TEXAS ECONOMIC DEVELOPMENT COUNCIL

# Texas Economic Development Council
# 84th Legislative Session Wrap-Up Report

The 2015 legislative session was a successful one for the TEDC and economic development programs in our state. The TEDC legislative team successfully defeated several bills that would have significantly eroded the economic development sales tax. The TEDC also strongly supported HB 26, which added a number of reforms to the state's role in economic development.

During the 2015 session, the TEDC tracked 120 bills. The following report summarizes major legislation related to our 2015 Legislative Agenda. A detailed matrix which lists and summarizes the bills tracked by TEDC during the 84th Legislative Session is posted on our website under "Advocacy".

## *TEDC Legislative Agenda Priorities and the 84th Regular Session of the Texas Legislature*

| Legislative Agenda Item | Final Outcome |
|---|---|
| **Protect the Economic Development Sales Tax** | TEDC and its members successfully defeated several bills that would have shifted the focus of the economic development sales tax away from its core purpose of primary job creation. |
| **Support a State Deal-Closing Fund** | With the passage of HB26, the Texas Enterprise Fund was restructured by establishing new oversight procedures, a performance matrix and expanding eligible projects. The TEF received an appropriation of $90 million for the 2016-17 biennium. |
| **Maintain Funding for the Skills Development Fund** | The popular Skills Development Fund program received an appropriation of $48.6 million for the 2016-17 biennium. |
| **Support a Technology and Innovation Fund** | With the creation of the Governor's University Research Initiative (GURI), the state will continue to promote innovation and technology at our state's public institutions of higher education. |

## ✪ Protect the Economic Development Sales Tax (EDST)

TEDC had a very successful session protecting the economic development sales tax. Multiple attempts were made to redirect the EDST to non-economic development type projects. The proposed measures included changing the law to allow general infrastructure such as streets, water and sewage, construction of private multi-family housing, and financing of a job training facility and program at a junior college. TEDC remains committed to working to ensure that the economic development sales tax is used on projects that focus on primary jobs and wealth creation and for community development that improves the capacity for economic development.

### Recent Changes to the Economic Development Sales Tax

Only three bills affecting the economic development sales tax passed during the 2015 regular session.

**SB 1296** by Sen. Royce West is a non-substantive tax code cleanup bill that changes Section 501.163 of the Local Government Code to Section 501.164.

**HB 2772** by Rep. Armando Martinez amends Sections 501.106 and 501.160 of the Local Government Code to authorize the ownership of a project under Section 501.160, a section of the code that pertains specifically to Hidalgo County.

**HB 157** by Rep. Lyle Larson makes changes to several statutes relating to the imposition of sales taxes in general and amends section 504 and 505 of the Local Government Code. House Bill 157 authorizes a city to hold an election to *reallocate sales tax revenue within the two percent local sales tax cap*. The bill allows a city to assess its funding priorities and reallocate the distribution of its general and dedicated sales taxes, so long as the total local tax rate does not exceed two percent. House Bill 157 essentially removes the current caps on the dedicated sales taxes for venue districts, crime control and prevention districts, economic development corporations, property tax relief, and street maintenance, and authorizes a city to hold an election to increase or decrease these dedicated sales taxes in any increment of one-eighth of one percent.

TEDC successfully advocated against several bills that would have significantly eroded the main purpose of the economic development sales tax – that is to help create primary jobs and enhance the overall economic vitality of communities. These bills were defeated in committee, in part, because of the testimony of many TEDC members:

- **HB 292** Stephenson
  Relating to authorizing development corporations to finance projects to support primary job training facilities and programs at certain educational institutions

- **HB 1249** Schaffer
  Relating to authorizing certain general infrastructure projects to be undertaken by economic development corporations
- **HB 2192** Springer
  Relating to a project authorized to be undertaken by certain Type B economic development corporations in connection with certain multifamily housing
- **HB 3838** Smithee
  Relating to procedures required for a Type A economic development corporation to make certain expenditures

## ✪ Support a State Deal-Closing Fund

The Texas Enterprise Fund (TEF), the Texas Emerging Technology Fund (TETF), and the Texas Major Events Trust Fund (TMETF) faced an uphill battle during the 84th Legislative Session. With campaign promises to end these programs from both statewide and legislative candidates, TEDC and other pro-business organizations got to work to ensure these deal-closing funds prevailed.

**House Bill 26** by Chairwoman Angie Chen Button (R- Richardson), the omnibus economic development bill, made many key changes that address how Texas will implement its future business recruitment and job creation initiatives.

