

By: Uresti

H.B. No. 3195

A BILL TO BE ENTITLED

AN ACT

relating to allowing a municipality to create a defense adjustment management authority; authorizing taxes and bonds.

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

SECTION 1. Chapter 375, Local Government Code, is amended by adding Subchapter O to read as follows:

SUBCHAPTER O. DEFENSE ADJUSTMENT MANAGEMENT AUTHORITY

Sec. 375.301. LEGISLATIVE FINDINGS; PURPOSES. (a) The legislature finds that:

(1) the closure of certain defense bases has had a negative impact on the economic development of the areas within the former defense bases and the areas in the general vicinity of the former defense bases and that the creation of the specific type of authority provided for in this subchapter is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution;

(2) it is an appropriate role for a municipality to foster economic opportunity, job generation, and capital investment by promoting a favorable business climate, preparing the workforce for productive employment, and supporting infrastructure development in areas around defense bases that are intended to be annexed into the municipality; and

(3) the programs designed to create a competent and qualified workforce are essential both to the economic growth and

1 vitality of many municipalities in this state and to the
2 elimination of unemployment and underemployment in those
3 municipalities.

4 (b) The programs authorized by this subchapter are in the
5 public interest, promote the economic welfare of this state, and
6 serve the public purpose of developing and diversifying the economy
7 of this state and eliminating unemployment and underemployment in
8 this state.

9 Sec. 375.302. CONSTRUCTION OF SUBCHAPTER. (a) This
10 subchapter shall be liberally construed in conformity with the
11 findings and purposes stated in Section 375.301.

12 (b) Except as provided by this subchapter, the other
13 provisions of this chapter apply to an authority created under this
14 subchapter.

15 Sec. 375.303. DEFINITIONS. In this subchapter:

16 (1) "Authority" means a defense adjustment management
17 authority created under this subchapter.

18 (2) "Eligible project" means a program authorized by
19 Section 379A.051 and a project as defined by Sections 2(11) and
20 4B(2), Development Corporation Act of 1979 (Article 5190.6,
21 Vernon's Texas Civil Statutes).

22 Sec. 375.304. ELIGIBILITY FOR CREATION BY MUNICIPALITY.

23 (a) The governing body of a municipality by resolution or ordinance
24 may create an authority in an area that is:

25 (1) in the same county as a military installation or
26 facility that is:

27 (A) closed or realigned under the Defense Base

1 Closure and Realignment Act of 1990 (10 U.S.C. Section 2687 note)
2 and its subsequent amendments; or

3 (B) a base efficiency project as defined by
4 Section 378.001, as added by Chapter 1221, Acts of the 76th
5 Legislature, Regular Session, 1999;

6 (2) within the corporate or extraterritorial
7 jurisdiction of a municipality with a population of at least 1.1
8 million; and

9 (3) that is:

10 (A) within the corporate limits of such
11 municipality;

12 (B) within the extraterritorial jurisdiction of
13 the municipality and included in the municipal annexation plan
14 promulgated by such municipality pursuant to Subchapter C, Chapter
15 43, Local Government Code; or

16 (C) that has been annexed for limited purposes by
17 such municipality pursuant to Subchapter F, Chapter 43, Local
18 Government Code

19 (b) Subchapter B and Sections 375.041 and 375.042 do not
20 apply to this subchapter.

21 Sec. 375.305. HEARING ON CREATION OF AUTHORITY. (a) Not
22 earlier than the 60th day or later than the 30th day before the date
23 the governing body of the municipality creates the authority, the
24 governing body of the municipality shall hold two public hearings
25 to consider the creation of the proposed authority. The
26 municipality must publish notice of each public hearing in a
27 newspaper of general circulation in the area of the proposed

1 authority at least seven days before each public hearing.

2 (b) The notice required by Subsection (a) must state:

3 (1) the date, time, and place for the public hearing;

4 (2) the boundaries of the proposed authority,
5 including a map of the proposed authority; and

6 (3) the powers of the proposed authority, including
7 the power to levy assessments and to impose a sales and use tax.

