



Texas Economic Development Council: 83rd Legislative Session Wrap-Up Report

Overview

The 2013 legislative session was a whirlwind for the TEDC and in the end, a big win for Texas economic developers. The TEDC legislative team successfully defeated several bills that would have significantly eroded the economic development sales tax. In addition, we successfully advocated for the extension of the Texas Economic Development Act (Chapter 313), new R&D tax credits and tax incentives for data centers. Key programs including the Texas Enterprise Fund, the Texas Emerging Technology Fund and the Skills Development Fund remain intact and several positive changes were made to the Texas Enterprise Zone program. Add to that education reform, several important workforce bills and landmark water legislation backed by a \$2 billion fund—the 2013 session was a positive one for the Texas business climate.

During the 2013 session, the TEDC tracked more than 150 bills. The following report summarizes the major legislation that passed in seven key categories:

- Economic Development Sales Tax
- Tax Incentives
- Texas Emerging Technology Fund
- Texas Enterprise Fund
- Texas Enterprise Zone Program
- Workforce
- Other Economic Development Bills

The TEDC actively monitored more than 150 bills during the 2013 legislative session. A detailed matrix which lists and summarizes all bills tracked by the TEDC during the 83rd Texas Legislature is posted on the members-only area of the TEDC website at www.texasedc.org.

The TEDC would like to thank all of its members for the many hours of travel to Austin and for testifying before legislative committees on key bills. Thank you for your commitment to the economic development of this state.

Snapshot: TEDC Legislative Agenda Priorities and the 83rd Regular Session of the Texas Legislature

TEDC Legislative Agenda Item	Final Outcome
Protect the Economic Development Sales Tax	TEDC and its members successfully defeated more than half a dozen bills that would have shifted the focus of the economic development sales tax away from its core purpose of primary job creation. However, three bills opposed by the TEDC did pass. The three bills (HB 1966, 1967 and 2473) apply only to the City of Port Arthur and two of them have sunset dates.
Make the Texas Economic Development Act Permanent	TEDC successfully advocated for the passage of HB 3390 by Hildebrand which extends the Texas Economic Development Sales Tax until December 31, 2022.
Maintain Funding for Texas Enterprise Fund	Despite heated budget battles, the Texas Enterprise Fund received \$120 million for the next two years.
Increase Funding for Skills Development Fund	The popular Skills Development Fund program received an appropriation of \$49 million (\$24.5 million per year).
Maintain Funding for Texas Emerging Technology Fund	The Texas Emerging Technology Fund received \$57 million in funding for the next two years.
Restore R&D Tax Credit	TEDC and its members successfully advocated for the passage of HB 800 by Murphy which creates an R&D tax credit for Texas.

Economic Development Sales Tax

The 2013 session was a challenging one for supporters of the economic development sales tax. The TEDC was on constant alert and our members from across the state testified at countless meetings. Despite the passing of three bills that TEDC opposed, we successfully defeated the four bills described below:

HB 374 by Guillen would have authorized the use of Type A and Type B economic development sales tax funds to develop, operate or expand community libraries. The bill was heard in the House Committee of Special Purpose Districts, but was left pending and died.

HB 1935 by Schaeffer would have had a profoundly negative impact on economic development sales tax by shifting it away from direct job creation. The bill passed the House Economic and Small Business Development Committee, but fortunately died in the Calendars Committee. The bill would have authorized both Type A and Type B economic development corporations to use the economic development sales tax to fund a wide range of general infrastructure projects (streets and roads, sewage facilities and water supply facilities for the general public) if a municipality held an election and the proposition was approved by a majority of the registered voters in the election. This bill was successfully voted out of the House Economic Development Committee, but died in the Calendars Committee.

HB 2181 by Stephenson would have widely expanded the type of job training projects that are eligible for funding with economic sales tax revenues. Specifically, the bill would have allowed Type A and Type B economic development corporations to use economic development sales tax dollars to support primary job training facilities, programs or equipment at public junior colleges, public technical institutes, a high school located in a corporation's authorizing municipality and a public junior college whose service area includes any portion of a corporation's authorizing municipality. The TEDC opposed this bill because current law (Section 501.102 of the Local Government Code) already authorizes economic sales tax funds to be spent on job training and equipment so long as it is tied to a specific project. In contrast, HB 2181 would have authorized the purchase of job training equipment regardless of whether there was an associated project.

