BILL ANALYSIS

C.S.H.B. 1380
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

House Bill No. 1380 would permit the establishment of "Renaissance Zones" by the governing bodies of taxing units. Eligible businesses would be permitted to locate or relocate into the zone and would be free from certain state and local taxes for a period of time, providing the business meets certain requirements to stimulate economic development.

RULEMAKING AUTHORITY

It is the opinion of the Committee on Business and Industry that Section 2312.191(b) expressly grants rulemaking authority to the Texas Economic Development and Tourism Office as well as the Office of the Comptroller (Section 2312.104).

SECTION-BY-SECTION ANALYSIS

SECTION 1. Amends Subtitle G, Title 10 of the Government Code by adding a new Chapter 2312 as follows:

CHAPTER 2312. RENAISSANCE ZONES

SUBCHAPTER A. GENERAL PROVISIONS

Section 2312.001. Defines the following words or terms: "business"; "eligible business"; "office"; "relocate"; "taxing unit"; and "zone".

Section 2312.002. Defines a reinvestment zone as an area of property that has received an exemption or other relief from ad valorem taxes on the property for the purpose of encouraging development or redevelopment and improvement of the property. The exemption is granted by a city, town or another taxing unit. (Section 1-g(a), Article VIII of the Texas Constitution)

The Act reserves Sections 2312.003-2312.050 for expansion.

SUBCHAPTER B. CREATION OF ZONE

Section 2312.051. Permits a governing body of a taxing unit, by order or ordinance, to nominate an area located within the boundaries of the taxing unit for designation as a zone by submitting an application to the Texas Economic Development and Tourism Office (TEDTO). A taxing unit may enter into an agreement to nominate an area jointly with another taxing unit. The section further outlines what must be included in such an application.

Section 2312.052. Requires the Texas Economic Development and Tourism Office to review each application submitted by a taxing unit before the 90th day after the date on which the application was submitted. TEDTO must determine if the application meets the criteria designated as a zone prescribed by Section 2312.053 of this Act and the likelihood that an eligible business would relocate to the designated area.

Section 2312.053. Outlines the "Criteria for Designation" that an area must meet in order to be designated as a reinvestment zone.

The Act reserves Sections 2312.054-2312.100 for expansion.

SUBCHAPTER C. BOARD OF DIRECTORS; POWERS AND DUTIES OF BOARD

Section 2312.101. States that a zone is governed by a board of directors. TEDTO's executive directors, by rule, shall determine the number of directors, the qualifications of directors, and the method of apportioning the appointment of directors among the taxing units that nominated the area for designation as a zone. Each taxing unit must have at least one director on the board. Each taxing unit must name its appointment to the board of directors before the 30th day after the date on which TEDTO designates an area as a zone.

Section 2312.102. States that the board of directors shall determine, by order, if a business is eligible as outlined by the eligibility requirements prescribed by Section 2312.151(b).

Section 2312.103. Requires the board of directors to advertise the existence of a zone and the benefits of relocating to a zone, to attract businesses to the zone and to encourage new business growth in the zone.

Section 2312.104. Permits the board of directors to apply to the comptroller for authorization to grant a franchise tax exemption to eligible businesses within the zone. The comptroller may approve the exemption, if it is determined that there is sufficient money in the renaissance zone franchise tax exemption account under Subchapter E to offset the revenue lost for permitting the franchise tax exemption. The comptroller may restrict the number of businesses in a single zone or in all zones that may be granted franchise tax exemption based on the amount of funds in the account to support an exemption. The comptroller may adopt rules to implement this section.

The Act reserves Sections 2312.105 - 2312.150 for expansion.

SUBCHAPTER D. INCENTIVES FOR BUSINESS RECRUITMENT

Section 2312.151. Defines the term "new job". Outlines the requirements for a business to be considered an "eligible business".

Section 2312.152. States that a business' designation as an eligible business expires on the 10th anniversary of the date on which the business was designated as an eligible business.

Section 2312.153. States that an eligible business is exempt from sales and use taxes as provided by Section 151.356 of the Tax Code.

