

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Parker

H.B. No. 3440

A BILL TO BE ENTITLED

AN ACT

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

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

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

(11) "Project" shall mean:

(A) the land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements (one or more) that are for the creation or retention of primary jobs and that are found by the board of directors to be required or suitable for the development, retention, or expansion of manufacturing and industrial facilities, research and development facilities, military facilities, including closed or realigned military bases, transportation facilities (including but not limited to airports, hangars, airport maintenance and repair facilities, air cargo facilities, related infrastructure located on or adjacent to an airport facility, 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

1 centers, small warehouse facilities capable of serving as  
2 decentralized storage and distribution centers, primary job  
3 training facilities for use by institutions of higher education,  
4 and regional or national corporate headquarters facilities;

5 (B) job training required or suitable for the  
6 promotion of development and expansion of business enterprises and  
7 other enterprises described by this Act, as provided by Section 38  
8 of this Act;

9 (C) expenditures found by the board of directors  
10 to be required or suitable for infrastructure necessary to promote  
11 or develop new or expanded business enterprises limited to streets  
12 and roads, rail spurs, water and sewer utilities, electric  
13 utilities, gas utilities, drainage, site improvements, and related  
14 improvements, telecommunications and Internet improvements, and  
15 beach remediation along the Gulf of Mexico;

16 (D) the infrastructure, improvements, land  
17 acquisition, buildings, or expenditures that:

18 (i) [~~A~~] are for the creation or retention  
19 of primary jobs or jobs that are included in North American Industry  
20 Classification System (NAICS) sector number 926120, Regulation and  
21 Administration of Transportation Programs, for the corresponding  
22 index entry for Coast Guard (except the Coast Guard Academy); and

23 (ii) [~~B~~] are found by the board of  
24 directors to be required or suitable for:

25 (a) [~~i~~] promoting or supporting a  
26 military base in active use to prevent the possible future closure  
27 or realignment of the base;

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

3                    (c) [~~(iii)~~] redeveloping a military  
4 base that has been closed or realigned, including a military base  
5 closed or realigned according to the recommendation of the Defense  
6 Base Closure and Realignment Commission under the Defense Base  
7 Closure and Realignment Act of 1990 (10 U.S.C. Section 2687 note);

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

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

17                    (i) the board of directors finds are  
18 required or suitable for the development or expansion of airport  
19 facilities; or

20                    (ii) are undertaken by the corporation if  
21 the city that created the corporation has, at the time the project  
22 is approved by the corporation as provided by this Act:

23                    (a) a population of less than 50,000;  
24 or

25                    (b) an average rate of unemployment  
26 that is greater than the state average rate of unemployment during  
27 the 12-month period for which data is available that immediately

1 precedes the date the project is approved; or

2           (G) expenditures found by the board of directors  
3 to be required or suitable for infrastructure necessary to promote  
4 or develop new or expanded business enterprises, including  
5 airports, ports, and sewer or solid waste disposal facilities, if  
6 the corporation:

7           (i) is created by a city wholly or partly  
8 located in a county that is bordered by the Rio Grande, has a  
9 population of at least 500,000, and has wholly or partly within its  
10 boundaries at least four cities that each have a population of at  
11 least 25,000; and

12           (ii) does not support a project, as defined  
13 by this subdivision, with sales and use tax revenue collected under  
14 Section 4A or 4B of this Act.

15           SECTION 2. Section 4B(a)(2), Development Corporation Act of  
16 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to  
17 read as follows:

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

25           (A) be required or suitable for use for  
26 professional and amateur (including children's) sports, athletic,  
27 entertainment, tourist, convention, and public park purposes and

1 events, including stadiums, ball parks, auditoriums,  
2 amphitheaters, concert halls, parks and park facilities, open space  
3 improvements, museums, exhibition facilities, and related store,  
4 restaurant, concession, and automobile parking facilities, related  
5 area transportation facilities, and related roads, streets, and  
6 water and sewer facilities, and other related improvements that  
7 enhance any of those items;

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

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

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

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

1 malfunctioning or leaking water lines and other water facilities;

2 [~~or~~]

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

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

9 (ii) the governing body of which has  
10 authorized the project by adopting a resolution only after giving  
11 the resolution at least two separate readings conducted at least  
12 one week apart; or

13 (G) be required or suitable for the development  
14 or expansion of airport facilities, including hangars, airport  
15 maintenance and repair facilities, air cargo facilities, and  
16 related infrastructure located on or adjacent to an airport  
17 facility, if the project is undertaken by a corporation created by  
18 an eligible city:

19 (i) that enters into a development  
20 agreement with an entity in which the entity acquires a leasehold or  
21 other possessory interest from the corporation and is authorized to  
22 sublease the entity's interest for other projects authorized by  
23 this subdivision; and

24 (ii) the governing body of which has  
25 authorized the development agreement by adopting a resolution at a  
26 meeting called as authorized by law.

27 SECTION 3. This Act takes effect immediately if it receives

H.B. No. 3440

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, 2007.

