Senate Research Center   C.S.S.B. 747
By: Sibley
Economic Development
4-4-97
Committee Report (Substituted)

DIGEST

Currently, the Development Corporation Act authorizes certain cities to impose an "economic development" sales and use tax with local voter approval. These two taxes are known as the "4A" and "4B" taxes. Current law limits the ability of cities that levy the more limited 4A tax to undertake 4B projects and does not provide for state reporting of tax expenditures. This bill authorizes cities that levy the 4A tax to undertake 4B projects with voter approval, authorizes cities that levy the 4A tax to repeal the 4A tax and adopt the 4B tax in a single ballot proposition, requires cities that impose the tax to file an annual expenditure report with the comptroller and for the comptroller to compile a biennial report on the tax, requires corporations to report on a fiscal year, modifies the administrative penalty for corporations that fail to file an annual report with the comptroller, and adds validating language for a sales tax election to be held by the City of McAllen. The bill also makes several technical and "cleanup" modifications to the Development Corporation Act.

PURPOSE

As proposed, C.S.S.B. 747 authorizes cities that levy the 4A tax to undertake 4B projects with voter approval, authorizes cities that levy the 4A tax to repeal the 4A tax and adopt the 4B tax in a single ballot proposition, requires cities that impose the tax to file an annual expenditure report with the comptroller and for the comptroller to compile a biennial report on the tax, requires corporations to report on a fiscal year, modifies the administrative penalty for corporations that fail to file an annual report with the comptroller, and adds validating language for a sales tax election to be held by the City of McAllen. The bill also makes several technical and "cleanup" modifications to the Development Corporation Act.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the comptroller in SECTION 6 (Section 4C(e), Article 5190.6, V.T.C.S.) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 4A(n) and (o), Article 5190.6, V.T.C.S. (Development Corporation Act of 1979), as follows:

    (n) Provides that a sales and use tax expires on the date set by the governing body under this section or on an earlier date if the tax is abolished under Subsection (o) of this section. Deletes a provision that if an earlier election is held, Sections 321.102(a) and 321.402(b), Tax Code, apply to the date of repeal. Provides that a tax approved without a limit on its period of imposition is effective until abolished in accordance with Subsection (o) of this section Prohibits a municipality that has imposed a certain tax from extending the period of the tax's imposition or reimpose the tax unless the extension or reimposition is approved by a majority of the qualified voters of the municipality voting in an election called and held for that purpose.

    (o) Requires the governing body of a city to order an election on the issue, on petition of 10 percent of the voters requesting an election on the increase, decrease, or abolition of the tax under this section. Sets forth the language for the ballot. Provides that Section 321.102(a), Tax Code, applies to the abolition of a tax under this subsection. Sets forth a situation

whereby the tax is to continue to be collected. Requires a corporation to notify the comptroller when bonds are paid. Prohibits a tax imposed under this section from being collected after the last day of the first calendar quarter beginning after the date of notification to the comptroller.

SECTION 2. Amends Section 4A, Article 5190.6, V.T.C.S., by adding Subsection (s), to authorize a city to submit to the voters of the city a ballot proposing the use of certain taxes for specific projects which do not qualify under this section, but qualify under Section 4B of this Act. Provides that prior approval of a specific project does not prohibit a city from seeking voter approval on additional projects under this subsection to be funded from the same sales and use tax. Sets forth requirements for language in a ballot. Sets forth the notice and hearing requirements. Sets forth guidelines if voters fail to approve an issue.

SECTION 3. Amends Section 4B, Article 5190.6, V.T.C.S., by redesignating Subsection (a-1) as Subsection (a-3) and adding a new Subsection (a-1), to prohibit a corporation from undertaking a project unless a city has adopted a sales and use tax under this section for the benefit of the corporation. Makes conforming changes.