Section 2312.154. States that an eligible business is exempt from franchise taxes, as provided by Section 171.088 of the Tax Code, if the eligible business is located in a zone for which the comptroller has approved franchise tax exemption under Section 2312.104. In addition, the number of businesses previously granted exemptions may not equal or exceed the maximum number of businesses as determined by the comptroller. Finally, the board of directors must have granted the business an exemption from the franchise tax.

Section 2312.155. Permits a governing body of a taxing unit located wholly or partly in a zone to enter into a tax abatement agreement, as provided by Chapter 314 of the Tax Code, with an eligible business operating in the zone. The taxing unit must be permitted to issue bonds payable from ad valorem taxes under Section 1-g(b), Article VIII of the Texas Constitution. The taxing unit may use the bond for the purpose of offsetting tax proceeds that would not be collected as a result of a tax abatement agreement.

The Act reserves Sections 2312.156 - 2312.200 for expansion.

SUBCHAPTER E. RENAISSANCE ZONE FRANCHISE TAX EXEMPTION ACCOUNT

Section 2312.201. (a) Creates the renaissance zone franchise account as a separate account in the general revenue fund. The account would be composed of the (1) money from the Texas Enterprise Fund awarded to the account; (2) gifts, grants, and donations; and (3) funds appropriated by the legislature.

SECTION 2. Amends Subchapter H, Chapter 151 of the Tax Code by adding Section 151.356 to exempt an eligible business, under this Act, from paying sales, excise and use taxes (prescribed by this Chapter) on a taxable item purchased, leased, or rented to or stored, used, or consumed by the eligible business. The items exempted from the sales, excise or use tax has to be for the exclusive use and benefit of the eligible business. Items that are to be leased, sold, or loaned by the eligible business would not qualify for the tax exemptions provided by the Act.

SECTION 3. Amends Subchapter B, Chapter 171 of the Tax Code by adding Section 171.088 to exempt from franchise tax a corporation designated as an eligible business under this Act for 5 years after the corporation receives its designation. On the fifth year, the corporation receives an 80 percent franchise tax exemption. On the sixth year, the corporation receives a 60 percent franchise tax exemption. On the seventh year, the corporation receives a 40 percent franchise tax exemption. On the eighth year, the corporation receives a 20 percent franchise tax exemption. On the ninth year, the corporation receives a 10 percent franchise tax exemption. The exemption would apply only to the corporation's taxable activities that occur within the renaissance zone.

SECTION 4. Amends Subtitle B, Title 3 of the Tax Code by adding Chapter 214 as follows:

Section 314.001. Defines the terms "eligible business" and "taxing unit" as having the same meaning as Section 2312.102 of the Government Code and Section 1.04 of the Tax Code respectively.

Section 314.002. States that a commissioners court of a county that is required by statute to approve the ad valorem tax rate of a taxing unit may enter into a tax abatement agreement applicable to the same property on behalf of the taxing unit. The tax abatement agreement entered into on behalf of the other taxing unit is not required to contain the same terms as the tax abatement agreement entered into on behalf of the county. This section does not apply to a taxing unit because the county tax assessor-collector is required by law to assess or collect the taxing unit's ad valorem taxes.

Section 314.003. Requires the comptroller to maintain a central registry of ad valorem tax abatement agreements executed under this chapter. The chief appraiser of each appraisal district that appraises property for a taxing unit that is located wholly or partly in a reinvestment zone and has executed a tax abatement agreement under this chapter the following information to the comptroller before July 1st of the year following the year in which the zone is designated or the agreement is executed:

(1) a general description of the reinvestment zone, including the boundaries and the taxing units that are located wholly or partly in the zone;

(2) a copy of each tax abatement agreement to which a taxing unit that participates in the appraisal district is a party; and

(3) any other information required by the comptroller to administer this section.

At the request of the governing body of the taxing unit, the comptroller may provide assistance relating to the administration of this chapter. TEDTO and the comptroller may provide technical assistance to a local governing body regarding the execution of tax abatement agreements.

This Act reserves Sections 314.004-314.050 for expansion.

SUBCHAPTER B. TAX ABATEMENT

Section 314.051. States that the designation of an area as a renaissance zone under Chapter 2313 of the Government Code constitutes designation of the area as a reinvestment zone under this chapter without procedural requirements other than those provided by Chapter 2312 of the Government Code.

