

CHAPTER 1022

H.B. No. 2297

AN ACT

relating to the incorporation of certain industrial development corporations and the projects, powers, and limitation of those corporations.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 2(14), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:

(14) "User" means an individual, partnership, corporation, or any other private entity, whether organized for profit or not for profit, or a city, county, district, or any other political subdivision, ~~or~~ public entity, *or agency of the state or federal government.*

SECTION 2. Section 4A, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), as amended by S.B. No. 124, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Subsections (i), (k), and (n) and adding Subsections (q) and (r) to read as follows:

(i) Except as provided by this subsection, the corporation may not undertake a project the primary purpose of which is to provide transportation facilities, solid waste disposal facilities, or air or water pollution control facilities. However, the corporation may provide those facilities to benefit property acquired for a project having another primary purpose. ~~The corporation may undertake a municipal water supply project and provide related transmission and treatment facilities connected with a municipally owned or operated water system or~~

sewage system.] The corporation may undertake a project the primary purpose of which is to provide:

(1) a general aviation business service airport that is an integral part of an industrial park; *or*

(2) port-related facilities to support waterborne commerce[; ~~or~~

~~[(3) any purpose authorized under Section 4B(a)(2) of this Act, if the corporation is in a city that is located wholly on an island that is adjacent to the Gulf of Mexico and is within 35 miles of the Republic of Mexico or if the corporation is in a city that is located adjacent to the Gulf of Mexico and has a population of more than 250,000 according to the most recent federal decennial census].~~

(k) On petition of 10 percent or more of the registered voters of the city requesting an election on the dissolution of the corporation, the governing body shall order an election on the issue at the *next available uniform election date that is not less than 45 days after the date that the petition is filed*. The election must be conducted according to the applicable provisions of the Election Code. The ballot for the election shall be printed to provide for voting for or against the proposition: "Dissolution of the _____ (name of the corporation)." If a majority of voters voting on the issue approve the dissolution, the corporation shall continue operations only as necessary to pay the principal of and interest on its bonds and to meet obligations incurred before the date of the election and, to the extent practicable, shall dispose of its assets and apply the proceeds to satisfy those obligations. When the last of the obligations is satisfied, any remaining assets of the corporation shall be transferred to the city, and the corporation is dissolved. A tax imposed under this section may not be collected after the last day of the first calendar quarter beginning after notification to the comptroller by the corporation that the last of its obligations is satisfied.

(n) At an election called and held under Subsection (d) or (o) of this section, the city may also allow the voters to vote on a ballot proposition that limits the length of time that a sales and use tax may be imposed. If a city elects to limit the period the sales and use tax may be imposed, there shall be added to the end of the ballot proposition prescribed by Subsection (m) of this section: "to be imposed for _____ years" (the number of years to be inserted as appropriate). The governing body of the city shall set the expiration date of the proposed tax to occur on the appropriate anniversary of the effective date of the tax. A sales and use tax imposed for a limited period under this subsection expires on the date set by the governing body under this section or on an earlier date if, by a majority of the voters voting in an election held in the city, the tax is repealed. If an earlier abolition election is held, Sections 321.102(a) and 321.402(b), Tax Code, apply to the date of repeal. A tax that is approved without a limit on its period of imposition is effective until repealed by election. Before the 60th day before the date that a tax is to expire, the governing body shall send a notice to the comptroller stating the expiration date of the tax. Revenue collected after the expiration of the tax from the imposition of the tax after its expiration date shall be *forwarded by the state to the governing body to be used to pay current bonded indebtedness of the municipality* ~~[retained by the state for state purposes and deposited to the credit of the general revenue fund if the tax revenue cannot be returned to the purchaser of taxable items on which the tax was paid]~~. A municipality that has imposed a tax under this section may not extend the period of the tax's imposition or reimpose the tax after its expiration date. If a city reduces the rate of an additional sales and use tax under Chapter 321, Tax Code, to impose a tax under this section for a limited period as provided under this subsection, and does not have an election to change the rate of the additional sales and use tax before the expiration date of the tax under this section, the rate of the additional sales and use tax under Section 321.101(b), Tax Code, in the city returns to its previous rate in effect at the time the tax imposed under this section was adopted on the expiration date of the tax under this section without having to hold an election under Chapter 321, Tax Code, to impose the increase in the rate. ~~[In addition, whether or not a time limit is imposed, at an election called and held under Subsections (d) and (o) of this section, nothing in this section shall be construed to prevent the city from also allowing the voters to vote on a ballot proposition that describes and limits, generally or specifically, the project or projects for which the proceeds of the sales and use tax may be used.]~~

(q) A corporation under this section may not assume a debt or make any expenditure to pay principal or interest on a debt if the debt existed before the date the city created the corporation.

(r) At an election called or held under Subsection (d) or (o) of this section, the city may also allow the voters to vote on a ballot proposition that limits the use of the sales and use tax to a specific project. If a city elects to limit the use to a specific project, in the ballot proposition prescribed by Subsection (m) or (p) a description of the project shall be substituted in place of the words "new and expanded business enterprises." When the last of its obligations for the specific project have been satisfied, the corporation shall send a notice to the comptroller stating that the sales and use tax imposed for the specific project may not be collected after the last day of the first calendar quarter beginning after the date of notification. A sales and use tax imposed for a specific project under this subsection may not be collected after the last day of the first calendar quarter beginning after the date of the notification to the comptroller. Revenue collected after the obligations for the specific project have been satisfied shall be forwarded by the state to the governing body to be used to pay current bonded indebtedness of the municipality. A corporation that has been created to perform a specific project under this subsection may retain its corporate existence and perform other projects as may be approved by the voters of the city under an election called and held under Subsection (d) or (o) of this section.

