

By: Paxton

H.B. No. 3140

Substitute the following for H.B. No. 3140:

By: Vo

C.S.H.B. No. 3140

A BILL TO BE ENTITLED

AN ACT

relating to the authority of certain municipalities to create economic development programs and provide loans or grants for those programs; providing authority to issue bonds.

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

SECTION 1. Chapter 1509, Government Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. REVENUE BONDS FOR ECONOMIC DEVELOPMENT PROGRAMS

Sec. 1509.251. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a municipality located in a county with a population of 750,000 or more that is adjacent to a county that borders Oklahoma.

Sec. 1509.252. PUBLIC PURPOSE. This subchapter provides for the creation of one or more programs authorized under Section 52-a, Article III, Texas Constitution, including the following public purposes:

(1) the development and diversification of the economy of this state;

(2) the elimination of unemployment or underemployment in this state; and

(3) the development or expansion of commerce in this state.

Sec. 1509.253. ECONOMIC DEVELOPMENT PROGRAM; LOANS AND GRANTS. (a) A municipality may establish and provide for the

1 administration of one or more programs for loans and grants of  
2 money, including the proceeds of revenue bonds authorized under  
3 this subchapter, to a private entity for use in the promotion of new  
4 manufacturing, industrial, retail, commercial, multifamily  
5 residential, or other business activity or the expansion of that  
6 business activity, including a project for purposes of that  
7 promotion or expansion.

8 (b) To accomplish a purpose under Section 1509.252, a  
9 municipality may, under the terms and by the methods the  
10 municipality may determine:

11 (1) acquire land; and

12 (2) construct or acquire a building or other facility  
13 for the purpose of selling or leasing the land, building, or other  
14 facility to a private entity receiving a loan or grant under this  
15 section.

16 Sec. 1509.254. AUTHORITY TO ISSUE REVENUE BONDS. (a) A  
17 municipality may issue and sell revenue bonds to finance an action  
18 under Section 1509.253 taken to accomplish a public purpose under  
19 Section 1509.252.

20 (b) Bonds issued under this subchapter are not general  
21 obligations of the municipality if no tax revenue or other general  
22 revenue of the municipality is pledged to the repayment of the  
23 bonds.

24 Sec. 1509.255. PROGRAM AGREEMENT REQUIRED. (a) A  
25 municipality may not loan or grant money under this subchapter to a  
26 private entity for a project or activity authorized under Section  
27 1509.253 unless the municipality enters into a program agreement

1 with the entity.

2 (b) A program agreement under this section must include:

3 (1) the terms under which the municipality will loan  
4 or grant the money to the entity;

5 (2) a provision requiring that a revenue bond issued  
6 by the municipality under this subchapter:

7 (A) is secured by the credit of the private  
8 entity, by funds, revenue, or assets pledged by one or more  
9 investors for the project, or by a combination of both;

10 (B) is additionally secured by an encumbrance or  
11 mortgage on any real or personal property acquired, constructed, or  
12 improved with the proceeds of the revenue bond; and

13 (C) is the obligation of the private entity and  
14 not of the municipality if no municipal revenue is pledged for  
15 repayment of the bonds;

16 (3) a description of and the amount of the capital  
17 investment that will be made by the entity in this state for the  
18 project or activity;

19 (4) a schedule of the number and types of jobs that  
20 will be created or retained as a result of the project or activity;

21 (5) a provision requiring repayment of the loan or  
22 grant or other penalty to be imposed on the entity if the entity  
23 does not meet the job creation or other requirements specified in  
24 the program agreement;

25 (6) the estimated increase in tax revenue from all  
26 sources to the municipality as a result of the project or activity,  
27 calculated by the municipality;

1           (7) the designated area where the project or activity  
2 will be located; and

3           (8) a provision prohibiting the entity from using a  
4 loan or grant for:

5                   (A) a project or activity involving a gambling,  
6 gaming, or adult entertainment enterprise or facility; or

7                   (B) an expenditure for which reporting is  
8 required under Chapter 305.

9           (c) A municipality may enter into not more than two program  
10 agreements.

11           (d) A municipality may not enter into a program agreement  
12 with an entity after December 31, 2015.

13           (e) A program agreement is subject to Chapter 552.

14           Sec. 1509.256. REVENUE BOND PAYMENTS. (a) Revenue bonds  
15 issued by a municipality under this subchapter may be payable from  
16 and secured by pledging:

17                   (1) all or part of revenue received by the  
18 municipality from a loan made as provided by Section 1509.253;

19                   (2) a portion of revenue collected by the municipality  
20 under Section 321.101(a), Tax Code, not to exceed the lesser of:

21                           (A) one percent of the revenue collected by the  
22 municipality; or

23                           (B) one-half of the revenue collected by the  
24 municipality from the area designated in the applicable program  
25 agreement;

26                   (3) all or part of revenue authorized for the payment  
27 of bonds under Section 351.102(a), Tax Code;

1           (4) all or part of revenue from the sale or lease of  
2 all or part of the land, building, or other facility financed by the  
3 bonds; or

4           (5) any combination of the revenue described by  
5 Subdivisions (1)-(4).