8 Sec. 375.306. BOARD OF DIRECTORS. (a) The board consists of
9 at least five and not more than fifteen directors.

10 (b) The municipality, county in which the municipality is
11 primarily located, and each school district whose boundaries
12 overlap with an authority shall, in its sole discretion, nominate a
13 member of the board who shall be appointed by the municipality.

14 (c) If the number of directors appointed under Subsection
15 (b) is less than the total number of the directors who serve on the
16 board, the governing body of the municipality may appoint
17 additional directors up to the total membership of the board.

18 (d) Directors are appointed for terms of two years. Terms
19 of directors may be staggered.

20 (e) A vacancy on the board is filled for the unexpired term
21 by nomination of the governing body of the entity that appointed the
22 director who served in the vacant position and the appointment of
23 that nominee by the municipality.

24 (f) Each year the mayor of the municipality shall appoint
25 one director to serve as presiding officer for a term of one year
26 that begins on January 1 of the following year. The board may elect
27 an assistant presiding officer to preside in the absence of the

1 presiding officer or when there is a vacancy in that office. The
2 board may elect other officers as it considers appropriate.

3 (g) Sections 375.061, 375.066, 375.068, and the limitations
4 of 375.072(c) do not apply to this subchapter.

5 Sec. 375.307. QUALIFICATIONS OF DIRECTORS. (a) Except as
6 provided by Subsection (b), a majority of the directors of a
7 authority must meet the qualifications of Section 375.063.

8 (b) Representatives or agents of a school district whose
9 boundaries overlap with an authority or of an institution of higher
10 education that operates facilities within an authority may serve on
11 the board.

12 Sec. 375.308. POWERS OF AUTHORITY; MUNICIPALITY. (a) An
13 authority:

14 (1) may plan, design, implement, develop, construct,
15 and finance eligible projects as defined in this subchapter; and

16 (2) has the powers of a municipality under Chapters
17 378 and 380.

18 (b) An authority may not:

19 (1) issue bonds or notes without the prior approval of
20 the governing body of the municipality that created the authority;

21 (2) seek a charter for or operate, within the
22 boundaries of the authority, an open-enrollment charter school
23 authorized by Subchapter D, Chapter 12, Education Code, or

24 (3) levy ad valorem property taxes.

25 Sec. 375.309. MUNICIPAL ANNEXATION OF AREA IN AN AUTHORITY.

26 (a) A municipality that creates an authority under this subchapter
27 may annex all or part of the territory located in the authority

1 under Chapter 43.

2 (b) Annexation of territory located in the authority does
3 not affect the operation of the authority; or

4 (c) Creation of an authority does not:

5 (1) affect the power of the municipality to designate
6 all or part of an area in the authority as an industrial authority;

7 (2) limit a power of the municipality conferred by
8 Chapter 42; or

9 (3) impose a duty on or affect the power of the
10 municipality to provide municipal services to any area in the
11 municipality or its extraterritorial jurisdiction that is in the
12 authority.

13 Sec. 375.310. AUTHORITY MASTER PLAN. (a) An authority may
14 only develop or construct public improvements or eligible projects
15 in areas designated in an authority master plan approved by the
16 board and the governing body of the municipality that created the
17 authority.

18 (b) The authority master plan must include the information
19 required for a municipal reinvestment zone under Sections
20 311.011(b) and (c), Tax Code, for the area of the authority. For
21 the purposes of applying those sections, the area of the authority
22 affected constitutes a zone.

23 (c) The authority shall generate the authority master plan
24 based on the economic development needs of the property owners and
25 constituents in the authority.

26 (d) After approval by the board, the authority shall submit
27 the authority master plan to the municipality for approval. Before

1 taking action to approve or reject the authority master plan, the
2 municipality shall make a copy of the proposed authority master
3 plan available to the public and hold hearings and publish notice of
4 the hearings in the manner required by Section 375.305. The notice
5 of the public hearings must state where a copy of the proposed
6 authority master plan is available for inspection.

