

By: Homer

H.B. No. 2912

A BILL TO BE ENTITLED

AN ACT

relating to industrial development corporations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 2(11)(A) and (C), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), are amended to read as follows:

(A) "Project" shall mean the land, buildings, equipment, facilities, targeted infrastructure, and improvements (one or more) that are ~~[to promote new and expanded business development or]~~ found by the board of directors to be required or suitable for the ~~[promotion of]~~ development, retention, or ~~[and]~~ expansion of manufacturing and industrial facilities.

"Project" also includes ~~[, job creation and retention, job training, educational facilities,]~~ research and development facilities, transportation facilities (including but not limited to airports, ports, mass commuting facilities, and parking facilities), sewage or solid waste disposal facilities, recycling facilities, air or water pollution control facilities, ~~[facilities for the furnishing of water to the general public,]~~ distribution centers, small warehouse facilities capable of serving as decentralized storage and distribution centers, ~~[and]~~ facilities for use by institutions of higher education, and corporate headquarters facilities ~~[for the promotion of development or redevelopment and expansion, including costs of~~

1 ~~administration and operation, of a military base closed or~~
2 ~~realigned pursuant to recommendation of the Defense Closure and~~
3 ~~Realignment Commission pursuant to the Defense Base Closure and~~
4 ~~Realignment Act of 1990 (10 U.S.C. Section 2687 note) as amended,~~
5 ~~and of facilities which are related to any of the foregoing, and in~~
6 ~~furtherance of the public purposes of this Act, all as defined in~~
7 ~~the rules of the department, irrespective of whether in existence~~
8 ~~or required to be identified, acquired, or constructed thereafter].~~

9 "Project" also includes job training required or
10 suitable for the promotion of development and expansion of business
11 enterprises and other enterprises described by this Act, as
12 provided by Section 38 of this Act.

13 "Project" also includes expenditures found by the
14 board of directors to be required or suitable for infrastructure
15 necessary to promote or develop new or expanded business
16 enterprises, limited to streets and roads, water and electric
17 utilities, gas utilities, drainage and related improvements, and
18 telecommunications and Internet improvements.

19 (C) As used in this Act, the term blighted or
20 economically depressed areas shall mean those areas and areas
21 immediately adjacent thereto within a city which by reason of the
22 presence of a substantial number of substandard, slum,
23 deteriorated, or deteriorating structures, or which suffer from a
24 high relative rate of unemployment, or which have been designated
25 and included in a tax incremental district created under Chapter
26 695, Acts of the 66th Legislature, Regular Session, 1979 (Article
27 1066d, Vernon's Texas Civil Statutes), or any combination of the

1 foregoing, the city finds and determines, after a hearing,
2 substantially impair or arrest the sound growth of the city, or
3 constitute an economic or social liability and are a menace to the
4 public health, safety, or welfare in their present condition and
5 use. The department shall adopt guidelines that describe the kinds
6 of areas that may be considered to be blighted or economically
7 depressed. The city shall consider these guidelines in making its
8 findings and determinations. Notice of the hearing at which the
9 city considers establishment of [~~a development area or~~] an
10 economically depressed or blighted area shall be posted at the city
11 hall before the hearing.

12 "Federally assisted new communities" shall mean
13 those federally assisted areas which have received or will receive
14 assistance in the form of loan guarantees under Title X of the
15 National Housing Act and a portion of the federally assisted area
16 has received grants under Section 107(a)(1) of the Housing and
17 Community Development Act of 1974, as amended.

18 SECTION 2. Section 3(b), Development Corporation Act of
19 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to
20 read as follows:

21 (b) This Act shall be [~~liberally~~] construed in conformity
22 with the intention of the legislature herein expressed.

23 SECTION 3. Section 4A(t), Development Corporation Act of
24 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to
25 read as follows:

26 (t) The department, with the assistance of the Texas
27 [~~Natural Resource Conservation~~] Commission on Environmental

1 Quality, may encourage the cleanup of contaminated property by
2 corporations created under this section through the use of sales
3 and use tax proceeds. A corporation created under this section may
4 use proceeds from the sales and use tax to undertake the cleanup of
5 contaminated property only if the use of tax proceeds for that
6 purpose is authorized by a majority of the qualified voters of the
7 city voting in an election called and held for that purpose. The
8 ballot in an election held under this subsection shall be printed to
9 provide for voting for or against the proposition: "The use of
10 sales and use tax proceeds for the cleanup of contaminated
11 property."