Section 314.052. Allows the governing body of a taxing unit that is authorized to enter into tax abatement agreements under this Act to exempt an eligible business from taxation a portion of the value of the property owned by the eligible business. The agreement must be in writing.

Provides for an allowable percentage rate of exemption based on the anniversary period of the designation of the business as an eligible business. States that the tax abatement agreement expires 10 years after the business was designated as an eligible business.

Section 314.053. Outlines the information and terms that must be contained in a tax abatement agreement.

Section 314.054. Requires the governing body of the taxing unit to approve an agreement under this chapter by the affirmative vote of a majority of the body before the agreement to be effective. The vote must be taken at a regularly scheduled meeting of the governing body. Once approved, the agreement may be executed in the same manner as other contracts made by the taxing unit.

Section 314.055. Allows the parties to the agreement to modify or terminate the agreement before the expiration date of the agreement. The agreement may not be modified to alter the terms expressly imposed by this subchapter. All modification must be made by the same procedure by which the original agreement was approved and executed. States that the original agreement cannot be modified to extend the designation of the eligible business beyond the 10 year eligibility period.

Section 314.056. Permits a taxing unit that is authorized under Section 1-g(b), Article VIII of the Texas Constitution to issue bonds payable from ad valorem taxes, to use the proceeds of the bonds to offset the tax proceeds that would not be collected by the taxing unit as the result of the tax abatement agreements permitted under this Act. The proceeds must be used in the manner consistent with the purpose for which the bonds were issued.

Section 314.057. Permits a municipality to issue bonds. The proceeds resulting from the bonds may be used to defray the cost to the municipality for entering into a tax abatement agreement under this Act. The municipality may issue refunding bonds for the payment or retirement of bonds previously issued by the municipality under this section. Bonds issued under this section are payable, as to both principal and interest, from ad valorem taxes. A municipality may issue bonds via an ordinance without any additional approval other than that of the attorney general. Bonds issued under this section, including the interest on and income from those bonds are exempt from all taxes. Permits bonds to be issued in one or more series. Outlines the content of an ordinance approving a bond, or the trust indenture or mortgage issued in connection with the bond. A bond issued under this section is fully negotiable. Establishes the validity of the bonds issued under this Act. Permits a financial institution to invest in bonds issued under this Act. Limits the liability of a municipality on the bonds issued under this Act. Limits the amount of bonds a municipality is permitted to issue under this Act. States that a bond issued under this section must mature within 20 years of the date of issue.

SECTION 5. Amends Subchapter C, Chapter 321 of the Tax Code by adding Section 321.2081 to permit a municipality, notwithstanding any other law, to reallocate sales and use tax proceeds to offset revenue not received as a result of the operation of Section 151.356 and 321.208.

SECTION 6. Amends Subchapter C, Chapter 323 of the Tax Code by adding Section 323.2071 to permit a county, notwithstanding any other law, to reallocate sales and use tax proceeds to offset revenue not received as a result of the operation of Section 151.356 and 321.207.

SECTION 7. Effective Date.

EFFECTIVE DATE

September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The committee substitute for House Bill No. 1380 clarifies the definition of an eligible business to mean a business that relocates from another state or is a new business created in a zone after the date on which the zone was created. The substitute in Section 2312.053 also clarifies the criteria by which an area could be designated as a renaissance zone. The fiscal note associated with the original version has been resolved by permitting the various taxing units to offset the potential loss in taxing revenue. The franchise tax exemption would be limited to the availability of funds in the Renaissance Zone Franchise Tax Exemption Account to offset the exemptions. This fund is maintained by the combination of (1) money from the Texas Enterprise Fund awarded to the account; (2) gifts, grants, and donations; and (3) funds appropriated by the legislature. The potential loss in ad valorem taxes would be offset by allowing appropriate taxing units to issue bonds, as permitted under Article VIII, Section 1-g, of the Texas Constitution, to offset the abatement. Municipalities and counties are permitted, notwithstanding any other law, to reallocate sales and use tax proceeds to offset revenue not received as a result of offering a sale and use tax exemption under this Act.