

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 10, 2011

TO: Honorable Mike Jackson, Chair, Senate Committee on Economic Development

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

IN RE: HB2853 by Davis, John (Relating to tax increment financing.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would amend several sections of Chapter 311 of the Tax Code, regarding tax increment reinvestment zones.

Section 1 of the bill would amend Section 311.002(1) to add the actual costs of remediation, preservation, or demolition of public or private buildings; the cost of economic development programs under Section 311.010(h); and the school facilities costs to the definition of "project costs."

Section 2 would amend Section 311.003(b) to delete the requirement that, upon completion, the city or county must send a copy of the preliminary reinvestment zone financing plan to the governing body of each taxing unit that levies taxes on real property in the zone.

Section 3 would amend Section 311.005(a) to add undeveloped and underdeveloped land to the kinds of land that may be designated a reinvestment zone.

Section 4 would amend the Code to disallow the designation of a reinvestment zone by a city if the percentage of residential property in the proposed reinvestment zone is above 30 percent, rather than 10 percent. For a city with a population of 100,000 or more, a zone designation would be disallowed if the total appraised value of taxable real property in the city and in the industrial districts created by the city exceeds 25 percent. For a city with a population of less than 100,000, a zone designation would be disallowed if the total appraised value of taxable real property in the city and in the industrial districts created by the city exceeds 50 percent, rather than 15 percent. Cities would not be permitted to change the boundaries of an existing reinvestment zone to include property in excess of the restrictions described above.

Section 5 would make a conforming change to Section 311.007.

Section 6 would amend Section 311.007 to permit a city or county to extend, after public notice and hearing, the term of all or a portion of a zone that the city or county previously designated. A taxing unit other than the city or county that designated the zone would not be required to participate in the zone or portion of the zone for the extended term unless the taxing unit enters into a written agreement to do so.

Section 7 would amend Section 311.008(b) to make clarifying revisions.

Sections 8 and 9 would amend Chapter 311 to revise the appointment and eligibility requirements for reinvestment zone board members.

Section 10 would amend Section 311.010 to strike the existing limit on the amount of grants and loans made by a reinvestment zone. The existing limit is the amount of tax increment produced by the city and paid into the tax increment fund.

Section 11 would amend Section 311.011 to clarify that a school district is not required to increase the percentage or amount of the tax increment it will contribute because of an amendment to the project plan or reinvestment zone financing plan. The bill also would specify that all amounts contained in the project plan or reinvestment zone financing plan, are considered estimates and do not act as a limitation on those amounts. The bill would specify that new Subsection 311.011(h) proposed by the bill may not be construed to increase the amount of any reduction under Section 403.302(d)(4) of the Government Code in the total taxable value of the property in a school district that participates in a tax increment reinvestment zone. The bill would make other changes to the project and financing plan requirements.

Section 12 would amend Section 311.012 to change the definition of the captured appraised value of real property in a taxing unit to the total taxable value (rather than appraised value) of all real property taxable by the unit and located in a reinvestment zone for that year less the tax increment base of the unit. Similarly, the bill would change the definition of a taxing unit's tax increment base to the total taxable value (rather than appraised value) of all real property taxable by the unit and located in a reinvestment zone. If the boundaries of a zone are enlarged, the tax increment base would be increased by the current taxable value of the real property added to the zone, and if the boundaries of a zone are reduced, the tax increment base would be reduced by the taxable value of the real property removed from the zone for the year in which the property was originally included in the zone's boundaries.

Section 13 would amend Section 311.013 to allow the parties in a tax increment financing agreement to specify the projects to which a participating taxing unit's tax increment will be dedicated and that the taxing unit's participation may be computed with respect to a base year later than the original base year of the zone.

Sections 14 and 15 would amend Sections 311.014 and 311.015 to clarify the disbursement of funds from a tax increment fund and payments from the proceeds of tax increment bonds or notes. Tax increment bonds or notes would be required to mature on or before the date by which the final payments of tax increment into the tax increment fund are due rather than within 20 years of the date of issue.

Section 16 would amend Section 311.016(a) to require submission of the reinvestment zone status report to the taxing units on or before the 150th day (rather than the 90th day) following the end of the fiscal year.

Sections 17 and 18 would make certain clarifying and conforming changes to Chapter 311.

Section 19 would require a presumption of validity for governmental acts or proceedings of cities, counties, boards of directors or other entities related to the designation, operation or administration of a reinvestment zone or the implementation of a project plan or reinvestment zone financing plan. These acts or proceedings would, as of the date of occurrence, be conclusively presumed valid and in accordance with all applicable statutes and rules with certain listed exceptions.

Sections 20 and 21 would make conforming and clarifying amendments to Section 403.302 of the Government Code.

Section 22 would repeal Sections 311.003(e), (f), and (g) regarding city or county notification to other taxing units of intent to establish a reinvestment zone, information requests, meetings, and required presentations related to the proposed zone. This section would repeal 311.006(c), which provides that a city may not create a reinvestment zone or change the boundaries of a zone if the proposed zone would contain more than 15 percent of the total appraised value of real property taxable by a county or school district. This section also would repeal 311.013(d) and (e) regarding provisions that taxing units are not required to pay into the tax increment funds of reinvestment zones created before August 29, 1983 under certain conditions.

Section 23 would provide that the Legislature validates and confirms all governmental acts and proceedings of a city or county, the board of directors of a reinvestment zone, or an entity acting under Section 311.010(f), that were taken before the effective date of the bill and relate to or are associated

with the designation, operation, or administration of a reinvestment zone or the implementation of a project plan or reinvestment zone financing plan as of the dates on which they occurred and that the acts and proceedings may not be held invalid because they were not in accordance with the law. The bill would provide certain exceptions to this legislative validation.

Section 24 would require that Section 311.002(1) as amended by the bill apply to all costs regardless of when they were incurred and that Section 311.012(c) as amended by the bill apply only to the determination of the tax increment base of a taxing unit for a tax year beginning on or after the effective date of the bill except that if the tax increment base of a taxing unit for a tax year beginning before the effective date was determined in the manner provided by Section 311.012(c) as amended by the bill the determination is validated as if the amendment were in accordance with Section 311.012(c) as that section existed immediately before the effective date of the bill.

Section 25 would require that to the extent of any conflict, the bill would prevail over another act of the 82nd Legislature related to nonsubstantive additions to and corrections in enacted codes.

To the extent that provisions of the bill result in the inclusion of more property in tax increment financing agreements the provisions would create a cost to local taxing units. There would be no cost to the state because any value losses attributable to school district payments into tax increment funds under this bill would not be deducted in the Comptroller's property value study for the purpose of school funding. Because information necessary to estimate the amount of new property included in tax increment financing agreements is not available, the fiscal impact cannot be estimated.

The bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2011.

Local Government Impact

To the extent that provisions of the bill result in the inclusion of more property in tax increment financing agreements the provisions would create a cost to local taxing units.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, AG, SD, SJS