HB 2181 would have required that the economic development corporation's authorizing municipality pass a resolution approving expenditures on this category of project. The bill would have also required the municipality to hold an election on whether to allow funds to be used for this category of project upon receipt of a petition of 10 percent of the voters in the last general election. This bill was voted out of the House Economic and Small Business Development Committee by a vote of 6-3 and placed on the General State Calendar, but was never voted on the House floor.

[HB 2521](#) by Springer would have authorized Type B economic development corporations to use economic development sales tax funds to support non-affordable housing projects (current law only authorizes the use of funds for affordable housing). The bill passed the House Economic and Small Business Committee, but did not make it out of the Calendars Committee.

The three bills that passed were all filed for the City of Port Arthur by Representative Joe Deshotel (D-Port Arthur):

[HB 1966](#) authorizes certain infrastructure expenditures necessary to develop or revitalize the corporation's authorizing municipality (in this case the City of Port Arthur). Eligible expenditures fall into three main categories:

- Streets and roads, rail spurs, water and sewer utilities, electric utilities, gas utilities, drainage, site improvements, and related improvements
- Telecommunications, data, or Internet improvements
- Facilities designed to remediate, mitigate, or control erosion

HB 1966 has a sunset date of September 1, 2017.

[HB 1967](#) authorizes economic development sales tax funds to be spent on certain job-related life skills and job training programs for unemployed persons.

[HB 2473](#) authorizes economic development sales tax funds to be spent on the development or construction of housing facilities on or adjacent to the campus of a public state college.

HB 2473 has a sunset date of September 1, 2017.

Tax Incentives

[HB 3390](#) by Hildebrand was one of TEDC's top legislative priorities. The bill passed and was signed by the Governor on June 14, 2013 and will be effective January 1, 2014. Most importantly, the bill extends the expiration date of the Texas Economic Development Act (Subchapters B and C, Chapter 313, Tax Code) from December 31, 2014 to December 31, 2022. Some additional key provisions of the bill include:

- Expanding the types of properties eligible for a value limitation to include "Texas priority projects," defined as a qualified investment exceeding \$1 billion.
- Specifying that the property tax limitation agreements are good for 10 years (up from 8 years) with three different options for determining the start-date of the agreement.

- Loosening job and wage requirements for projects with agreements that go into effect after January 1, 2013.
- Repealing Subchapter D, which governs school tax credits.
- Requiring the State Auditor to review at least three major limitation agreements annually and to make recommendations on ways to increase the efficiency and effectiveness of the administration of the chapter.

HB 800 by Murphy, which creates an R&D tax credit for Texas was another key TEDC legislative priority. Prior to the passage of this important piece of legislation, Texas was one of only seven states without an R&D tax credit. The bill allows businesses to deduct certain qualified R&D expenditures from either their sales or franchise tax. The tax credit is worth 5 percent and increases to 6.25 percent for companies that partner with a college or university. The bill limits the total amount of the credit for any one company to 50 percent of the amount of franchise tax due before any other applicable tax credits and authorizes a carry forward of unused credits for up to 20 years.

HB 1223 by Hildebrand creates a new state sales tax exemption for certain property used in qualified data centers (defined as at least 100,000 square feet of space in a single building or a portion of a single building that has been specifically constructed or refurbished and actually used to house servers and related equipment and support staff for the processing, storage and distribution of data). The bill authorizes the tax exemptions for 10 years if the capital investment is at least \$200 million but less than \$250 million and 15 years for investments over \$250 million. The bill also prohibits companies from taking advantage of both these new data center incentives and Chapter 313 property tax limitations.

The controversial **HB 2061 by Murphy**, which would have provided highly lucrative insurance premium tax credits for investments made in certain communities passed the Senate Economic Development Committee, but was never taken up for a vote on the Senate floor.