7 (e) The board may amend and submit the approved authority
8 master plan to the governing body of the municipality for approval.

9 (f) Before approving the authority's master plan or any
10 amendment, the municipality shall publish notice and hold hearings
11 as required by Subsection (d).

12 Sec. 375.311. SALES AND USE TAX. (a) An authority may
13 impose a sales and use tax to support or finance public
14 infrastructure projects and eligible projects authorized under
15 this subchapter if the tax is authorized by a majority of the
16 qualified voters of the authority voting at an election held for
17 that purpose in the manner provided by Sections 375.241 and
18 375.242.

19 (b) If a authority adopts the tax, there is imposed a tax on
20 the receipts from the sale at retail of taxable items within the
21 authority at the rate approved by the voters. The rate must be
22 equal to one-eighth, one-fourth, three-eighths, or one-half of one
23 percent.

24 (c) Chapter 321, Tax Code, governs the imposition,
25 computation, administration, governance, and abolition of a tax
26 imposed under this section.

27 (d) If any territory in the authority is annexed by the

1 municipality, the municipality's sales and use tax applies in the
2 annexed area. In the event that the authority's sales and use tax
3 rate when combined with any other sales and use tax applicable in
4 the authority exceeds two percent, then the authority's sales and
5 use tax is abolished upon annexation.

6 Sec. 375.312. ZONING AND PLANNING. (a) An authority
7 created under this subchapter has the power of a municipality under
8 Chapters 211 and 212 in an area of the authority that is not in the
9 boundaries of a municipality or the municipality's limited purpose
10 jurisdiction. On annexation of an area of the authority by a
11 municipality, the authority's power to regulate the area under
12 Chapter 211 or 212 expires.

13 (b) The board may divide the authority into distinct areas
14 as provided by Section 211.005 to accomplish the purposes of this
15 chapter and Chapter 211.

16 Sec. 375.313. REGIONAL DEVELOPMENT AGREEMENTS. (a) An
17 authority may enter into regional development agreements with its
18 creating municipality, other municipalities, counties, school
19 districts, institutions of higher education, other political
20 subdivisions, and private interests to:

21 (1) promote and advance long-term economic
22 development in the authority; or

23 (2) achieve the purposes for the authority's creation
24 and to implement the powers provided to the authority under this
25 chapter.

26 (b) An authority, a municipality, a school district whose
27 boundary overlaps with a portion of an authority, or an institution

1 of higher education may enter into an agreement to:

2 (1) fund improvements to school facilities and teacher
3 compensation of school districts or institutions of higher
4 education in the authority; and

5 (2) develop programs provided for in Section 379A.051.

6 (c) Any agreement entered into with a school district
7 pursuant to this section shall be designed in such a way that the
8 school district funding under Title 2 of the Education Code, shall
9 be not less than the school district would have received had the
10 school district not entered into the agreement. This provision may
11 be waived by a school district board of trustees by specific action
12 suspending the provisions of this subsection.

13 Sec. 375.314. DISSOLUTION OF THE AUTHORITY. (a) The
14 governing body of the municipality that created an authority under
15 this subchapter may dissolve the authority.

16 (b) Before dissolution, the municipality shall publish
17 notice and hold public hearings on the proposed dissolution in the
18 manner provided in Section 375.305.

19 (c) On dissolution, the municipality shall assume the
20 assets, debts, and other obligations of the authority.

21 (d) Subchapter M does not apply to this subchapter.

