

BILL ANALYSIS

C.S.H.B. 1935
By: Schaefer
Economic & Small Business Development
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that in looking for solutions to the water and transportation crises in Texas, state leaders need to consider existing tax revenue before raising taxes or creating new taxing authority. According to these parties, economic development corporations authorized under the Development Corporation Act had more than \$800 million in unencumbered funds in 2011. Tax revenue from the adoption of local sales and use taxes for the benefit of such corporations currently funds an assortment of activities statewide that may include attracting major business corporations to Texas, constructing sports venues, and promoting tourism across the state. However, the types of items within the scope of a "project" eligible for corporation funding are limited. Interested parties assert that out-of-state businesses, despite cash incentives, will not continue to relocate to Texas if the state does not provide strong water and transportation infrastructure to support their endeavors.

C.S.H.B. 1935 seeks to expand the category of items that are considered a project for purposes relating to economic development and to give more flexibility to municipalities in deciding which projects will benefit Texans most according to a municipality's needs.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1935 amends the Local Government Code to define "project," for purposes of the Development Corporation Act, to include expenditures that are found by the board of directors of a corporation organized under the act to be required or suitable for general infrastructure, limited to the development, improvement, maintenance, or expansion of streets and roads, sewage facilities, or water supply facilities for the general public.

C.S.H.B. 1935 prohibits a Type A and a Type B corporation from using proceeds from the sales and use tax or other corporate revenues to undertake the category of projects as described by the bill for purposes of the act unless the use of tax proceeds or other corporate revenues for that purpose is authorized by an election as provided by the bill. The bill authorizes the governing body of a Type A or Type B corporation's authorizing municipality, as applicable, by resolution to order an election on the question of approving the use of sales and use tax proceeds and other corporate revenues for the category of projects described by the bill for purposes of the act and sets out procedures relating to the conduct of the election. If a majority of the voters do not approve the use of sales and use tax proceeds and other corporate revenues for the category of projects at an election, the bill prohibits another such election from being held before the second anniversary of the date of the most recent election disapproving the use of tax proceeds and revenues for that category of projects.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1935 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Section 501.004(a), Local Government Code, is amended.	SECTION 1. Same as introduced version.
SECTION 2. Section 501.103, Local Government Code, is amended to read as follows: Sec. 501.103. <u>GENERAL</u> [CERTAIN] <u>INFRASTRUCTURE</u> [IMPROVEMENT] <u>PROJECTS</u> . In this subtitle, "project" includes expenditures that are found by the board of directors to be required or suitable for <u>general infrastructure, including</u> [necessary to promote or develop new or expanded business enterprises, limited to]: (1) <u>streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements;</u> (2) <u>telecommunications and Internet improvements; [or]</u> (3) <u>beach remediation along the Gulf of Mexico;</u> (4) <u>transportation facilities;</u> (5) <u>solid waste disposal facilities;</u> (6) <u>sewage facilities;</u> (7) <u>facilities for furnishing water to the general public;</u> (8) <u>air or water pollution control facilities;</u> (9) <u>airports, including a general aviation business service airport that is an integral part of an industrial park, or airport-related facilities; and</u> (10) <u>ports or port-related facilities to support waterborne commerce.</u>	SECTION 2. Subchapter C, Chapter 501, Local Government Code, is amended by adding Section 501.1031 to read as follows: <u>Sec. 501.1031. CERTAIN GENERAL INFRASTRUCTURE PROJECTS.</u> <u>In this subtitle, "project" includes expenditures that are found by the board of directors to be required or suitable for general infrastructure, limited to the development, improvement, maintenance, or expansion of:</u> (1) <u>streets and roads;</u> (2) <u>sewage facilities; or</u> (3) <u>water supply facilities for the general public.</u>
SECTION 3. Sections 501.107, 504.103, and 505.304, Local Government Code, are repealed.	No equivalent provision, but see SECTION 3 below that amends Section 504.103, Local Government Code.
No equivalent provision, but see SECTION 3 above that repeals Section 504.103, Local Government Code..	SECTION 3. Section 504.103(a), Local Government Code, is amended to read as follows:

- (a) Except as otherwise provided by this section or Section 501.1031, a Type A corporation may not undertake a project the primary purpose of which is to provide:
- (1) a transportation facility;
 - (2) a solid waste disposal facility;
 - (3) a sewage facility;
 - (4) a facility for furnishing water to the general public; or
 - (5) an air or water pollution control facility.

No equivalent provision

SECTION 4. Section 504.251, Local Government Code, is amended to read as follows:

Sec. 504.251. TAX AUTHORIZED. The authorizing municipality may adopt a sales and use tax for the benefit of a Type A corporation if the tax is approved by a majority of the voters of the municipality voting at an election held for that purpose. An election on the adoption of a proposed sales and use tax for the benefit of a Type A Corporation has no effect unless 25 percent of the registered voters of the municipality vote in the election in which the adoption of the sales and use tax is on the ballot.

