

BILL ANALYSIS

Senate Research Center
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S.B. 607
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Intergovernmental Relations
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DIGEST AND PURPOSE

A more highly skilled and educated workforce in municipalities statewide may reduce underemployment and unemployment. As proposed, S.B. 607 creates “The Better Jobs Act,” which establishes a municipal development corporation to provide additional educational and job training opportunities. This Act also enables municipalities in Texas to develop additional resources to invest funds in economic development programs such as: job training, early childhood education, after-school programs, higher education scholarships, and literacy programs.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Comptroller of Public Accounts in SECTION 1 (Section 379A.102, Local Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 12A, Local Government Code, by adding Chapter 379A, as follows:

CHAPTER 379A. MUNICIPAL DEVELOPMENT CORPORATIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 379A.001. SHORT TITLE. Authorizes this chapter to be cited as the Better Jobs Act.

Sec. 379A.002. FINDINGS AND PURPOSES. Presents certain legislative findings. Provides findings of benefit and purpose. Requires this chapter to be liberally construed in conformity with the findings and purposes stated in this section.

Sec. 379A.003. DEFINITIONS. Defines “board” and “corporation.”

Sec. 379A.004. APPLICATION OF NON-PROFIT CORPORATION ACT. Provides that a corporation created under this chapter is governed by the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., V.T.C.S.), except to the extent inconsistent with this chapter.

[Sections 379A.005-379A.010 reserved for expansion]

Sec. 379A.011. CREATION. Authorizes the governing body of a municipality to create a municipal development corporation under this chapter.

Sec. 379A.012. ARTICLES OF INCORPORATION. Requires the articles of incorporation of the corporation to state that the corporation is governed by this chapter.

Sec. 379A.013. NUMBER OF CORPORATIONS. Prohibits a municipality from creating more than one corporation under this chapter.

[Sections 379A.014-379A.020 reserved for expansion]

SUBCHAPTER C. BOARD OF DIRECTORS

Sec. 379A.021. COMPOSITION AND APPOINTMENT OF BOARD. (a) Provides that the corporation is governed by a board of 5, 7, 9, or 11 directors, as determined by the governing body of the municipality.

(b) Requires the governing body of the municipality to appoint the members of the board.

(c) Provides that the directors serve staggered two-year terms, with as near as possible to one-half of the members' terms expiring each year. Provides that a director serves at the will of the governing body of the municipality. Provides that successor directors are appointed in the same manner as the original appointees.

(d) Requires each director of a corporation created by a municipality with a population of 20,000 or more to be a resident of the municipality. Requires each director of a corporation created by a municipality with a population of less than 20,000 to be a resident of the municipality or the county in which the major part of the area of the municipality is located.

(e) Provides that a person is not disqualified from serving as a director because the person is an employee, officer, or member of the governing body of the municipality.

(f) Prohibits a director from having a personal interest in a contract executed by the corporation.

Sec. 379A.022. COMPENSATION. Provides that a board member is not entitled to compensation, but is entitled to reimbursement for actual and necessary expenses incurred in serving as director.

Sec. 379A.023. MEETINGS. Requires the board to conduct its meetings in the municipality that created the corporation.

Sec. 379A.024. OFFICERS. Requires the board to appoint from its members a presiding officer, a secretary, and other officers of the corporation that the governing body of the municipality considers necessary.

[Sections 379A.025-379A.050 reserved for expansion]

SUBCHAPTER D. POWERS OF CORPORATION

Sec. 379A.051. PROGRAMS. Authorizes a corporation to develop and implement programs for certain purposes. Authorizes a corporation to acquire, develop, or use land, buildings, equipment, facilities, and other improvements in connection with a program described by this section.

Sec. 379A.052. GENERAL POWERS OF CORPORATION. Authorizes the corporation to exercise certain stated powers.

Sec. 379A.053. BONDS AND OTHER OBLIGATIONS. Authorizes the corporation to issue revenue bonds on behalf of the municipality, including refunding bonds, or other obligations to pay the costs of an authorized program or to refund bonds or other obligations. Requires the bonds or other obligations and the proceedings authorizing the bonds or other

obligations to be submitted to the attorney general for review and approval as required by Section 1202.003, Government Code. Requires the bonds or other obligations to be payable from and secured by the revenues of the corporation. Authorizes the bonds or other obligations to mature serially or otherwise not more than 30 years after the date of issuance. Provides that the bonds or other obligations are not a debt of and do not create a claim for payment against the revenue or property of the municipality other than a program for which the bonds are issued.

Sec. 379A.054. NATURE OF CORPORATE PROPERTY. Provides that the legislature finds for all constitutional and statutory purposes that the corporation owns, uses, and holds its property for public purposes. Provides that Section 25.07(a) (Leasehold and Other Possessory Interests in Exempt Property), Tax Code, does not apply to a leasehold or other possessory interest granted by the corporation. Provides that property owned by the corporation is exempt from taxation under Section 11.11(Public Property), Tax Code, while the corporation owns the property.

Sec. 379A.055. OPEN RECORDS AND MEETINGS. Provides that the board is treated as a governmental body for the purposes of Chapters 551 (Open Meetings) and 552 (Public Information), Government Code.