First, the bill abolishes the TETF and the TETF Advisory Committee and creates a new Governor's University Research Initiative (GURI) Fund to be administered by the Texas Economic Development and Tourism Office within the Office of the Governor and with assistance from a newly-created University Research Initiative Advisory Board. The GURI will utilize a portion of the abolished TETF's unexpended balance to award matching grants to assist eligible public institutions of higher education in recruiting distinguished researchers in the fields of science, technology, engineering, mathematics and medicine. The state budget allocated $40 million of the TETF's unexpended balance to the GURI.

The remainder of the now abolished TETF's unexpended balance is to be used for the wrapping up current projects of the Fund and the emerging technology investment portfolio through a newly created Texas Treasury Safekeeping Trust Company. These activities, including reports on projects funded, are to be completed by September 1, 2017. In addition to the $40 million appropriated to the new GURI, the remainder of the unexpended balance is to go to the following: the Texas Research Initiative Program, the Texas Research University Fund, the TEF, or to the comptroller for closing out of the TETF. Any balance remaining in the TETF on final liquidation will be remitted to the Comptroller for deposit in the General Revenue Fund.

House Bill 26 creates the Economic Incentive Oversight Board as an advisory board composed of nine members: two public members appointed by the Speaker, one of whom must be from a rural county; two public members appointed by the Lieutenant Governor, one of whom must be from a rural county; two public members appointed by the Comptroller; and three public members appointed by the Governor. The board will develop a performance matrix to evaluate benefits and costs to the state, local governments, and Texas residents that result directly from the economic development activities funded by state incentives. The board will conduct a review of each incentive program and make recommendations to the Legislature. The bill also establishes that the approval period for the TEF grants is reduced from 90 days to 30 days.

House Bill 26 makes changes to the administration of the Texas Enterprise Fund including giving the Governor rulemaking authority for the operation of the Fund, specifically rules relating to grant awards and monitoring grant recipients and activities. The legislation expands the types of projects eligible to include projects for the commercialization of property derived from research developed at or through institutions of higher education. The bill also added provisions making an entity ineligible for the TEF if the entity either confers a benefit or makes a political contribution that exceeds $500 to a person with authority to award a grant.

HB 26 redefines “monetary incentive” and “tax incentive”. A “monetary incentive” is a grant, loan or other form of monetary incentive paid from state revenues, including a state trust fund, that a business entity or other person may receive in exchange for or as a result of conducting an activity with an economic development purpose. A “tax incentive’ is an exemption, deduction, credit, exclusion, waiver, rebate, discount, deferral or other abatement or reduction of state tax liability of a business entity or other person that the person may receive in exchange for or as a result of conducting an activity with an economic development purpose.

Finally, the bill renames the Major Events Trust Fund to the Major Events Reimbursement Program. HB 26 also repeals the Linked Deposit Program for Historically Underutilized Businesses (HUBs) and the Small Business Industrial Development Corporation.

## ✪ Maintain Funding for the Skills Development Fund

The Texas Legislature recognizes that the Skills Development Fund is Texas’ premier job-training program and fully funded the project by allocating $48.6 million for the 2016-17 biennium. This funding level ensures that Texas’ businesses and employees will continue receiving the customized job training to increase skill levels and wages for our Texas workforce.

## ✪ Support a Technology and Innovation Fund

In February, Governor Greg Abbott declared, “legislation relating to funding higher education” as one of his emergency items. In his statement the Governor states, “Top research universities not only drive innovation, but also foster economic development, thereby creating job opportunities for hardworking Texans. I support legislation to provide funding for Texas' higher education institutions for the strategic purpose of enhancing research programs and attracting nationally-recognized researchers and Nobel Laureates to Texas universities.”

While the Texas Emerging Technology Fund (TETF) did not survive the legislative session in its current form, the new Governor’s University Research Initiative (GURI) will continue to promote innovation and technology at our state’s public institutions of higher education. Two bills, **House Bill 26** by Representative Angie Chen Button (R-Richardson) and **Senate Bill 632** by Senator Troy Fraser (R-Horseshoe Bay), fully implement the new program that will utilize a portion of the abolished TETF’s unexpended balance to award matching grants to assist eligible public institutions of higher education in recruiting distinguished researchers in the fields of science, technology, engineering, mathematics and medicine.

## Chapter 313

The TEDC strongly supports Chapter 313, The Texas Economic Development Act, which allows school districts to attract new taxable property development by offering a tax credit and an eight year limitation on the appraised value of a property for the maintenance and operations portion of the school district property tax. Despite the fact that the law requires applicants to demonstrate that the incentive was a determining factor in the investment, and demonstrate that the taxes from the project will outweigh the amount of the incentive, the program still has its critics.

