

## **BILL ANALYSIS**

Senate Research Center  
2001S0782/1

C.S.S.B. 607  
By: Van de Putte  
Intergovernmental Relations  
3/8/2001  
Committee Report (Substituted)

### **DIGEST AND PURPOSE**

A more highly skilled and educated workforce in municipalities statewide may reduce underemployment and unemployment. C.S.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 development, after-school programs, higher education scholarships, and literacy programs.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to municipal development corporations in SECTION 1 (Section 379A.052, Local Government Code) and 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.

Sec. 379A.014. **ADOPTION AND APPROVAL OF BYLAWS.** Requires the initial bylaws of a corporation to be adopted by its board of directors and approved by resolution of the governing body of the municipality that created the corporation, and requires any subsequent changes made to the bylaws to be approved by the governing body of the municipality that created the corporation.

[Sections 379A.015-379A.020 reserved for expansion]

### SUBCHAPTER C. BOARD OF DIRECTORS

Sec. 379A.021. **COMPOSITION AND APPOINTMENT OF BOARD.** (a) Provides that the corporation, except as provided by Subsection (g), is governed by a board of 5, 7, 9, 11, 13, or 15 directors, as determined by the governing body of the municipality that created the corporation. Prohibits the number of directors from exceeding the number of members, including the mayor, constituting the governing body of the municipality.

(b) Requires the governing body of the municipality that created the corporation 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 that created the corporation. 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 that has a population of 20,000 or more to be a resident of the municipality. Requires each director of a corporation created by a municipality that has 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 disqualified from serving as a director if the person is an employee, officer, or member of the governing body of the municipality that created the corporation.

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

(g) Sets forth provisions regarding the board of a corporation in a municipality that has a population of more than one million and that creates a corporation under this chapter.

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.

Sec. 379A.025. **ADOPTION AND APPROVAL OF BUDGET; REVIEW OF CORPORATE FINANCES.** (a) Requires the board to prepare an annual budget for the corporation. Requires the budget, to be effective, to be approved by the board and presented to and approved by the governing body of the municipality that created the corporation.

Prohibits the corporation from making any expenditure authorized by this chapter until the budget has been approved as provided by this section. Requires an amendment of the budget to be approved in the same manner as the budget.

(b) Authorizes the governing body of the municipality that created the corporation to amend the corporation's budget with the approval of at least two-thirds of the members of the governing body.

(c) Requires the budget presented to the governing body of the municipality that created the corporation to provide a detailed description of the proposed expenditures.

(d) Requires the board to annually prepare and present financial statements from the preceding fiscal year to the governing body of the municipality that created the corporation.

(e) Provides that the governing body of the municipality that created the corporations is entitled, at all times, to access to the books and records of the corporation.

[Sections 379A.026-379A.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 accept donated property, develop or use land, buildings, equipment, facilities, and other improvements in connection with a program described by this section, or dispose of property or an interest in property under terms determined by the corporation. Authorizes a municipality to contract with a community nonprofit organization that sponsors job training, long-term job training, and related support services.

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

Sec. 379A.053. 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.054. 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.055. 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.

(c) Authorizes the corporation, if the municipality that created the corporation has established an education partnership composed of community-based organizations, school districts, public or private sector entities, or postsecondary institutions for certain purposes, to provide funds to the education partnership to enable the partnership to award scholarships to directly facilitate the development of a skilled workforce.

[Sections 379A.056-379A.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.

#### **SUMMARY OF COMMITTEE CHANGES**

SECTION 1. Amends As Filed S.B. 607, Title 12A, proposed new Chapter 379A, Local Government Code, as follows:

Sec. 379A.001. No changes in text.

Sec. 379A.002. Differs from original As Filed version by replacing "early childhood education" with "early childhood development."

Sec. 379A.003. No changes in text.

Sec. 379A.004. No changes in text.

Provides that Sections 379A.005-379A.010 are reserved for expansion.

