

By: Madla

S.B. No. 1565

Substitute the following for S.B. No. 1565:

By: Puente

C.S.S.B. No. 1565

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 by 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 of eliminating unemployment and underemployment  
8 in 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(a)(2), Development Corporation Act of 1979 (Article 5190.6,  
21 Vernon's Texas Civil Statutes). Notwithstanding this definition,  
22 seeking a charter for or operating an open-enrollment charter  
23 school authorized by Subchapter D, Chapter 12, Education Code,  
24 shall not be an eligible project.

25 Sec. 375.304. ELIGIBILITY FOR CREATION BY MUNICIPALITY.

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

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

3           (A) closed or realigned under the Defense Base  
4 Closure and Realignment Act of 1990 (10 U.S.C. Section 2687 note)  
5 and its subsequent amendments; or

6           (B) a base efficiency project as defined by  
7 Section 378.001, as added by Chapter 1221, Acts of the 76th  
8 Legislature, Regular Session, 1999; and

9           (2) in the extraterritorial jurisdiction of a  
10 municipality with a population of at least 1.1 million and that has  
11 been annexed for limited purposes by the municipality under  
12 Subchapter F, Chapter 43.

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

15           Sec. 375.305. HEARING ON CREATION OF AUTHORITY. (a) Not  
16 earlier than the 60th day or later than the 30th day before the date  
17 the governing body of the municipality creates the authority, the  
18 governing body of the municipality shall hold two public hearings  
19 to consider the creation of the proposed authority. The  
20 municipality must publish notice of each public hearing in a  
21 newspaper of general circulation in the area of the proposed  
22 authority at least seven days before each public hearing.

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

24           (1) the date, time, and place for the public hearing;  
25           (2) the boundaries of the proposed authority,  
26 including a map of the proposed authority; and

27           (3) the powers of the proposed authority, including

1 the power to levy assessments and to impose a sales and use tax.

2 Sec. 375.306. BOARD OF DIRECTORS. (a) The board consists  
3 of 15 directors.

4 (b) The municipality shall appoint six members of the board.

5 (c) The county in which the municipality is primarily  
6 located shall appoint six members of the board.

7 (d) School districts whose boundaries overlap with an  
8 authority shall collectively appoint three members of the board.

9 (e) Directors are appointed for terms of two years. Terms  
10 of directors may be staggered, and directors may serve successive  
11 terms.

12 (f) A vacancy on the board is filled for the unexpired term  
13 by the governing body of the entity that appointed the director who  
14 served in the vacant position.

15 (g) The mayor of the municipality and the county judge of  
16 the county in which the authority is primarily located shall,  
17 alternately, appoint one director to serve as presiding officer,  
18 with the first appointment to be made by the mayor of the  
19 municipality. The presiding officers shall serve for a term of four  
20 years beginning on January 1 of the year following the appointment.  
21 The board may elect an assistant presiding officer to preside in the  
22 absence of the presiding officer or when there is a vacancy in that  
23 office. The board may elect other officers as it considers  
24 appropriate.

25 (h) Sections 375.061, 375.066, and 375.068 and the  
26 limitations of Section 375.072(c) do not apply to this subchapter.

27 Sec. 375.307. QUALIFICATIONS OF DIRECTORS. (a) Except as

1 provided by Subsection (b), a majority of the directors of an  
2 authority must meet the qualifications of Section 375.063.

3 (b) Representatives or agents of a school district whose  
4 boundaries overlap with an authority or of an institution of higher  
5 education that operates facilities within an authority may serve on  
6 the board.

7 Sec. 375.308. POWERS OF THE AUTHORITY; MUNICIPALITY.

8 (a) An authority:

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

11 (2) has the powers of a municipality under Chapter  
12 378, as added by Chapter 1221, Acts of the 76th Legislature, Regular  
13 Session, 1999, and Chapter 380.

14 (b) An authority may not:

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

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

20 (3) levy ad valorem property taxes.

21 (c) A municipality may not seek a charter for or operate an  
22 open-enrollment charter school authorized by Subchapter D, Chapter  
23 12, Education Code, within the boundaries of the authority.

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

25 (a) A municipality that creates an authority under this subchapter  
26 may annex all or part of the territory located in the authority  
27 under Chapter 43.

1       (b) Annexation of territory located in the authority does  
2 not affect the operation of the authority.

3       (c) Creation of an authority does not:

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

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

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

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

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

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

25       (d) After approval by the board, the authority shall submit  
26 the authority master plan to the municipality for approval. Before  
27 taking action to approve or reject the authority master plan, the

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

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

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

11 (g) Until the authority master plan is approved by the  
12 municipality:

13 (1) the municipality that created the authority may  
14 not exercise the powers granted under Chapter 311 or 312, Tax Code;  
15 and

16 (2) a county making appointments under Section 375.306  
17 may not exercise the powers granted under Chapter 312, Tax Code.

18 Sec. 375.311. SALES AND USE TAX. (a) An authority may  
19 impose a sales and use tax to support or finance public  
20 infrastructure projects and eligible projects authorized under  
21 this subchapter if the tax is authorized by a majority of the  
22 qualified voters of the authority voting at an election held for  
23 that purpose in the manner provided by Sections 375.241 and  
24 375.242.

25 (b) If an authority adopts the tax authorized by Subsection  
26 (a), a tax is imposed on the receipts from the sale at retail of  
27 taxable items within the authority at the rate approved by the

1 voters. The rate must be equal to one-eighth, one-fourth,  
2 three-eighths, or one-half of one percent.

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

6 (d) If any territory in the authority is annexed by the  
7 municipality, the municipality's sales and use tax applies in the  
8 annexed area. If the authority's sales and use tax rate, when  
9 combined with any other sales and use tax applicable in the  
10 authority, exceeds two percent, the authority's sales and use tax  
11 is abolished upon annexation.

12 Sec. 375.312. ZONING AND PLANNING. (a) An authority  
13 created under this subchapter has the power of a municipality under  
14 Chapters 211 and 212 in an area of the authority that is in the  
15 boundaries of the municipality's limited purpose jurisdiction. On  
16 annexation of an area of the authority by a municipality, the  
17 authority's power to regulate the area under Chapter 211 or 212  
18 expires.

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

22 Sec. 375.313. REGIONAL DEVELOPMENT AGREEMENTS. (a) An  
23 authority may enter into regional development agreements with its  
24 creating municipality, other municipalities, counties, school  
25 districts, institutions of higher education, other political  
26 subdivisions, and private interests to:

27 (1) promote and advance long-term economic



1 development in the authority; or

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

5 (b) An authority, a municipality, a school district whose  
6 boundary overlaps with a portion of an authority, or an institution  
7 of higher education may enter into an agreement to:

8 (1) fund improvements to school facilities and teacher  
9 compensation of school districts or institutions of higher  
10 education in the authority; and

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

12 (c) Any agreement entered into with a school district under  
13 this section shall be designed in such a way that the school  
14 district funding under Title 2, Education Code, shall be not less  
15 than the school district would have received had the school  
16 district not entered into the agreement. This provision may be  
17 waived by a school district board of trustees by specific action  
18 suspending the provisions of this subsection.

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

22 (b) Before dissolution, the municipality shall publish  
23 notice and hold public hearings on the proposed dissolution in the  
24 manner provided in Section 375.305.

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

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

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