

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

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**April 2, 2017**

**TO:** Honorable Craig Estes, Chair, Senate Committee on Natural Resources & Economic Development

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: SB650** by Bettencourt (Relating to tax increment financing.), **As Introduced**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill relates to tax increment financing. The bill would amend Tax Code Section 311.005 by designating a reinvestment zone as an area that is unproductive, underdeveloped or blighted and the Attorney General would by rule define and determine the meaning of "unproductive," "underdeveloped," and "blighted."

The bill would amend Tax Code Section 311.015 by adding subsection (m). Not later than the seventh day before the date of the meeting at which the governing body of the municipality will vote on an ordinance to issue tax increment bonds or notes, the municipality must provide notice of the date, time and place of the meeting by mail to each property owner in the municipality, the commissioners court of each county in which a portion of the reinvestment zone is located and each state senator and representative whose district includes territory in a county in which a reinvestment zone is located.

The bill would amend Tax Code Section 311.015 by adding subsection (n). A municipality is authorized to submit tax increment bonds and the record of proceedings relating to the authorization of the bonds to the Attorney General under Section 1202.003, Government Code. The municipality must deliver notice of the submission by mailing to the commissioners court of each county in which the reinvestment zone is located and each state senator and state representative whose district includes territory in the county which a portion of the reinvestment zone is located.

The bill would amend Tax Code Chapter 311 by adding Section 311.0155. A municipality designating a reinvestment zone may not undertake the initial issuance of tax increment bonds for the zone unless the municipality provides evidence to the Attorney General demonstrating that the zone meets the requirements of Section 311.005, is not ineligible for designation as a reinvestment zone under Section 311.006 and the Attorney General determines that the evidence is legally sufficient.

The Attorney General is required to provide a legal sufficiency determination not later than the 60th business day after the date the evidence required by Subsection (a) is received. If the Attorney General cannot provide a legal sufficiency determination within the 60-business-day period, the attorney general shall notify the municipality in writing of the reason for the delay and may extend the review for not more than 30 business days. After the Attorney General issues a

legal sufficiency determination, the municipality may supplement the evidence submitted or amend the ordinance designating a redetermination by the Attorney General of the prior legal sufficiency determination being issued.

The bill would repeal Tax Code Sections 311.01005 and 311.014(f), related to costs associated with transportation or transit projects and the transfer of money in the tax increment fund for a reinvestment zone to a tax increment fund for an adjacent zone.

The Attorney General would adopt rules under Tax Code Section 311.005(c) not later than January 1, 2018.

Tax Code Section 311.005(a), as amended by this bill, applies only to a reinvestment zone designated on or after the date the rules are adopted. A reinvestment zone designated before the date the rules adopted under Tax Code Section 311.005(c) take effect is governed by the law as it existed immediately before the effective date of this bill, and that law is continued in effect for that purpose.

Tax Code Sections 311.0085(c) and 311.010(b), as amended by this bill, apply only to a new agreement entered into on or after the effective date of this bill or an amendment on or after the effective date of this bill to an existing agreement. A new agreement entered into before the effective date of this bill or an amendment before the effective date of this bill to an existing agreement is governed by the law as it existed immediately before the effective date of this bill and that law is continued in effect for that purpose.

The repeal of Tax Code Section 311.01005 does not affect an agreement described by former Tax Code Section 311.01005(c), that is entered into before the effective date of this bill and is governed by the law as it existed immediately before the effective date of this bill and the law is continued in effect for that purpose.

The repeal of Tax Code Section 311.014(f) does not affect a transfer of money described by that subsection that occurs before the effective date of this bill. A transfer of money described by former Section 311.014(f) that occurs before the effective date of this bill is governed by the law as it existed immediately before the effective date of this bill and that law is continued in effect for that purpose.

Tax Code Section 311.015(m) applies only to a meeting to vote on an ordinance to issue tax increment bonds or notes that is held on or after the effective date of this bill. A meeting to vote on an ordinance to issue tax increment bonds or notes that is held before the effective date of this bill is governed by the law as it existed immediately before the effective date of this bill and that law is continued in effect for that purpose.

Tax Code Section 311.015(n) applies only to tax increment bonds that are submitted to the Attorney General for approval on or after the effective date of this bill. Tax increment bonds that are submitted to the Attorney General for approval before the effective date of this bill are governed by the law as it existed immediately before the effective date of this bill and that law is continued in effect for that purpose.

Tax Code Section 311.0155 applies only to an initial issuance of tax increment bonds for a reinvestment zone that is undertaken on or after the effective date of this bill. An initial issuance of tax increment bonds for a reinvestment zone that is undertaken before the effective date of this bill is governed by the law as it existed immediately before the effective date of this bill and that law is continued in effect for that purpose.

Based on the Attorney General Public Finance Division's (PFD) recent adoption of general rules for the issuance of public securities, it is anticipated that the process of adopting additional rules would result in more work to complete, including research, drafting the new proposed rules, holding a public hearing, receiving and responding to comments, and adopting final rules.

Under current law, the Attorney General must rely on certifications from the issuer establishing that requirements are met. Undertaking an evidentiary review will increase the time for a zone creation review. An expanded evidentiary review will require the promulgation of additional rules to set forth what types of evidence the issuer must submit to establish compliance. The Attorney General would need to adopt rules to implement the application and inspection process for newly created zones. In addition to the actions outlined above, the Attorney General would need to create the application, establish what evidence is necessary and acceptable to make the sufficiency determination, and draft the form of the "legal sufficiency determination" letter or opinion.

The Attorney General anticipates any legal work resulting from the passage of this bill could be reasonably absorbed within current agency resources.

The bill would take effect on September 1, 2017.

### **Local Government Impact**

The bill would affect any local governmental entity that has or uses a tax increment reinvestment zone. The fiscal impact on local government units cannot be estimated because each TIRZ is different and has a varying number of property owners and a varying level of activity. The fiscal impact on local governments cannot be determined.

To understand the potential impact of the bill on local governmental entities, the Comptroller's office contacted the City of Houston. The City of Houston indicated that between 2010 and 2016, the Tax Increment Reinvestment Zone (TIRZ) Program has appropriated \$99 million for affordable housing initiatives throughout the city, both within and outside of existing zone boundaries. Approximately \$73 million was appropriated among eight Programs within the Housing and Community Development Department (HCD), including the single family, multifamily, homelessness, demolition, Community Development Block Grants (CDBG) and affordable housing programs, with the largest allocation going towards the development or renovation of affordable single family units (\$30 million), and multifamily units (\$13 million)

The City of Houston also indicated that based on property data collected from the Harris County, Fort Bend County and Montgomery County Appraisal Districts, there are approximately 634,000 owners of real or personal property, including businesses, residences, charitable, nonprofit and religious organizations. On average, the Office of Economic Development submits two bond related actions to city council per year. The projected base cost associated with the proposed bill for the City of Houston if passed is \$620,000 annually, excluding administrative costs.

**Source Agencies:** 302 Office of the Attorney General, 304 Comptroller of Public Accounts

**LBB Staff:** UP, SZ, SD, SJS