SECTION 3. Section 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), as amended by S.B. No. 124, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Subsections (a) and (e) and adding Subsections (a-1), (a-2), and (n) to read as follows:

(a) In this section:

(1) "Eligible city" means a city:

(A) that is located [~~wholly or partly~~] in a county with a population of 750,000 or more, according to the most recent federal decennial census and in which the combined rate of all sales and use taxes imposed by the city, the state, and other political subdivisions of the state having territory in the city does not exceed 7.25 percent on the date of any election held under or made applicable to this section; [or]

(B) that has a population of 400,000 [150,000] or more, according to the most recent federal decennial census, and that is located in more than one county, and in which the combined rate of all sales and use taxes imposed by the city, the state, and other political subdivisions of the state having territory in the city, including taxes under this section, does not exceed 8.25 percent; or

(C) to which Section 4A of this Act applies.

(2) "Project" means land, buildings, equipment, facilities, and improvements included in the definition of that term under Section 2 of this Act and land, buildings, equipment, facilities, and improvements found by the board of directors to:

(A) be required or suitable for use for professional and amateur (including children's) sports, athletic, entertainment, tourist, convention, and public park purposes and events, including stadiums, ball parks, auditoriums, amphitheaters, concert halls, learning centers, parks and park facilities, open space improvements, municipal buildings, museums, exhibition facilities, and related store, restaurant, concession, and automobile parking facilities, related area transportation facilities, and related roads, streets, and water and sewer facilities, and other related improvements that enhance any of those items; or

(B) promote or develop new or expanded business enterprises, including a project to provide public safety facilities, streets and roads, drainage and related improvements, demolition of existing structures, general municipally owned improvements, as well as any improvements or facilities that are related to any of those projects and any other project that the board in its discretion determines promotes or develops new or expanded business enterprises.

(a-1) A corporation may undertake a project under this section unless within 60 days after first publishing notice of a specific project or type of general project the governing body of the city receives a petition from more than 10 percent of the registered voters of the city where the petition requests that an election be held before that specific project or that general

type of project is undertaken. An election is not required to be held after the submission of a petition if the qualified citizens of the city have previously approved the undertaking of a specific project or that general type of project at an election called for that purpose by the governing body of the city or in conjunction with another election required to be held under this section.

(a-2) The costs of a publicly owned and operated project that is purchased or constructed under this section include the maintenance and operating costs of the project, and the proceeds of taxes may be used to pay the maintenance and operating costs of a project, unless within 60 days after first publishing notice of this specific use of the proceeds of the taxes the governing body of the city receives a petition from more than 10 percent of the registered voters of the city where the petition requests that an election be held before the proceeds of taxes imposed under this section may be used to pay the maintenance and operating costs of a project. An election is not required to be held after the submission of a petition if the qualified citizens of the city have previously approved that the costs of a publicly owned and operated project purchased or constructed under this section include the maintenance and operating costs of the project and that the proceeds of taxes may be used to pay the maintenance and operating costs of a project, at an election called for that purpose by the governing body of the city or in conjunction with another election required to be held under this section. The election in this subsection shall not be required in a municipality located in a county with a population in excess of 750,000 that has held an election prior to February 1, 1993, under this section and at which election the additional sales tax was approved.

(e) The rate of a tax adopted under this section must be one-eighth, one-fourth, three-eighths, or one-half of one percent. The ballot proposition at the election held to adopt the tax must specify the rate of the tax to be adopted. A corporation that holds an election to reduce a tax imposed under Section 4A of this Act may in a separate proposition on the same ballot adopt a tax under this section. If an eligible city adopts the tax, a tax is imposed on the receipts from the sale at retail of taxable items within the eligible city at the rate approved at the election [~~a rate equal to one-half of one percent~~]. There is also imposed an excise tax on the use, storage, or other consumption within the eligible city of tangible personal property purchased, leased, or rented from a retailer during the period that the tax is effective within the eligible city. 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.

(n) Before expending funds to undertake a project, a corporation under this section shall hold at least one public hearing on the proposed project.

SECTION 4. Section 4A(l), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), as added by Section 1, Chapter 634, Acts of the 72nd Legislature, Regular Session, 1991, is repealed.

SECTION 5. A corporation created before the effective date of this Act under Section 4A, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), may undertake a project authorized by Section 4B of that Act as if the project were authorized by the voters after the effective date of this Act if, before an election held before the effective date of this Act to authorize the levy of a sales and use tax for the benefit of the corporation, the corporation's intent to undertake that project was widely publicized in the city for which the corporation was created.

SECTION 6. This Act takes effect September 1, 1993.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on March 30, 1993, by a non-record vote; the House concurred in Senate amendments on May 22, 1993, by a non-record vote; passed by the Senate, with amendments, on May 18, 1993, by a viva-voce vote.

Approved June 19, 1993.

Effective Sept. 1, 1993.