 2009. If the Legislature does not extend the sunset date, Tax Code, sec. 320 would authorize existing reinvestment zones and abatements to continue until they expire by their own terms.

The 77th Legislature in 2001 extended the sunset date of the Property Redevelopment and Tax Abatement Act from 2001 to 2009 with the enactment of HB 1449 by Oliveira.

DIGEST:

HB 773 would extend the expiration date of the Property Redevelopment and Tax Abatement Act from September 1, 2009, to September 1, 2021.

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:

HB 773 would extend the authorization for an economic development tool that has proven effective. Tax abatements are critical deal closers that allow local governments to attract new businesses, jobs, and economic opportunities to Texas. In exchange, businesses promise to build facilities and create jobs. Communities receive additional tax revenue as new employees purchase homes and spend their paychecks. When the abatement expires, the buildings and equipment are taxed at full value. These expansions of the tax base would not have occurred but for the abatements. Since the property-tax abatement program was established, more than 2,000 tax abatements have been negotiated and 100,000 jobs created.

Property-tax abatements help to make Texas economically competitive. Compared to other states, Texas has a heavy reliance on property taxes and many businesses considering a move to Texas are concerned about this tax burden. Sec. 312 property-tax abatements allow local governments to address these concerns. Counties and cites must have the power to enter into property-tax abatements to remain competitive with other states that offer similar tax incentives. The majority of businesses have wide discretion as to where they locate. If some of the locations competing with Texas can offer these tax incentives, Texas localities must be able to as well if they are to remain competitive.

Tax abatements allow business ventures to happen. For example, very few Texas wind farms would be possible without tax abatements because of the high initial start-up costs. Without an abatement, wind turbines would be taxed as improvements to real property. The upfront costs of purchasing wind turbines, acquiring land rights, installing turbines, and then paying applicable property taxes would stifle a fledging industry. By lowering these start-up costs, abatements make wind projects viable, while ensuring that local governments will still be able to tax these improvements once the projects are able to meet their property tax obligations.

Tax abatements do not result in tax shifting because they cover only new property. Since they do not exempt existing property, there is no required tax increase on other property owners to make up for lost revenue. In addition, the tax abatements exist only for a decade. Upon expiration, there is additional taxable property on the tax rolls. Nearly all tax abatements result in job creation, which can expand local tax revenue.

Concerns that local governments might misuse tax abatements, give up tax revenue, or favor new businesses over existing ones are overblown. Local governments are in the best position to determine the opportunities and weigh the costs of tax abatements. The Legislature should leave these decisions to local governments because sec. 312 property-tax abatements affect only local tax revenue. Local officials know they are accountable to their constituents and will have to answer to local voters who are unhappy about abatements in their communities.

HB 773 would extend the expiration date by twelve years, which is a standard sunset period that would enable the Legislature to reevaluate the program again in 2021.

OPPONENTS SAY:

Tax abatements are costly corporate subsidies that result in millions of lost tax dollars every year. HB 773 would result in $9 million of lost county tax revenue in 2011. According to the LBB, these losses would increase annually and cost counties $38.6 million by 2014. Cities face tax-revenue losses of $4.3 million in 2011 with losses of $18.1 million by 2014. Local governments cannot afford these losses along with the decline of other tax revenues as they attempt to balance their budgets in the face of an on-going national recession.

All too often, local governments hand out tax abatements as a matter of course to businesses who demand them. Further, some local governments may lack the sophistication to negotiate the best possible agreements. Of additional concern are those long-established local businesses that are hurt when rival firms are enticed to the area with tax abatements. Even if property-tax abatements do not pit individual local businesses against each other, they do end up favoring certain industries over others.

Most of these businesses attracted by tax abatements would have come to Texas without any special tax break. Wind farms, for example, must locate in Texas, as some of the most reliable and constant wind in the world is located here. Natural resources notwithstanding, businesses already are attracted to Texas because of a sensible regulatory and tax climate.

OTHER OPPONENTS SAY:

Sec. 312 property-tax abatements do not require the creation of a minimum number of new jobs. The Legislature should consider including a required minimum number of jobs created to ensure that abatements genuinely contribute to the entire community's economic growth and prosperity.

Local governments have used property-tax abatements to entice companies away from other cities within Texas. Sec. 312 should contain some kind of protection against this practice if local governments are to be kept from cannibalizing each others' tax base.