

CHAPTER 12

S.B. No. 124

AN ACT

relating to the authority of a municipality located in more than one county to create an industrial development corporation, to levy a sales and use tax, and to issue bonds.

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

SECTION 1. Subdivision (1), Subsection (a), Section 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:

(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

[~~(B)~~] 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 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.

SECTION 2. Subsections (c) and (f), Section 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), are amended to read as follows:

(c) The board of directors of a corporation under this section consists of seven directors who are appointed by the governing body of the eligible city for two-year terms of office. A director may be removed by the governing body of the eligible city at any time without cause. Each director must be a resident of the eligible city. ~~Three [At least four directors must be persons who are members of the governing body of the eligible city, and the remaining three]~~ directors shall be persons who are not employees, officers, or members of the governing body of the eligible city. A majority of the entire membership of the board is a quorum. The board shall conduct all meetings within the boundaries of the eligible city. The board shall appoint a president, a secretary, and other officers of the corporation that the governing body of the eligible city considers necessary. The corporation's registered agent must be an individual resident of the state and the corporation's registered office must be within the boundaries of the eligible city.

(f) Chapter 321, Tax Code, governs the imposition, computation, administration, collection, and remittance of the tax except as inconsistent with this section. *The tax imposed under this section takes effect as provided by Section 321.102(a), Tax Code. If, however, an election is held under this section at the same time an election is held to impose or change the rate of the additional municipal sales and use tax, the tax under this section and the imposition or change in rate of the additional municipal sales and use tax take effect as provided by Section 321.102(b), Tax Code.* ~~[Section 321.102(a), Tax Code, does not apply to the tax imposed under this section. The ordinance under which the taxes authorized by this section are levied must provide for the effective date of the tax. That effective date must occur on the first day of a month, which day may not be earlier than the 45th day after the date of final action of the governing body in adopting the ordinance or after the date of the election, whichever is later. If the ordinance levying the tax is adopted after the election, the presiding officer of the governing body shall, not later than the 10th day after the date of the final action in adopting the ordinance, send to the comptroller by certified mail a copy of the ordinance. The tax is effective on the date specified in the ordinance unless the comptroller, within 10 days after the receipt of an ordinance sent under this subsection, notifies the secretary of the municipality that more time is required, in which case the effective date of the application of the tax is the first day of the first calendar quarter after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives the ordinance.]~~ After the effective date of the taxes imposed under this section, the adoption of a sales and use tax or the attempted adoption of a sales and use tax by the eligible city or any other taxing jurisdiction having territory in the city does not impair the taxes imposed under this section.

SECTION 3. Subsection (i), Section 4A, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended 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.*

SECTION 4. Subsection (e), Section 25, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:

(e) The principal of and interest on any bonds issued by the corporation shall be secured by a pledge of the revenues and receipts derived by the corporation from the lease or sale of the project so financed or from the loan made by the corporation with respect to the project so financed or refinanced and may be secured by a mortgage covering all or any part of such project, including any enlargements of and additions to such project thereafter made. The resolution under which the bonds are authorized to be issued and any such mortgage may contain any agreements and provisions respecting the maintenance of the project covered thereby, the fixing and collection of rents, purchase price payments or loan payments, the creation and maintenance of special funds from such revenues and the rights and remedies available in the event of default, all as the board of directors shall deem advisable and not in conflict with the provisions hereof. *The resolution under which the bonds are authorized to be issued and the mortgage may contain any agreements and provisions for satisfying the financial assurance requirements applicable to a project for which a permit is required under Chapter 361, Health and Safety Code, or Chapter 27, Water Code, including those relating to construction, proper operation, liability coverage, emergency response capability, well plugging, closure, and postclosure care. Evidence of the passage of a resolution by a governing body approving or agreeing to approve the issuance of bonds for the purpose of satisfying the financial assurance requirements applicable to such a project is an adequate demonstration that sufficient financial resources will be available to comply with all existing financial assurance requirements.* Each pledge, agreement, and mortgage made for the benefit or security of any of the bonds of the corporation shall continue effective until the principal of and interest on the bonds for the benefit for which the same were made have been fully paid.

SECTION 5. Subsection (n), Section 4A, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:

(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 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.*

SECTION 6. This Act does not affect:

- (1) a matter involved in litigation that is pending on the effective date of this Act; or
- (2) a dispute in relation to property that is the subject of an eminent domain proceeding on the effective date of this Act.

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, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on February 15, 1993: Yeas 31, Nays 0; the Senate concurred in House amendments on March 11, 1993: Yeas 27, Nays 1; passed the House, with amendments, on March 4, 1993: Yeas 114, Nays 19, one present not voting.

Approved March 25, 1993.

Effective March 25, 1993.