**House Bill 2826** by Chairman Jim Murphy (R-Houston) would have strengthened the state’s ability to attract large-scale, capital-intensive projects by allowing companies to make a single Chapter 313 application for projects across multiple contiguous school districts. While this bill passed both chambers, **Governor Abbott ultimately vetoed the bill** in the last few hours of the veto period and released the following statement regarding his decision:

> “Chapter 313 of the Tax Code allows for certain businesses to negotiate with school districts for lower appraisal valuations and, as a result, lower school property taxes. While the program may sometimes have a positive impact on local economic development, serious concerns exist about its oversight, its transparency, and its value to the taxpayers. According to a 2013 report by the Comptroller's Office, Chapter 313 cost the taxpayers $341,363 for every new job created by the program. The Comptroller estimates that House Bill 2826 will ultimately cost State taxpayers $100

million per biennium. I cannot support expansion of an incentive program that has not been proven to deliver the value taxpayers deserve."

Several pieces of legislative related to Chapter 313 that the TEDC supported were:

**House Bill 1250** by Chairman Jim Murphy would have restructured the wage standard for Chapter 313 economic development projects. *HB 1250 failed due to a calendar deadline.*

**House Bill 1987** by Representative Drew Springer (R-Muenster) would authorize a school board to request that the Texas Economic Development and Tourism Office or its successor submit a recommendation as to whether the new jobs creation requirement under a Chapter 313 economic development project should be reduced or waived and, if reduced, the number of new jobs that the project should be required to create. *HB 1987 failed due to a calendar deadline.*

**House Bill 3732** by Chairman Byron Cook (R-Corsicana) sought to encourage investments in large-scale electric energy storage facilities by making them eligible for limitations on appraised value under the Chapter 313 Texas Economic Development Act. *HB 3732 was never placed on a House Calendar and failed.*

## Other Important Policy Issues Affecting Economic Development

### Taxes

"Tax cuts" were the buzzwords of the 2014 election cycle and the 84th Legislature did not disappoint in the number of tax cut related bills filed. Throughout the session there was much talk about whether or not the House and Senate would agree on the best method for the promised tax cuts: property, business, sales, or a combination of cuts. In the end, a combination of property tax and business tax cuts was passed by both chambers and signed by the Governor.

#### Business Tax

**House Bill 32** by Chairman Dennis Bonnen (R-Angleton) cuts the business franchise tax (also known as the margins tax) by 25% for all business taxpayers. The bill also reduces the E-Z tax rate from 0.575 percent to 0.331 percent for small business taxpayers. Finally, the bill expands E-Z tax rate eligibility to businesses with up to $20 million in revenue. These tax rate cuts are permanent.

#### Property Tax

**Senate Bill 1** and **Senate Joint Resolution 1** by Chairwoman Jane Nelson (R-Flower Mound) increases the homestead property tax exemption from $15,000 to $25,000 and will prohibit the state from charging a real estate transfer tax. Voters will have to approve SJR 1 on the November 3, 2015 ballot in order to finalize the tax cuts. SJR 1 will appear as Proposition 1 on the ballot and will state the following:

> "The constitutional amendment increasing the amount of the residence homestead exemption from ad valorem taxation for public school purposes from $15,000 to $25,000, providing for a reduction of the limitation on the total amount of ad valorem taxes that may be imposed for those purposes on the homestead of an elderly or disabled person to reflect the increased exemption amount, authorizing the legislature to prohibit a political subdivision that has adopted an optional residence homestead exemption from ad valorem taxation from reducing the amount of or repealing the exemption, and prohibiting the enactment of a law that imposes a transfer tax on a transaction that conveys fee simple title to real property."

In a last minute maneuver, adopted outside the bounds as part of the conference committee report to **House Bill 1905** by Representative Drew Springer, was an amendment to Chapter 11 of the Tax Code regarding taxable property and exemptions, to provide that **"nonprofit community business organization" also means a Type A and a Type B corporation** as specified in Chapter 504 or 505, Local Government Code, related to certain economic development projects. This designation would extend the property tax exemption for nonprofit community business organizations providing economic development to certain real and personal property owned by Type A and Type B corporations.

Other tax related bills that **did not pass** included a bill to exempt from school district property taxes the appraised value of a person's inventory held for resale, a bill phasing out the school district property tax on inventory by 10 percent per year through 2024, a bill authorizing the legislature to exempt inventory from ad valorem taxation by one or more taxing units, and a bill extending the Freeport exemption period from 175 to 365 days.

## Transportation

While the Texas economy is booming and our population is soaring as people move to our state for jobs, from an economic development standpoint, traffic congestion and deficient roadways negatively impact the movement of goods around the state. To help solve our transportation funding issue, the Legislature passed **Senate Joint Resolution 5** that creates a constitutional amendment to require that beginning in fiscal year 2018, $2.5 billion annually will be dedicated from sales tax collections to be used for transportation funding. Beginning in 2020, in addition to this sales tax dedication, the Comptroller will transfer 35 percent of the motor vehicle sales tax collected in excess of $5 billion annually to the State Highway Fund for funding transportation projects. This combination of funding could result in an estimated $5 billion each year for transportation projects across Texas.