**ADOPTED**

MAY 23 2007

*Atty. Gen.*  
Secretary of the Senate

By: Parker/Harris

H.B. No. 3440

Substitute the following for H.B. No. 3440:

By: Chris Harris

C.S. H.B. No. 3440

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3 corporations for the development, retention, or expansion of  
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5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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13 more) that are for the creation or retention of primary jobs and  
14 that are found by the board of directors to be required or suitable  
15 for the development, retention, or expansion of manufacturing and  
16 industrial facilities, research and development facilities,  
17 military facilities, including closed or realigned military bases,  
18 transportation facilities (including but not limited to airports,  
19 hangars, airport maintenance and repair facilities, air cargo  
20 facilities, related infrastructure located on or adjacent to an  
21 airport facility, ports, mass commuting facilities, and parking  
22 facilities), sewage or solid waste disposal facilities, recycling  
23 facilities, air or water pollution control facilities, facilities  
24 for the furnishing of water to the general public, distribution



1 centers, small warehouse facilities capable of serving as  
2 decentralized storage and distribution centers, primary job  
3 training facilities for use by institutions of higher education,  
4 and regional or national corporate headquarters facilities;

5 (B) job training required or suitable for the  
6 promotion of development and expansion of business enterprises and  
7 other enterprises described by this Act, as provided by Section 38  
8 of this Act;

9 (C) expenditures found by the board of directors  
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11 or develop new or expanded business enterprises limited to streets  
12 and roads, rail spurs, water and sewer utilities, electric  
13 utilities, gas utilities, drainage, site improvements, and related  
14 improvements, telecommunications and Internet improvements, and  
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21 Administration of Transportation Programs, for the corresponding  
22 index entry for Coast Guard (except the Coast Guard Academy); and

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24 directors to be required or suitable for:

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26 military base in active use to prevent the possible future closure  
27 or realignment of the base;

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

3                   **(c)** [~~iii~~] redeveloping a military  
4 base that has been closed or realigned, including a military base  
5 closed or realigned according to the recommendation of the Defense  
6 Base Closure and Realignment Commission under the Defense Base  
7 Closure and Realignment Act of 1990 (10 U.S.C. Section 2687 note);

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

13                   **(F)** for a corporation created by a city any part  
14 of which is located within 25 miles of an international border, the  
15 land, buildings, facilities, infrastructure, and improvements  
16 that:

17                   (i) the board of directors finds are  
18 required or suitable for the development or expansion of airport  
19 facilities; or

20                   (ii) are undertaken by the corporation if  
21 the city that created the corporation has, at the time the project  
22 is approved by the corporation as provided by this Act:

23                   (a) a population of less than 50,000;  
24 or

25                   (b) an average rate of unemployment  
26 that is greater than the state average rate of unemployment during  
27 the 12-month period for which data is available that immediately

1 precedes the date the project is approved; or

2                   (G) expenditures found by the board of directors  
3 to be required or suitable for infrastructure necessary to promote  
4 or develop new or expanded business enterprises, including  
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6 the corporation:

7                   (i) is created by a city wholly or partly  
8 located in a county that is bordered by the Rio Grande, has a  
9 population of at least 500,000, and has wholly or partly within its  
10 boundaries at least four cities that each have a population of at  
11 least 25,000; and

12                   (ii) does not support a project, as defined  
13 by this subdivision, with sales and use tax revenue collected under  
14 Section 4A or 4B of this Act.

15                   SECTION 2. Section 4B(a)(2), Development Corporation Act of  
16 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to  
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18                   (2) "Project" means land, buildings, equipment,  
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20 definition of that term under Section 2 of this Act, and includes  
21 job training as provided by Section 38 of this Act. For purposes of  
22 this section, the term includes recycling facilities, and land,  
23 buildings, equipment, facilities, and improvements found by the  
24 board of directors to:

25                   (A) be required or suitable for use for  
26 professional and amateur (including children's) sports, athletic,  
27 entertainment, tourist, convention, and public park purposes and

1 events, including stadiums, ball parks, auditoriums,  
2 amphitheaters, concert halls, parks and park facilities, open space  
3 improvements, museums, exhibition facilities, and related store,  
4 restaurant, concession, and automobile parking facilities, related  
5 area transportation facilities, and related roads, streets, and  
6 water and sewer facilities, and other related improvements that  
7 enhance any of those items;

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

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

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

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

1 malfunctioning or leaking water lines and other water facilities;  
2 [~~or~~]

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

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

9 (ii) the governing body of which has  
10 authorized the project by adopting a resolution only after giving  
11 the resolution at least two separate readings conducted at least  
12 one week apart; or

13 (G) be required or suitable for the development  
14 or expansion of airport facilities, including hangars, airport  
15 maintenance and repair facilities, air cargo facilities, and  
16 related infrastructure located on or adjacent to an airport  
17 facility, if the project is undertaken by a corporation created by  
18 an eligible city:

19 (i) that enters into a development  
20 agreement with an entity in which the entity acquires a leasehold or  
21 other possessory interest from the corporation and is authorized to  
22 sublease the entity's interest for other projects authorized by  
23 this subdivision; and

24 (ii) the governing body of which has  
25 authorized the development agreement by adopting a resolution at a  
26 meeting called as authorized by law.