Texas Emerging Technology Fund

HB 3162 by Davis (John), which would have made some major changes to the operation and governing of the Texas Emerging Technology Fund passed the House and Senate Committees, but was pulled from the Senate Local & Uncontested Calendar at the last minute by Lt. Governor Dewhurst. Among other things, HB 3162 by Davis would have:

- Changed the name of the Texas Emerging Technology Fund to the Texas Technology Research Fund.
- Replaced the current 17-member Texas Emerging Technology Advisory Committee with a 17-member Texas Research Technology Board. Board members would be appointed by the Governor, Lieutenant Governor and Speaker of the House and would have served staggered two-year terms.
- Required the Texas Research Technology Board to make recommendations, through peer review and evaluation processes established by the board, to the Governor, Lieutenant Governor and Speaker of the House for the award of money from the fund (Subchapters E & F).
- Required that Regional Centers of Innovation and Commercialization make recommendations to the board for the award of money from the fund (Subchapter D).
- Directed the Governor's office to hire or contract with a professional fund manager to manage equity positions or other investments.
- Added "water" to the list of emerging technologies.

Although HB 3192 did not pass, the Texas Emerging Technology Fund did receive funding for the next two years. Despite much controversy and discussion about the value of this program, SB 1 (the budget bill) allocated about \$57 million for the program.

Texas Enterprise Fund

The Texas Enterprise Fund was allocated about \$120 million for the next two years. This is a lower amount than previous years, but given the budget climate and politics, it is still a positive for the TEDC since lawmakers could have zero-funded the program. A bill by Wendy Davis, [SB 1390](#) also passed which directs the state auditor to conduct an audit of the Texas Enterprise Fund.

Texas Enterprise Zone Program

[SB 1548](#) by **Eltife** amends the definition of "qualified employee" for the purposes of receiving enterprise zone incentives to mean a person who (1) works for a qualified business; (2) receives wages from the qualified business from which employment taxes are deducted and (3) performs at least 50 percent of the person's service for the business at the qualified business site, unless the person's job responsibility is to transport or deliver the enterprise project's goods or services. This bill was a TEDC legislative priority designed to clarify that certain type of workers still qualify for enterprise zone tax incentives.

[HB 1982](#) by **Murphy** passed both the House and Senate, but was vetoed by the Governor on June 14, 2013. The bill included a number of substantive changes to the Texas Enterprise Zone program including allowing an enterprise project to be split into two half designations.

The veto proclamation stated that HB 1982 contains “ambiguous language which could hurt, rather than help, the program.” Governor Perry stated in his veto proclamation that he would recommend a legislative interim study to further review the relevant issues and improve the program.

Workforce

The 2013 session was notable for the large number of bills filed to address the state’s challenging workforce issues, specifically skill gaps and workforce shortages in demand occupations. The state’s largest customized job training program, the Skills Development Fund, received a legislative appropriation of \$49 million (\$24.5 million per year) and was addressed in several bills including HB 3028 and HB 1297.

HB 3028 by Davis (John) amends current law by authorizing the use of up to 5 percent of Skills Development Fund dollars be awarded to a junior college that has an agreement with a school district to support courses offered for joint high school and college-level credit or offered under a college credit career or technical education program that leads to an industry-recognized license, credential, or certificate. To qualify for funding under this new provision, a project must (1) have the endorsement of, or a letter of support from, at least one Texas employer; and (2) be targeted to address the needs of high-demand fields or occupations, as identified by the applicable local workforce development board.

Another bill that passed, **HB 1297 by Alvarado** directs the Texas A&M Engineering Extension Service and each public community or technical college that provides workforce training with the Skills Development Fund to conduct a review of its training programs to (1) determine the effectiveness of the programs in improving the wages of participants who complete the programs and (2) identify strategies for improving the delivery of workforce training in order to more effectively impact economic development in this state. The individual entities must each submit a detailed report summarizing the results of their research to the Executive Director of the Texas Workforce Commission for inclusion in the Skills Development Fund report required by Section 303.006(c).

