



# Type B Sales Tax Permissible Projects



Tovar Pannar



# The first Type B project



# 12. What are Permissible Type B Projects?

- Projects which must create or retain primary jobs:
  - manufacturing and industrial facilities;
  - research and development facilities;
  - military facilities, including closed or realigned military bases;
  - transportation facilities;
  - Sewage or solid waste disposal facilities;
  - recycling facilities;
  - air or water pollution control facilities;
  - distribution centers;
  - small warehouse facilities;
  - primary job training facilities for use by institutions of higher education;
  - regional or national corporate headquarters facilities; and
  - projects which promote or develop new or expanded business enterprises including a project to provide public safety facilities, streets and roads, drainage and related improvements, demolition of existing structures, or general municipally owned improvements.
    - Tex. Loc. Gov't Code §§ 501.101 and 505.155.

# 12. Permissible Type B Projects...

- Projects which need not create or retain primary jobs:
  - job training classes;
  - certain targeted infrastructure which promotes or develops new or expanded business enterprises.
    - limited to streets and roads, rail spurs, water and sewer utilities, and electric utilities, gas utilities, drainage, site improvements, and related improvements, telecommunications and Internet improvements, and beach remediation along the Gulf of Mexico;
  - land buildings, equipment, facilities, improvements, and expenditures required or suitable for a career center, provided the area benefited is not located in the taxing jurisdiction of a junior college district;
  - professional and amateur sports, athletic facilities; entertainment, tourist, convention facilities; public parks and related open space improvements;
  - affordable housing;

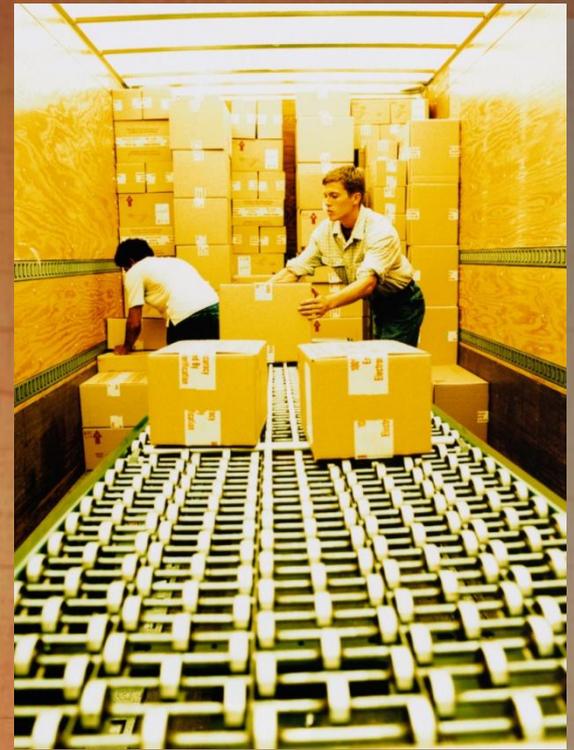
# 12. Permissible Type B Projects...

- Projects which need not create or retain jobs (cont'd):
  - certain water supply facilities and water conservation programs with voter approval;
  - development, improvement, expansion, or maintenance of facilities relating to the operation of commuter rail, light rail, or motor buses;
  - Certain airport or railport facilities, Tex. Loc. Gov't Code § 505.1561.



# 17. What is a “Primary Job”?

- In 2003, the Texas Legislature required most Type A or Type B projects create or retain primary jobs.
- The term primary job means
  - a job that is . . . available at a company for which a majority of the products or services of that company are ultimately exported to regional, statewide, national, or international markets infusing new dollars into the local economy; and
  - is included in one of nearly sixteen (16) NAICS sector codes.