12 SECTION 4. Section 4B(a), Development Corporation Act of
13 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended by
14 amending Subdivision (2) and adding Subdivision (3) to read as
15 follows:

16 (2) "Project" means land, buildings, equipment,
17 facilities, and improvements included in the definition of that
18 term under Section 2 of this Act, and includes job training as
19 provided by Section 38 of this Act. For purposes of this section,
20 the term includes recycling facilities, and land, buildings,
21 equipment, facilities, and improvements found by the board of
22 directors to:

23 (A) be required or suitable for use for
24 professional and amateur (including children's) sports, athletic,
25 entertainment, tourist, convention, and public park purposes and
26 events, including stadiums, ball parks, auditoriums,
27 amphitheaters, concert halls, [~~learning centers,~~] parks and park

1 facilities, open space improvements, [~~municipal buildings,~~
2 museums, exhibition facilities, and related store, restaurant,
3 concession, and automobile parking facilities, related area
4 transportation facilities, and related roads, streets, and water
5 and sewer facilities, and other related improvements that enhance
6 any of those items;

7 (B) promote or develop new or expanded business
8 enterprises that create or retain primary jobs, including a project
9 to provide public safety facilities, streets and roads, drainage
10 and related improvements, demolition of existing structures,
11 general municipally owned improvements, as well as any improvements
12 or facilities that are related to any of those projects and any
13 other project that the board in its discretion determines promotes
14 or develops new or expanded business enterprises that create or
15 retain primary jobs;

16 (C) be required or suitable for the promotion of
17 development and expansion of affordable housing, as defined by 42
18 U.S.C. Section 12745;

19 (D) be required or suitable for the development
20 or improvement of water supply facilities, including dams,
21 transmission lines, well field developments, and other water supply
22 alternatives; [~~or~~]

23 (E) be required or suitable for the development
24 and institution of water conservation programs, including
25 incentives to install water-saving plumbing fixtures, educational
26 programs, brush control programs, and programs to replace
27 malfunctioning or leaking water lines and other water facilities;

1 or

2 (F) be required or suitable for infrastructure
3 necessary to promote or develop new or expanded business
4 enterprises, including streets and roads, water and electric
5 utilities, drainage and related improvements, and
6 telecommunications and Internet improvements.

7 (3) "Primary job" means a job that is defined by the
8 North American Industrial Classification System (NAICS) and is
9 designated as a primary job by the comptroller.

10 SECTION 5. Section 4B(p), Development Corporation Act of
11 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to
12 read as follows:

13 (p) The department, with the assistance of the Texas
14 ~~[Natural Resource Conservation]~~ Commission on Environmental
15 Quality, may encourage the cleanup of contaminated property by
16 corporations created under this section through the use of sales
17 and use tax proceeds. Notwithstanding any other provision of this
18 section, a corporation created under this section may use proceeds
19 from the sales and use tax to undertake the cleanup of contaminated
20 property only if the use of tax proceeds for that purpose is
21 authorized by a majority of the qualified voters of the city voting
22 in an election called and held for that purpose. The ballot in an
23 election held under this subsection shall be printed to provide for
24 voting for or against the proposition: "The use of sales and use
25 tax proceeds for the cleanup of contaminated property."

26 SECTION 6. The Development Corporation Act of 1979 (Article
27 5190.6, Vernon's Texas Civil Statutes) is amended by adding Section

1 40 to read as follows:

2 Sec. 40. DIRECT INCENTIVE PROVIDED TO BUSINESS ENTERPRISE.

3 (a) A corporation created under this Act may not provide a direct
4 incentive to or make an expenditure on behalf of a business
5 enterprise under a project as defined by Section 2 or 4B(a)(2) of
6 this Act unless the corporation enters into a performance agreement
7 with the business enterprise.

8 (b) A performance agreement between a corporation and
9 business enterprise, at a minimum, must provide for a schedule of
10 jobs and capital investment to be made or created as consideration
11 for any direct incentives provided or expenditures made by the
12 corporation under the agreement. The performance agreement must
13 also specify the terms under which repayment must be made if the
14 business enterprise fails to meet the performance requirements
15 specified in the agreement.

16 SECTION 7. Section 2(11)(B), Development Corporation Act of
17 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is repealed.

18 SECTION 8. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2003.