

1-1 By: Parker (Senate Sponsor - Harris) H.B. No. 3440
1-2 (In the Senate - Received from the House April 30, 2007;
1-3 May 2, 2007, read first time and referred to Subcommittee on
1-4 Emerging Technologies and Economic Development; May 18, 2007,
1-5 reported adversely, with favorable Committee Substitute from
1-6 Committee on Business and Commerce by the following vote: Yeas 8,
1-7 Nays 0; May 18, 2007, sent to printer.)

1-8 COMMITTEE SUBSTITUTE FOR H.B. No. 3440 By: Harris

1-9 A BILL TO BE ENTITLED
1-10 AN ACT

1-11 relating to projects that may be undertaken by development
1-12 corporations for the development, retention, or expansion of
1-13 certain airport facilities.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Section 2(11), Development Corporation Act of
1-16 1979 (Article 5190.6, Vernon's Texas Civil Statutes), as amended by
1-17 Chapters 1, 1048, and 1148, Acts of the 79th Legislature, Regular
1-18 Session, 2005, is reenacted and amended to read as follows:

1-19 (11) "Project" shall mean:

1-20 (A) the land, buildings, equipment, facilities,
1-21 expenditures, targeted infrastructure, and improvements (one or
1-22 more) that are for the creation or retention of primary jobs and
1-23 that are found by the board of directors to be required or suitable
1-24 for the development, retention, or expansion of manufacturing and
1-25 industrial facilities, research and development facilities,
1-26 military facilities, including closed or realigned military bases,
1-27 transportation facilities (including but not limited to airports,
1-28 hangars, airport maintenance and repair facilities, air cargo
1-29 facilities, related infrastructure located on or adjacent to an
1-30 airport facility, ports, mass commuting facilities, and parking
1-31 facilities), sewage or solid waste disposal facilities, recycling
1-32 facilities, air or water pollution control facilities, facilities
1-33 for the furnishing of water to the general public, distribution
1-34 centers, small warehouse facilities capable of serving as
1-35 decentralized storage and distribution centers, primary job
1-36 training facilities for use by institutions of higher education,
1-37 and regional or national corporate headquarters facilities;

1-38 (B) job training required or suitable for the
1-39 promotion of development and expansion of business enterprises and
1-40 other enterprises described by this Act, as provided by Section 38
1-41 of this Act;

1-42 (C) expenditures found by the board of directors
1-43 to be required or suitable for infrastructure necessary to promote
1-44 or develop new or expanded business enterprises limited to streets
1-45 and roads, rail spurs, water and sewer utilities, electric
1-46 utilities, gas utilities, drainage, site improvements, and related
1-47 improvements, telecommunications and Internet improvements, and
1-48 beach remediation along the Gulf of Mexico;

1-49 (D) the infrastructure, improvements, land
1-50 acquisition, buildings, or expenditures that:

1-51 (i) [~~(A)~~] are for the creation or retention
1-52 of primary jobs or jobs that are included in North American Industry
1-53 Classification System (NAICS) sector number 926120, Regulation and
1-54 Administration of Transportation Programs, for the corresponding
1-55 index entry for Coast Guard (except the Coast Guard Academy); and

1-56 (ii) [~~(B)~~] are found by the board of
1-57 directors to be required or suitable for:

1-58 (a) [~~(i)~~] promoting or supporting a
1-59 military base in active use to prevent the possible future closure
1-60 or realignment of the base;

1-61 (b) [~~(ii)~~] attracting new military
1-62 missions to a military base in active use; or

1-63 (c) [~~(iii)~~] redeveloping a military

2-1 base that has been closed or realigned, including a military base
2-2 closed or realigned according to the recommendation of the Defense
2-3 Base Closure and Realignment Commission under the Defense Base
2-4 Closure and Realignment Act of 1990 (10 U.S.C. Section 2687 note);

2-5 (E) land, buildings, equipment, facilities,
2-6 improvements, and expenditures found by the board of directors to
2-7 be required or suitable for use for a career center, if the area to
2-8 be benefited by the career center is not located in the taxing
2-9 jurisdiction of a junior college district;

2-10 (F) for a corporation created by a city any part
2-11 of which is located within 25 miles of an international border, the
2-12 land, buildings, facilities, infrastructure, and improvements
2-13 that:

2-14 (i) the board of directors finds are
2-15 required or suitable for the development or expansion of airport
2-16 facilities; or

2-17 (ii) are undertaken by the corporation if
2-18 the city that created the corporation has, at the time the project
2-19 is approved by the corporation as provided by this Act:

2-20 (a) a population of less than 50,000;
2-21 or

2-22 (b) an average rate of unemployment
2-23 that is greater than the state average rate of unemployment during
2-24 the 12-month period for which data is available that immediately
2-25 precedes the date the project is approved; or

2-26 (G) expenditures found by the board of directors
2-27 to be required or suitable for infrastructure necessary to promote
2-28 or develop new or expanded business enterprises, including
2-29 airports, ports, and sewer or solid waste disposal facilities, if
2-30 the corporation:

2-31 (i) is created by a city wholly or partly
2-32 located in a county that is bordered by the Rio Grande, has a
2-33 population of at least 500,000, and has wholly or partly within its
2-34 boundaries at least four cities that each have a population of at
2-35 least 25,000; and

2-36 (ii) does not support a project, as defined
2-37 by this subdivision, with sales and use tax revenue collected under
2-38 Section 4A or 4B of this Act.