22 SECTION 2. Section 378.011(b), Local Government Code, as
23 added by Chapter 1221, Acts of the 76th Legislature, Regular
24 Session, 1999, is amended to read as follows:

25 (b) Section 25.07(a), Tax Code, does not apply [~~applies~~] to
26 a leasehold or other possessory interest in real property granted
27 by an authority for a project designated under Section 378.009(a)

1 ~~[in the same manner as it applies to a leasehold or other possessory~~
2 ~~interest in real property constituting a project described by~~
3 ~~Section 4B(k), Development Corporation Act of 1979 (Article 5190.6,~~
4 ~~Vernon's Texas Civil Statutes)]. The project is exempt from~~
5 ~~taxation under Section 11.11, Tax Code, for the duration of the~~
6 ~~lease or other possessory interest.~~

7 SECTION 3. Section 403.302(d), Government Code, is amended
8 to read as follows:

9 (d) For the purposes of this section, "taxable value" means
10 the market value of all taxable property less:

11 (1) the total dollar amount of any residence homestead
12 exemptions lawfully granted under Section 11.13(b) or (c), Tax
13 Code, in the year that is the subject of the study for each school
14 district;

15 (2) one-half of the total dollar amount of any
16 residence homestead exemptions granted under Section 11.13(n), Tax
17 Code, in the year that is the subject of the study for each school
18 district;

19 (3) the total dollar amount of any exemptions granted
20 before May 31, 1993, within a reinvestment zone under agreements
21 authorized by Chapter 312, Tax Code;

22 (4) subject to Subsection (e), the total dollar amount
23 of any captured appraised value of property that:

24 (A) is within a reinvestment zone created on or
25 before May 31, 1999, or is proposed to be included within the
26 boundaries of a reinvestment zone as the boundaries of the zone and
27 the proposed portion of tax increment paid into the tax increment

1 fund by a school district are described in a written notification
2 provided by the municipality or the board of directors of the zone
3 to the governing bodies of the other taxing units in the manner
4 provided by Section 311.003(e), Tax Code, before May 31, 1999, and
5 within the boundaries of the zone as those boundaries existed on
6 September 1, 1999, including subsequent improvements to the
7 property regardless of when made;

8 (B) generates taxes paid into a tax increment
9 fund created under Chapter 311, Tax Code, under a reinvestment zone
10 financing plan approved under Section 311.011(d), Tax Code, on or
11 before September 1, 1999; and

12 (C) is eligible for tax increment financing under
13 Chapter 311, Tax Code;

14 (5) the total dollar amount of any exemptions granted
15 under Section 11.251, Tax Code;

16 (6) the difference between the comptroller's estimate
17 of the market value and the productivity value of land that
18 qualifies for appraisal on the basis of its productive capacity,
19 except that the productivity value estimated by the comptroller may
20 not exceed the fair market value of the land;

21 (7) the portion of the appraised value of residence
22 homesteads of the elderly on which school district taxes are not
23 imposed in the year that is the subject of the study, calculated as
24 if the residence homesteads were appraised at the full value
25 required by law;

26 (8) a portion of the market value of property not
27 otherwise fully taxable by the district at market value because of:

1 (A) action required by statute or the
2 constitution of this state that, if the tax rate adopted by the
3 district is applied to it, produces an amount equal to the
4 difference between the tax that the district would have imposed on
5 the property if the property were fully taxable at market value and
6 the tax that the district is actually authorized to impose on the
7 property, if this subsection does not otherwise require that
8 portion to be deducted; or

9 (B) action taken by the district under Subchapter
10 B or C, Chapter 313, Tax Code;

11 (9) the market value of all tangible personal
12 property, other than manufactured homes, owned by a family or
13 individual and not held or used for the production of income;

14 (10) the appraised value of property the collection of
15 delinquent taxes on which is deferred under Section 33.06, Tax
16 Code;

17 (11) the portion of the appraised value of property
18 the collection of delinquent taxes on which is deferred under
19 Section 33.065, Tax Code; ~~and~~

20 (12) the amount by which the market value of a
21 residence homestead to which Section 23.23, Tax Code, applies
22 exceeds the appraised value of that property as calculated under
23 that section; and

24 (13) the amount of any exemptions in a defense
25 adjustment management district authorized by Subchapter O, Chapter
26 375, Local Government Code.

27 SECTION 4. This Act takes effect immediately if it receives

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1 a vote of two-thirds of all the members elected to each house, as
2 provided by Section 39, Article III, Texas Constitution. If this
3 Act does not receive the vote necessary for immediate effect, this
4 Act takes effect September 1, 2003.