SECTION 5. Section 505.251, Local Government Code, is amended to read as follows:

Sec. 505.251. TAX AUTHORIZED. The governing body of the authorizing municipality by ordinance may adopt a sales and use tax for the benefit of a Type B corporation if the tax is approved by a majority of the voters of the municipality voting at an election held for that purpose in accordance with Chapter 321, Tax Code. An election on the adoption of a proposed sales and use tax for the benefit of a Type B Corporation has no effect unless 25 percent of the registered voters of the municipality vote in the election in which the adoption of the sales and use tax is on the ballot.

No equivalent provision.

No equivalent provision.

SECTION 4. Subchapter D, Chapter 504, Local Government Code, is amended by adding Section 504.172 to read as follows: Sec. 504.172. AUTHORITY TO UNDERTAKE CERTAIN GENERAL INFRASTRUCTURE PROJECTS; ELECTION. (a) Notwithstanding any other provision of this subtitle, a Type A corporation may not use proceeds from the sales and use tax or other corporate revenues

to undertake the category of projects described by Section 501.1031 unless the use of tax proceeds or other corporate revenues for that purpose is authorized by an election as provided by this section.

(b) The governing body of a Type A corporation's authorizing municipality by resolution may order an election on the question of approving the use of sales and use tax proceeds and other corporate revenues for the category of projects described by Section 501.1031. The resolution must be passed by majority vote of all members of the municipality's governing body and entered in its minutes.

(c) The governing body of a Type A corporation's authorizing municipality shall order an election on the question described by Subsection (b) on receipt of a petition requesting the election that is signed by a number of registered voters of the municipality equal to at least 10 percent of the number of voters participating in the last general election held in the municipality.

(d) An election under this section must be held on the first authorized uniform election date prescribed by Chapter 41, Election Code, that occurs after the date the election is ordered and that allows sufficient time to comply with other requirements of law.

(e) The ballot in an election under this section shall be printed to provide for voting for or against the proposition: "Adopting the use of Type A corporation funds for streets and roads, sewage facilities, or water supply facilities for the general public in the City of _____."

(f) If a majority of the voters voting on the issue do not approve the use of sales and use tax proceeds and other corporate revenues for the category of projects described by Section 501.1031 at an election under this section, another election concerning the use of tax proceeds and revenues for the same category of projects may not be held before the second anniversary of the date of the most recent election disapproving the use of tax proceeds and revenues for that category of projects.

No equivalent provision.

SECTION 5. The heading to Subchapter D, Chapter 505, Local Government Code, is amended to read as follows:

SUBCHAPTER D. AUTHORIZATION FOR ADDITIONAL [AUTHORIZED]

No equivalent provision.

PROJECTS

SECTION 6. Subchapter D, Chapter 505, Local Government Code, is amended by adding Section 505.162 to read as follows:

Sec. 505.162. AUTHORITY TO UNDERTAKE CERTAIN GENERAL INFRASTRUCTURE PROJECTS;

ELECTION. (a) Notwithstanding any other provision of this subtitle, a Type B corporation may not use proceeds from the sales and use tax or other corporate revenues to undertake the category of projects described by Section 501.1031 unless the use of tax proceeds or other corporate revenues for that purpose is authorized by an election as provided by this section.

(b) The governing body of a Type B corporation's authorizing municipality by resolution may order an election on the question of approving the use of sales and use tax proceeds and other corporate revenues for the category of projects described by Section 501.1031. The resolution must be passed by majority vote of all members of the municipality's governing body and entered in its minutes.

(c) The governing body of a Type B corporation's authorizing municipality shall order an election on the question described by Subsection (b) on receipt of a petition requesting the election that is signed by a number of registered voters of the municipality equal to at least 10 percent of the number of voters participating in the last general election held in the municipality.

(d) An election under this section must be held on the first authorized uniform election date prescribed by Chapter 41, Election Code, that occurs after the date the election is ordered and that allows sufficient time to comply with other requirements of law.

(e) The ballot in an election under this section shall be printed to provide for voting for or against the proposition: "Adopting the use of Type B corporation funds for streets and roads, sewage facilities, or water supply facilities for the general public in the City of _____."

(f) If a majority of the voters voting on the issue do not approve the use of sales and use tax proceeds and other corporate revenues for the category of projects described by Section 501.1031 at an election under this section, another election concerning the use

of tax proceeds and revenues for the same category of projects may not be held before the second anniversary of the date of the most recent election disapproving the use of tax proceeds and revenues for that category of projects.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

SECTION 7. Same as introduced version.