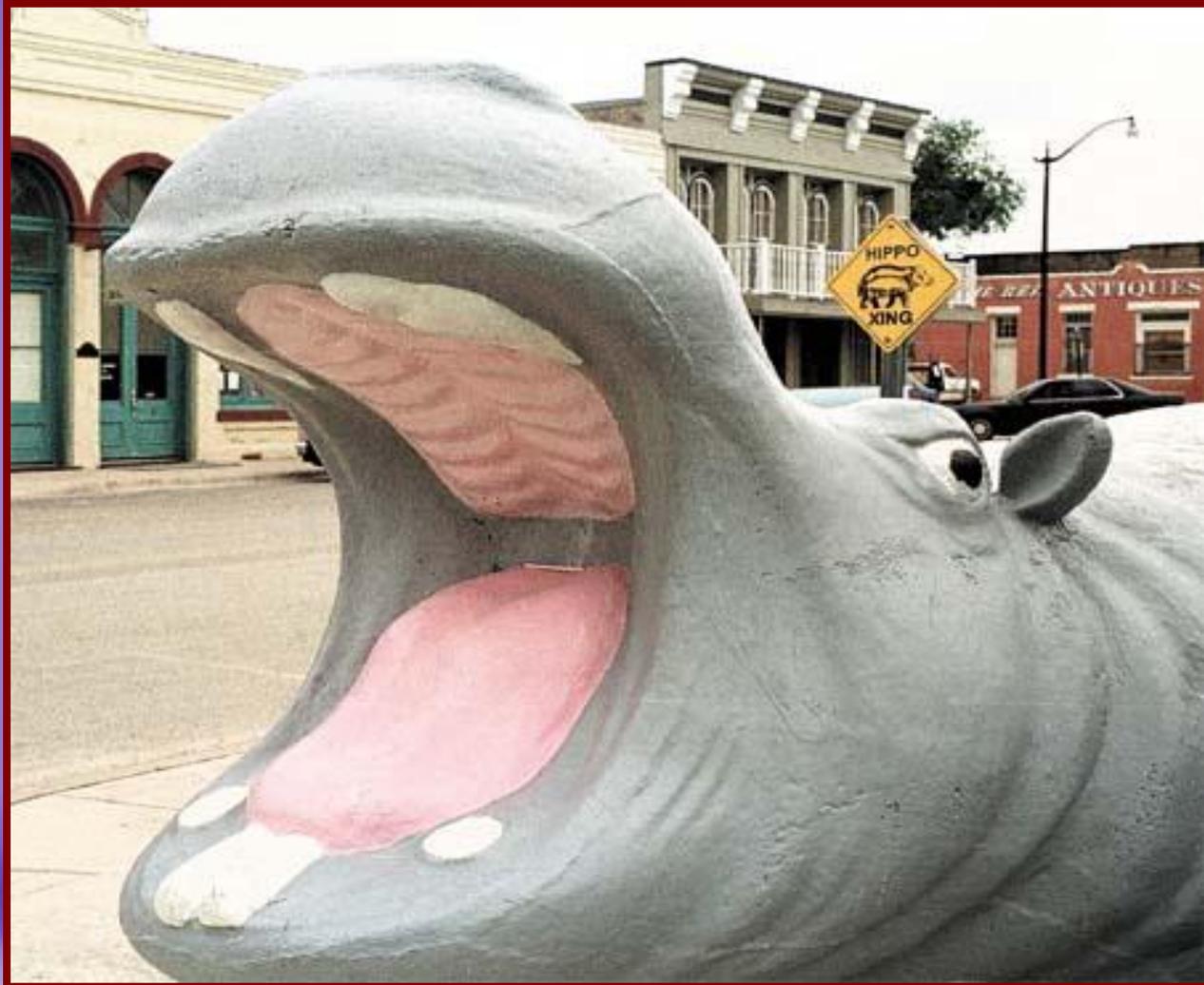


# 17. What is a “Primary Job”?

- The NAICS sector code categories include:
  - crop production;
  - animal production;
  - forestry and logging;
  - commercial fishing;
  - support activities for agriculture and forestry;
  - mining;
  - utilities;
  - manufacturing;
  - wholesale trade;
  - transportation and warehousing;
  - information
  - securities, commodity contracts, and other financial investments and related activities;
  - scientific research and development services;
  - management of companies and enterprises;
  - Telephone call centers;
  - correctional institutions; and
  - A job included within National Security sector number 928110.



# 19. Promotional Expenditures



# 19. Sales Tax Proceeds for Promotional Purposes?

- Both Type A and Type B corporations may spend no more than ten percent (10%) of the corporate revenues for promotional purposes.
- Texas Attorney General Opinion GA-86 (2003)
  - promotional purpose is a question of fact for the board of directors to resolve in the first instance;
  - the City Council could approve or disapprove of a particular promotional expenditure;
  - the Attorney General noted a corporation may not spend more than ten percent (10%) of its current annual revenues for promotional purposes in any given year. Yet, unexpended revenues specifically set aside for promotional purposes in past years may be expended for such purposes.

# 19. Can Type A or Type B Corporations Expend Sales Tax Proceeds for Job Training Classes?

- A corporation may spend tax revenue received under this Act for job training offered through a business enterprise only if the business enterprise has committed in writing to:
  - create new jobs that pay wages that are at least equal to the prevailing wage for the applicable occupation in the local labor market area; or
  - increase its payroll to pay wages that are at least equal to the prevailing wage for the applicable occupation in the local labor market area.
    - Tex. Loc. Gov't Code Ann. § 501.162.



The End