6           (b) A municipality may provide that the revenue pledged to  
7 the bonds issued by the municipality is limited to the revenue  
8 collected from a designated area within the municipality or from a  
9 designated facility.

10          Sec. 1509.257. ADDITIONAL SECURITY. (a) Bonds issued  
11 under this subchapter must be additionally secured by an  
12 encumbrance or mortgage on any real or personal property acquired,  
13 constructed, or improved with proceeds of bonds or the proceeds of a  
14 loan or grant made from proceeds of bonds.

15          (b) Bonds issued by a municipality under this subchapter may  
16 be additionally secured by a pledge of any portion of a grant, a  
17 donation, or revenue, or income received or to be received from the  
18 United States or any other public or private source, other than the  
19 municipality itself.

20          Sec. 1509.258. CONTENTS OF ORDINANCE, ORDER, OR RESOLUTION  
21 AUTHORIZING BONDS. In an ordinance, order, or resolution  
22 authorizing the issuance of bonds under this subchapter, the  
23 governing body of a municipality may:

24               (1) provide for the deposit and accounting of money;

25               (2) provide for the establishment and maintenance of  
26 an interest and sinking fund, a reserve fund, or other funds  
27 relating to the bonds or a project funded with bond proceeds; and

1           (3) make additional covenants relating to the bonds,  
2 the pledged revenue, or the operation and maintenance of any land,  
3 building, or other facility the revenue of which is pledged for bond  
4 payments.

5           Sec. 1509.259. USE OF BOND PROCEEDS. Proceeds of bonds  
6 issued under this subchapter may be used to:

7           (1) pay interest on the bonds while the project or  
8 facility is being acquired, constructed, or improved and for the  
9 year after it is acquired, constructed, or improved;

10           (2) finance other funds relating to the bonds,  
11 including debt service reserve and contingency; and

12           (3) pay the cost or expense of the issuance of the  
13 bonds.

14           Sec. 1509.260. MATURITY. Bonds issued under this  
15 subchapter must mature not later than 40 years after the date the  
16 bonds are issued.

17           Sec. 1509.261. APPLICATION OF OTHER LAW. The provisions of  
18 Chapter 252, Local Government Code, regarding notice, competitive  
19 bids, and the right to referendum do not apply to a municipality  
20 issuing bonds under this subchapter.

21           Sec. 1509.262. CONFLICT OR INCONSISTENCY WITH OTHER LAW.  
22 To the extent of a conflict or inconsistency between this  
23 subchapter and another law, this subchapter controls.

24           Sec. 1509.263. CONSTRUCTION OF SUBCHAPTER; CORRECTION OF  
25 INVALID PROCEDURES. (a) This subchapter may not be construed or  
26 interpreted to violate either the constitution of this state or of  
27 the United States, and this subchapter does not authorize an act

1 that violates those constitutions.

2 (b) If a court finds that any provision of this subchapter  
3 violates the constitution of this state or of the United States:

4 (1) a municipality may establish an alternative  
5 procedure that conforms with the constitution; and

6 (2) the validity of any other provision of this  
7 subchapter is not affected.

8 SECTION 2. Section 321.506, Tax Code, is amended to read as  
9 follows:

10 Sec. 321.506. USE OF TAX REVENUE BY MUNICIPALITY. Except as  
11 provided by Sections [~~Section~~] 321.507 and 321.5071, the money  
12 received by a municipality under this chapter is for the use and  
13 benefit of the municipality and may be used for any purpose for  
14 which the general funds of the municipality may be used, except that  
15 a municipality may not pledge the revenue received under this  
16 chapter to the payment of bonds or other indebtedness.

17 SECTION 3. Subchapter F, Chapter 321, Tax Code, is amended  
18 by adding Section 321.5071 to read as follows:

19 Sec. 321.5071. USE OF TAX REVENUE BY CERTAIN MUNICIPALITIES  
20 FOR BONDS FOR ECONOMIC DEVELOPMENT PROGRAMS. A municipality to  
21 which Subchapter F, Chapter 1509, Government Code, applies may use  
22 money received by the municipality under this chapter to provide  
23 for the payment, in the manner provided by that subchapter, of the  
24 principal of or interest on bonds issued by the municipality as  
25 authorized by that subchapter.

26 SECTION 4. Section 351.102, Tax Code, is amended by adding  
27 Subsection (d) to read as follows:

1        (d) A municipality to which Subchapter F, Chapter 1509,  
2 Government Code, applies may use money received by the municipality  
3 under this chapter to provide for the payment, in the manner  
4 provided by that subchapter, of the principal of or interest on  
5 bonds issued by the municipality as authorized by that subchapter.

6        SECTION 5. This Act takes effect immediately if it receives  
7 a vote of two-thirds of all the members elected to each house, as  
8 provided by Section 39, Article III, Texas Constitution. If this  
9 Act does not receive the vote necessary for immediate effect, this  
10 Act takes effect September 1, 2011.