

SUBJECT: Barring tax exemption certain property of local government corporation

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 7 ayes — Hilderbran, Otto, Gonzalez, Lyne, Martinez Fischer, Murphy, Ritter

2 nays — Elkins, Woolley

2 absent — Christian, Villarreal

WITNESSES: For — Geoffrey Gay, City of Odessa; Richard Morton, City of Odessa; Susan Redford, Ector County; (*Registered, but did not testify*: David Holt, Larry Long, City of Odessa; Hector Mendez, Ray Pace, Ector County ISD; Walter Smith, Odessa College Trustees; Mary Thompson, Ector County Hospital District; Phillip McCord)

Against — Bradford Moore, High Plains Diversified Energy Corporation

On — Karen McCord, Ector County Appraisal District

BACKGROUND: Under ch. 431, subch. D, of the Transportation Code, a local government corporation may be created to aid and act on behalf of one or more local governments to accomplish any governmental purpose of those governments. A local government corporation (LGC) is a corporate entity formed by a municipality or county to act on their behalf. LGCs fund transportation, water and sewer infrastructure, economic development ventures, and other projects intended to benefit the public.

Ch. 341 of the Transportation Code provides that all property of an LGC and the transaction to acquire the property are exempt from ad valorem taxation.

DIGEST: CSHB 2100 would amend ch. 341 of the Transportation Code by specifying that property of an LGC located outside the boundaries of the local government that created it would not be exempt from ad valorem taxation.

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, 2011.

**SUPPORTERS
SAY:**

When originally written, ch. 341 of the Transportation Code was intended to benefit municipalities working on transportation, more specifically in developing toll roads. It later was amended to give LGCs the same powers as municipalities. Unfortunately, this leaves a broad tax exemption for property acquired by an LGC. LGCs are able to go outside their boundaries, acquire properties, and use their tax exemption for their own benefit. This has become a new model for creating a business enterprise that takes properties off the local tax rolls to the detriment of local areas. For example, an LGC in West Texas went outside of its boundaries and tried to purchase two power plants in Ector County, which would remove millions of dollars in annual property tax revenue from the property rolls.

HB 2100 would limit the exemption from property tax to only the property of an LGC that was located within the parent municipality that created it. LGCs still could obtain exemption from property taxes, but would have to do so through direct agreement with other cities or counties when leaving the parent tax area. They would not automatically obtain an exemption from taxation as under current law.

**OPPONENTS
SAY:**

CSHB 2100 addresses a situation in West Texas involving the purchase of power plants by an LGC located several hundred miles away from the power plants. However, the bill would have a statewide impact. There is a history of governmental entities being exempt from taxation, and a history of property purchases similar to this. This bill would, effectively, start taxing a governmental entity when it was performing a governmental function.

CSHB 2100 would be problematic because it would specify that the property of an LGC located outside the boundaries of the local government that created it would not be exempt from ad valorem taxation, but some LGCs do not have boundaries. Therefore, these LGCs would not be able to benefit from the tax exemption in statute.

NOTES:

The companion bill, SB 1120 by Seliger, was reported favorably, as substituted, by the Senate Intergovernmental Relations Committee on May 3.

According to the fiscal note, the fiscal impact could not be determined because the number of LGCs that could be affected by the bill's provisions and the types of taxes that may have been paid were unknown.