Texas lawmakers also passed **SB 441 by Birdwell** creating the Texas Fast Start Workforce program to help students earn postsecondary certificates and degrees and enter into the workforce quickly using a competency-based, rapid-deployment model of education delivery. The new program will be jointly established and administered by the Texas Workforce Commission and the Texas Higher Education Coordinating Board. Eligible training entities include public junior colleges, state colleges and technical institutes. The bill was signed by Governor Perry on June 10, 2013 and went into effect immediately.

HB 1296 by **Alvarado** directs the Texas Higher Education Coordinating Board in conjunction with the Texas Workforce Commission to prepare a report that includes three-year projections on workforce needs and educational attainment levels of existing workforce. The Texas Workforce Commission is required to use these projections to identify the type of education/training that should be increased to meet the state's workforce needs.

HB 2478 by **Alvarado and Davis (John)** requires the Texas Workforce Commission to gather and study information relating to existing and projected shortages in high-wage, high-demand occupations in this state. The initial report, which must include recommendations, is due to the Governor and Legislature no later than January 1, 2015.

Other Key Economic Development Legislation

HB 3578 by **Davis (John)** authorizes the Texas Economic Development Bank to transfer money from the Capital Access Fund to the Texas Product Development Fund and the Texas Small Business Incubator Fund and specifies allowable uses for the transferred funds.

HB 2636 by **Frullo/Perry** authorizes money in a tax increment fund for a reinvestment zone to be transferred to the tax increment fund for an adjacent zone if the following conditions are met: (1) the taxing units that participate in the zone from which the money is to be transferred participate in the adjacent zone and vice versa, (2) each participating taxing unit has agreed to deposit the same portion of its tax increment in the fund for each zone, (3) each participating taxing unit has agreed to the transfer, and (4) the holders of any tax increment bonds or notes issued for the zone from which the money is to be transferred have agreed to the transfer.

SB 1214 by **Schwertner** creates the Texas Economic Development Fund in the state treasury for the deposit of federal funds received from the State Small Business Credit Initiative Act of 2010 (SSBCI) as well as investment returns and interest earnings generated by the program (approximately \$30 million). Currently, the one-time federal funds are allocated by the Texas Department of Agriculture in the form of venture capital awards to eligible businesses through the agency's Jobs for Texas Program. All money in the Texas Economic Development Fund may be appropriated only to the department to administer, establish, implement or maintain an economic development program.

A large number of defense adjustment zones bills passed during the 83rd regular session including six bills by Menendez, including **HB 1348** (taxation of certain tangible personal property), **HB 2388** (application of contracting laws), **HB 3066** (qualification as an enterprise zone) and **HB 3067** (composition of defense zone authority).



SB 328 by Carona authorizes state agencies to use available funds to hire an entrepreneur-in-residence or contract with an individual, chamber of commerce or nonprofit entity to perform its functions.

HB 2482 by Alvarado directs the Comptroller to conduct a study on reasons why major manufacturers (i.e., those that made an investment over \$500,000 in another state) have chosen to invest in other states after being offered economic incentives to locate in Texas.

HB 3714 by Guerra creates the Office of Small Business Assistance Advisory Task Force to be established by the Office of Small Business Assistance at the Office of the Governor.

HCR 56 by Hunter authorizes a joint interim legislative study regarding the development and potential economic impact of the cruise industry in Texas.

HB 3063 was vetoed by the Governor. The bill would have provided automatic enterprise zone status to a qualified property location inside the boundaries of a defense base development authority. The bill would have also provided special tax treatment to commercial aircraft projects located within the boundaries of a defense base authority. In his veto declaration, Perry said that **HB 3063** would give a state-sponsored competitive advantage to some Texas communities over others. Governor Perry stated that he instead signed **HB 3121**, which applies equally to aerospace manufacturers throughout the state.

For more information about this report, contact TEDC President/CEO, Carlton Schwab at carlton@texasedc.org or 512.480.8432 or visit the members-only Advocacy section of the TEDC's website at www.texasedc.org.