2-39 SECTION 2. Section 4B(a)(2), Development Corporation Act of
2-40 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to
2-41 read as follows:

2-42 (2) "Project" means land, buildings, equipment,
2-43 facilities, expenditures, and improvements included in the
2-44 definition of that term under Section 2 of this Act, and includes
2-45 job training as provided by Section 38 of this Act. For purposes of
2-46 this section, the term includes recycling facilities, and land,
2-47 buildings, equipment, facilities, and improvements found by the
2-48 board of directors to:

2-49 (A) be required or suitable for use for
2-50 professional and amateur (including children's) sports, athletic,
2-51 entertainment, tourist, convention, and public park purposes and
2-52 events, including stadiums, ball parks, auditoriums,
2-53 amphitheaters, concert halls, parks and park facilities, open space
2-54 improvements, museums, exhibition facilities, and related store,
2-55 restaurant, concession, and automobile parking facilities, related
2-56 area transportation facilities, and related roads, streets, and
2-57 water and sewer facilities, and other related improvements that
2-58 enhance any of those items;

2-59 (B) promote or develop new or expanded business
2-60 enterprises that create or retain primary jobs, including a project
2-61 to provide public safety facilities, streets and roads, drainage
2-62 and related improvements, demolition of existing structures,
2-63 general municipally owned improvements, as well as any improvements
2-64 or facilities that are related to any of those projects and any
2-65 other project that the board in its discretion determines promotes
2-66 or develops new or expanded business enterprises that create or
2-67 retain primary jobs;

2-68 (C) be required or suitable for the promotion of
2-69 development and expansion of affordable housing, as defined by 42

3-1 U.S.C. Section 12745;

3-2 (D) be required or suitable for the development
3-3 or improvement of water supply facilities, including dams,
3-4 transmission lines, well field developments, and other water supply
3-5 alternatives;

3-6 (E) be required or suitable for the development
3-7 and institution of water conservation programs, including
3-8 incentives to install water-saving plumbing fixtures, educational
3-9 programs, brush control programs, and programs to replace
3-10 malfunctioning or leaking water lines and other water facilities;
3-11 [~~or~~]

3-12 (F) be required or suitable for the development,
3-13 retention, or expansion of business enterprises if the project is
3-14 undertaken by a corporation created by an eligible city:

3-15 (i) that has not for each of the preceding
3-16 two fiscal years received more than \$50,000 in revenues from sales
3-17 and use taxes imposed under this section; and

3-18 (ii) the governing body of which has
3-19 authorized the project by adopting a resolution only after giving
3-20 the resolution at least two separate readings conducted at least
3-21 one week apart; or

3-22 (G) be required or suitable for the development
3-23 or expansion of airport facilities, including hangars, airport
3-24 maintenance and repair facilities, air cargo facilities, and
3-25 related infrastructure located on or adjacent to an airport
3-26 facility, if the project is undertaken by a corporation created by
3-27 an eligible city:

3-28 (i) that enters into a development
3-29 agreement with an entity in which the entity acquires a leasehold or
3-30 other possessory interest from the corporation and is authorized to
3-31 sublease the entity's interest for other projects authorized by
3-32 this subdivision; and

3-33 (ii) the governing body of which has
3-34 authorized the development agreement by adopting a resolution at a
3-35 meeting called as authorized by law.

3-36 SECTION 3. Section 32, Development Corporation Act of 1979
3-37 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read
3-38 as follows:

3-39 Sec. 32. The legislature finds, determines, and declares
3-40 that the activities of a corporation created and organized under
3-41 the provisions of this Act affect all the people of the unit under
3-42 whose auspices it is created by assuming to a material extent that
3-43 which might otherwise become the obligation or duty of such unit,
3-44 and therefore such corporation is an institution of purely public
3-45 charity within the tax exemption of Article VIII, Section 2, of the
3-46 Texas Constitution. However, a corporation is exempt from the
3-47 franchise tax imposed by Chapter 171, Tax Code, only if the
3-48 corporation is exempted by that chapter. The legislature further
3-49 finds, determines, and declares that the grants, loans,
3-50 expenditures, and tax exemptions authorized by this Act in
3-51 connection with a project and authorized by a corporation in
3-52 accordance with this Act, constitute the making of loans or grants
3-53 of public money or constitute other actions authorized by Section
3-54 52-a, Article III, Texas Constitution.

3-55 SECTION 4. This Act takes effect immediately if it receives
3-56 a vote of two-thirds of all the members elected to each house, as
3-57 provided by Section 39, Article III, Texas Constitution. If this
3-58 Act does not receive the vote necessary for immediate effect, this
3-59 Act takes effect September 1, 2007.

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