Sec. 379A.056. ADMINISTRATION OF SCHOLARSHIP FUND. (a) Requires the corporation by agreement with the institution, in providing funds to an institution of higher education to be used for scholarships as authorized by Section 379A.051, to ensure that funds are distributed to individuals as scholarships connected with the institution and that no more than a maximum amount, as set by the corporation, of the funds are spent on administering the award of the scholarship.

(b) Requires an institution of higher education receiving the funds for scholarships to develop, in consultation with the corporation, a plan for awarding scholarships with the goal of having an eventual beneficial effect on the economic growth and vitality of and the elimination of unemployment and underemployment in the municipality that created the corporation.

[Sections 379A.057-379A.080 reserved for expansion]

SUBCHAPTER E. SALES AND USE TAX

Sec. 379A.081. SALES AND USE TAX. Authorizes a municipality to levy a sales and use tax for the benefit of the corporation if the tax is authorized by a majority of the voters of the municipality voting at an election called for that purpose.

(b) Requires the ballot for an election to impose the tax to be printed to permit voting for or against the proposition: “Adoption of a sales and use tax at the rate of ___ of one percent (insert one-eighth, one-fourth, three-eighths, or one-half, as appropriate) for the purpose of financing authorized programs of the ___ Municipal Development Corporation (insert the name of the corporation).”

(c) Authorizes the adoption of the tax to be limited on the ballot to any specific program, or to be adopted with general language permitting the use of the tax for any purposes authorized by this chapter.

(d) Authorizes a sales and use tax, if levied, to be adopted for a maximum of 20 years, but authorizes it to then be reauthorized, subject to a payment of indebtedness. Provides that the tax may be authorized for a shorter period of time or limited to the time necessary to pay any indebtedness.

(e) Requires the rate of a tax adopted under this section to be one-eighth, one-fourth, three-eighths, or one-half of one percent. Prohibits a municipality from adopting a sales and use tax under this chapter if the adoption of the tax under this chapter would result in a combined tax rate of all local sales and use taxes of more than two percent in any location in the municipality.

(f) Provides that Chapter 321 (Municipal Sales and Use Tax), Tax Code, governs a municipality's imposition, computation, administration, collection, and remittance of a tax authorized by this sections except as inconsistent with this chapter.

Sec. 379A.082. ELECTION TO CHANGE RATE OF TAX. (a) Authorizes a municipality that has adopted a sales and use tax under this chapter at a rate of less than one-half of one percent to increase or decrease the rate of the tax if the increase or decrease is approved by a majority of the voters of the municipality voting at an election called and held for that purpose.

(b) Authorizes the tax to be increased or decreased under this section in one or more increments of one-eighth of one percent, with a maximum of one-half of one percent.

(c) Makes a conforming change regarding the printing of a ballot for an election to increase or decrease the tax.

Sec. 379A.083. IMPOSITION OF TAX. (a) Provides that, if the municipality adopts the tax, a tax is imposed on the receipts from the sale at retail of taxable items in the municipality at the rate approved at the election, and an excise tax is imposed on the use, storage, or other consumption in the municipality of tangible personal property purchased, leased, or rented from a retailer during the period that the tax is effective in the municipality. Provides that the rate of the excise tax is the same as the rate of the sales tax portion of the tax and is applied to the sale price of the tangible personal property.

(b) Provides that the adoption of the tax or the change of the tax rate takes effect on the first day of the first calendar quarter occurring after the expiration of the first complete quarter occurring after the date the comptroller receives a notice of the results of the election adopting, increasing, or decreasing the tax.

[Sections 379A.084-379A.100 reserved for expansion]

SUBCHAPTER F. REPORT TO COMPTROLLER.

Sec. 379A.101. REPORT REQUIRED. Requires the board of directors of the corporation, not later than February 1 of each year, to submit to the comptroller a report in the form required by the comptroller. Prohibits the reporting form from exceeding one page in length and requires certain elements to be included in the form.

Sec. 379A.102. FAILURE TO FILE REPORT; ADMINISTRATIVE PENALTY. (a) Requires the comptroller, if the corporation fails to file a report in accordance with this subchapter or fails to include sufficient information in the report, to provide to the corporation a written notice of the failure. Requires the written notice to include information on how to correct the failure.

(b) Authorizes the comptroller to impose an administrative penalty against the corporation if the corporation does not correct the failure before the 31st day after the date the corporation receives the written notice under Subsection (a). Provides that the amount of the penalty is \$200 a day for each day the filing of the report is delinquent.

(c) Requires the comptroller by rule to prescribe the procedures for the imposition of an

administrative penalty under this section. Requires the rules to protect the due process rights of the corporation.

Sec. 379A.103. COMPTROLLER'S REPORT TO LEGISLATURE. Requires the comptroller, not later than November 1 of each even-numbered year, to submit to the legislature a report on the use of the sales and use tax imposed under this chapter. Requires the comptroller, on request, to provide without charge a copy of the report required by Subsection (a) to the corporation created under this chapter.

SECTION 2. Effective date: upon passage or September 1, 2001.