27 SECTION 3. Section 32, Development Corporation Act of 1979

1 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read  
2 as follows:

3       Sec. 32. The legislature finds, determines, and declares  
4 that the activities of a corporation created and organized under  
5 the provisions of this Act affect all the people of the unit under  
6 whose auspices it is created by assuming to a material extent that  
7 which might otherwise become the obligation or duty of such unit,  
8 and therefore such corporation is an institution of purely public  
9 charity within the tax exemption of Article VIII, Section 2, of the  
10 Texas Constitution. However, a corporation is exempt from the  
11 franchise tax imposed by Chapter 171, Tax Code, only if the  
12 corporation is exempted by that chapter. The legislature further  
13 finds, determines, and declares that the grants, loans,  
14 expenditures, and tax exemptions authorized by this Act in  
15 connection with a project and authorized by a corporation in  
16 accordance with this Act, constitute the making of loans or grants  
17 of public money or constitute other actions authorized by Section  
18 52-a, Article III, Texas Constitution.

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

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 10, 2007**

**TO:** Honorable Kyle Janek, Chair, Senate Committee on S/C on Emerging Technologies & Economic Dev.

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3440** by Parker (Relating to projects that may be undertaken by development corporations for the development, retention, or expansion of certain airport facilities.), **Committee Report 2nd House, Substituted**

<b>No fiscal implication to the State is anticipated.</b>
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The bill would amend the Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes) relating to projects that may be undertaken by development corporations for the development, retention, or expansion of certain airport facilities.

The bill would expand the types of projects that economic development corporations, created under Section 4B, may participate in to include hangers, airport maintenance and repair facilities, air cargo facilities, and related infrastructure located on or adjacent to an airport facility. The bill would allow a 4B economic development corporation to undertake such a project if it entered into a development agreement with an entity that acquired a leasehold or other possessory interest from the corporation and was authorized to sublease the entity's interest for other projects.

The bill would clarify that programs such as grants, loans, expenditures, and tax exemptions authorized under the Development Corporation Act should be considered as a loan or grant under Section 52-a, Article III, Texas Constitution.

The bill would take effect immediately upon enactment if it receives two-thirds vote in each house; otherwise, it would take effect September 1, 2007.

**Local Government Impact**

According to the Comptroller of Public Accounts, the fiscal impact on units of local government cannot be estimated as the number of corporations that would choose to participate in the newly allowed projects is unknown.

**Source Agencies:** 301 Office of the Governor, 304 Comptroller of Public Accounts

**LBB Staff:** JOB, JRO, SD, EB





**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 8, 2007**

**TO:** Honorable Kyle Janek, Chair, Senate Committee on S/C on Emerging Technologies & Economic Dev.

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE:** **HB3440** by Parker (Relating to projects that may be undertaken by development corporations for the development, retention, or expansion of certain airport facilities.), **As Engrossed**

**No fiscal implication to the State is anticipated.**

The bill would amend the Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes) relating to projects that may be undertaken by development corporations for the development, retention, or expansion of certain airport facilities.

The bill would expand the types of projects that economic development corporations, created under Section 4B, may participate in to include hangers, airport maintenance and repair facilities, air cargo facilities, and related infrastructure located on or adjacent to an airport facility. The bill would allow a 4B economic development corporation to undertake such a project if it entered into a development agreement with an entity that acquired a leasehold or other possessory interest from the corporation and was authorized to sublease the entity's interest for other projects.

The bill would take effect immediately upon enactment if it receives two-thirds vote in each house; otherwise, it would take effect September 1, 2007.

**Local Government Impact**

According to the Comptroller of Public Accounts, the fiscal impact on units of local government cannot be estimated as the number of corporations that would choose to participate in the newly allowed projects is unknown.

**Source Agencies:** 301 Office of the Governor, 304 Comptroller of Public Accounts

**LBB Staff:** JOB, JRO, SD, EB



**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**April 11, 2007**

**TO:** Honorable Joe Deshotel, Chair, House Committee on Economic Development

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3440** by Parker (Relating to projects that may be undertaken by development corporations for the development, retention, or expansion of certain airport facilities.), **As Introduced**

**No fiscal implication to the State is anticipated.**

The bill would amend the Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes) relating to projects that may be undertaken by development corporations for the development, retention, or expansion of certain airport facilities.

The bill would expand the types of projects that economic development corporations, created under Section 4B, may participate in to include hangers, airport maintenance and repair facilities, air cargo facilities, and related infrastructure located on or adjacent to an airport facility. The bill would allow a 4B economic development corporation to undertake such a project if it entered into a development agreement with an entity that acquired a leasehold or other possessory interest from the corporation and was authorized to sublease the entity's interest for other projects.

The bill would take effect immediately upon enactment if it receives two-thirds vote in each house; otherwise, it would take effect September 1, 2007.

**Local Government Impact**

According to the Comptroller of Public Accounts, the fiscal impact on units of local government cannot be estimated as the number of corporations that would choose to participate in the newly allowed projects is unknown.

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**LBB Staff:** JOB, JRO, SD, EB

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