SECTION 4. Amends Section 4B(c), Article 5190.6, V.T.C.S., to authorize a person serving as a director of a corporation created under Section 4A of this Act at the time of dissolution to serve on the board of the corporation created under this section, notwithstanding any other provision of this subsection, if a city dissolves a corporation created under Section 4A of this Act and creates a corporation under this section.

SECTION 5. Amends Section 4B, Article 5190.6, V.T.C.S., by amending Subsections (e) and (f) and adding Subsections (i-1), (i-2), and (i-3), as follows:

> (e) Requires a ballot proposition to impose a tax under this section to clearly state that the voters are voting on the adoption of a new sales and use tax and identify the proposed use of or purpose for the tax revenue. Provides that if maintenance and operating costs are to be paid from the tax, the ballot language must clearly state that fact. Authorizes a corporation that holds an election to reduce or repeal a tax imposed under Section 4A of this Act, in the same or in a separate proposition, to adopt a tax under this section. Deletes one of two existing Subsection (e)'s to clean up the statute.
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> (f) Provides that Chapter 321, Tax Code, governs the abolition of the tax. Sets forth requirements for the ballot. Sets forth requirements of an election to impose or change a tax.
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> (i-1) Sets forth the requirements of an election on the dissolution of the corporation and the ballot. Sets forth procedures to be taken by a corporation if the voters approve the dissolution of the corporation.
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> (i-2) Sets forth the requirements of an election on abolishing the tax under this section and the ballot. Sets forth a situation whereby the tax is to continue to be collected. Requires a corporation to notify the comptroller when certain bonds are paid. Prohibits a tax imposed under this section from being collected after the last day of the first calendar quarter beginning after the date of notification to the comptroller.
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> (i-3) Sets forth the requirements of an election to adopt a sales and use tax for a limited time period and the ballot. Requires the governing body of the city to set an expiration date of the proposed tax to occur on the appropriate anniversary of the date of the tax. Sets forth the date of expiration for a sales and use tax. Sets forth notice requirements. Sets forth procedures for revenue collected after the expiration of the tax and requirements for extending or reimposing a tax under this section.

SECTION 6. Amends Article 5190.6, V.T.C.S., by adding Section 4C, as follows:

> Sec. 4C. Requires the board of directors of a corporation created under Section 4A or 4B to submit a report to the comptroller by February 1 of each year. Sets forth the contents and

requirements of the report. Sets forth procedures for failure to submit a report. Sets forth duties of the comptroller under this section. Requires the comptroller, by rule, to prescribe procedures for the imposition of an administrative penalty. Requires the comptroller to submit a report to the legislature no later than November 1 of each even-numbered year on the sales and use tax imposed under Sections 4A and 4B of this Act. Requires the comptroller to provide without charge a copy of the report.

SECTION 7. Provides that an election held before the effective date of this Act to impose a sales and use tax is valid and the municipality may impose the tax if certain conditions are met. Makes application of this Act prospective.

SECTION 8. Provides that this Act does not affect the authority of an industrial development corporation created before the effective date of this Act to continue a project that the corporation has undertaken before the effective date of this Act.

SECTION 9. Repealer: Article 5190.6, Section 4B(n), V.T.C.S. (Development Corporation Act of 1979).

SECTION 10.   Effective date: September 1, 1997.

SECTION 11.   Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

> Amends Section 4A(n), Article 5190.6, V.T.C.S., to delete a provision relating to a repeal. Makes a conforming change.

SECTION 5.

> Amends Article 5190.6(f), V.T.C.S., to provide a change in the imposition or change of a tax, or both. Sets forth requirements of an election to impose or change a tax.

SECTION 6.

> Amends Article 5190.6(4C), V.T.C.S., to set forth due dates and requirements of a report. Sets forth duties of the comptroller under this section.

SECTION 7.

> Amends SECTION 7 to set forth the validity of the imposition of sales and use taxes and applicability to certain elections.

SECTION 8.

> Amends SECTION 8 to provide the effects of the Act. Redesignates proposed SECTIONS 7-9 as SECTIONS 9-11.