Sec. 379A.011. No changes in text.

Sec. 379A.012. No changes in text.

Sec. 379A.013. No changes in text.

Differs from original As Filed Version by inserting new section:

Sec. 379A.014. **ADOPTION AND APPROVAL OF BYLAWS.** Requires the initial bylaws of a corporation to be adopted by its board of directors and approved by resolution of the governing body of the municipality that created the corporation, and requires any subsequent changes made to the bylaws to be approved by the governing body of the municipality that created the corporation.

Provides that Sections 379A.015-379A.020 reserved for expansion.

Sec. 379A.021. Differs from original As Filed version by providing that the corporation, except as provided by Subsection (g), is governed by a board of 5, 7, 9, 11, 13, or 15 directors, as determined by the governing body of the municipality that created the corporation. Prohibits the number of directors from exceeding the number of members, including the mayor, constituting the governing body of the municipality. Makes conforming changes. Provides that a person is disqualified from serving as a director if the person is an employee, officer, or member of the governing body of the municipality that created the corporation. Sets forth provisions regarding the board of the corporation in a municipality that has a population of more than one million and that creates a corporation under this chapter.

Sec. 379A.022. No changes in text.

Sec. 379A.023. No changes in text.

Sec. 379A.024. Differs from the original As Filed version by making conforming changes.

Differs from original As Filed Version by inserting new section:

Sec. 379A.025. **ADOPTION AND APPROVAL OF BUDGET; REVIEW OF CORPORATE FINANCES.** (a) Requires the board to prepare an annual budget for the corporation. Requires the budget, to be effective, to be approved by the board and presented to and approved by the governing body of the municipality that created the corporation. Prohibits the corporation from making any expenditure authorized by this chapter until the budget has been approved as provided by this section. Requires an amendment of the budget to be approved in the same manner as the budget.

(b) Authorizes the governing body of the municipality that created the corporation to amend the corporation's budget with the approval of at least two-thirds of the members of the governing body.

(c) Requires the budget presented to the governing body of the municipality that created the corporation to provide a detailed description certain expenditures.

(d) Requires the board to annually prepare and present financial statements from the preceding fiscal year to the governing body of the municipality that created the corporation.

(e) Provides that the governing body of the municipality that created the corporations is entitled, at all times, to access to the books and records of the corporation.

Provides that Sections 379A.026-379A.050 are reserved for expansion.

Sec. 379A.051. Differs from original As Filed version by authorizing a corporation to accept donated property, develop or use land, buildings, equipment, facilities, and other improvements in connection with a program described by this section, or dispose of property or an interest in property under terms determined by the corporation. Authorizes a municipality to contract with a community nonprofit organization that sponsors job training, long-term job training, and related support services.

Sec. 379A.052. Differs from original As Filed version by requiring personnel employed by the corporation to be employees of the municipality and omitting language authorizing the corporation to acquire, sell, lease, convey, or otherwise dispose of property or an interest in property under terms determined by the corporation.

Sec. 379A.053. Omits text from original Section 379A.053. Designated as 379A.054 in original As Filed version. No changes in redesignated text.

Sec. 379A.054. Designated as Section 379A.055 in original As Filed version. No changes in text.

Sec. 379A.055. Designated as Section 379A.056 in original As Filed Version. Differs from original As Filed version by authorizing the corporation, if the municipality that created the corporation has established an education partnership composed of community-based organizations, school districts, public or private sector entities, or postsecondary institutions for certain purposes, to provide funds to the education partnership to enable the partnership to award scholarships to directly facilitate the development of a skilled workforce.

Provides that Sections 379.056-379.080 are reserved for expansion.

Sec. 379A.081. No changes in text.

Sec. 379A.082. No changes in text.

Sec. 379A.083. No changes in text.

Sec. 379A.101. No changes in text.

Sec. 379A.102. No changes in text.

Sec. 379A.103. No changes in text.

SECTION 2. No changes in text.