This funding is the second major step the Texas Legislature has taken towards funding our Texas highway system. Senate Joint Resolution 1, overwhelmingly approved by the voters in 2014, allocates revenue from the State's Economic Stabilization Fund, or Rainy Day Fund, to the State Highway Fund for transportation projects. SJR 5 will appear on the November 3, 2015 ballot as Proposition 7 and will state the following:

> "The constitutional amendment dedicating certain sales and use tax revenue and motor vehicle sales, use, and rental tax revenue to the state highway fund to provide funding for no tolled roads and the reduction of certain transportation-related debt."

## Water

The Texas Legislature saw many pieces of water legislation filed and vetted, however, few pieces actually survived the process. Legislation that made it to the Governor's desk and survived the veto pen included a couple of pieces related to desalination, **House Bill 30** by Representative Lyle Larson (R- San Antonio) and **House Bill 4097** by Chairman Todd Hunter (R- Corpus Christi).

Chairman Jim Keffer (R-Eastland) passed **House Bill 200** that reinforces that groundwater conservation districts (GCDs) are the Texas' desired method of groundwater management. The bill additionally creates a comprehensive process for contested case hearings at the State Office of Administrative Hearings (SOAH) and a process for appeals of permit or permit amendment denials. **House Bill 655** by Representative Lyle Larson repeals current regulations for surface water aquifer storage and recovery (ASR) projects and adds a uniform regulatory framework for all ASR projects regardless of whether the injected project was surface water or groundwater. HB 655 gives jurisdiction over all regulatory and permitting of ASR injections wells to the Texas Commission on Environmental Quality (TCEQ).

The Texas Water Development Board (TWDB) has continued implementation of the State Water Implementation Fund for Texas (SWIFT). On May 6, 2015, the TWDB approved the financing structure and consideration of applications for the first round of SWIFT financial assistance. This included 39 abridged applications for eligible projects requesting more than $4 billion in assistance.

## Major Events Trust Fund

**Major Events Trust Fund** (which pursuant to HB 26 will be renamed the **Major Events Reimbursement Program**): **Senate Bill 293** by Chairwoman Jane Nelson (R-Flower Mound) expands the definition of "site selection organization," for purposes of selecting a site in Texas for certain events that are eligible to receive funding from the major events reimbursement program, to **include ESPN, NASCAR, and the Ultimate Fighting Championship**. The bill took immediate effect upon passage on April 8, 2015.
Several bills were filed that would have *abolished* the Major Events Trust Fund and several other trusteed programs in the Comptroller's office. However, the METF survived and **Senate Bill 633** by Senator Troy Fraser expands the definition of "event" and the definition of "site selection organization". The bill adds to the list of events: National Collegiate Athletic Association men's or women's lacrosse championships; World Cup soccer tournament; Major League Soccer All-Star game; Major League Soccer Cup; Professional Rodeo Cowboys Association National Finals Rodeo; Elite Rodeo Association World Championship; United States Open Championship; Amateur Athletic Union Junior Olympic Games; Moto Grand Prix of the United States; and a presidential general election debate. The bill expands the definition of "site selection organization" to include: Dorna Sports; Amateur Athletic Union; Professional Rodeo Cowboys Association; Elite Rodeo Association; Major League Soccer; United States Golf Association; and Commission on Presidential Debates

## Texas Moving Image Industry Incentives Program

Another of Texas' incentive programs that was under the microscope this session was the Texas Moving Image Industry Incentives Program. Unfortunately, the film and video game industry will have to look other states for meaningful incentives. While the Texas Film Commission touts that in awarding $150 million to attract production companies, Texas has seen a $1 billion boost to the economy, the Texas Legislature did not see the benefit and cut the incentive program from $95 million to $32 million for the biennium, a $63 million cut.

## Other Notable Successes

**Senate Bill 709** by Senator Troy Fraser (R-Horseshoe Bay) addresses TCEQ's <u>contested case procedures</u>. The bill establishes a six-month timeframe for the contested case hearing process. The bill requires an organization requesting a contested case to identify its affected party representative at the time the contested case hearing is requested, not months into the process. Finally, the legislation clarifies that only a person or group that has openly participated in the TCEQ permitting process may trigger a contested case hearing on a permit.

**House Bill 2712** by Chairman Charlie Geren (R-Fort Worth) provides a temporary sales tax exemption for large data center projects. The bill defines a "large data center project" as a project comprised of a building or series of buildings located or to be located on a single parcel of land or on contiguous parcels of land that are commonly owned or owned by affiliation with the operator with at least 250,000 square feet of space, which:

- is specifically constructed or refurbished and actually used primarily to house servers and related equipment and support staff for the processing, storage, and distribution of data;
- is used by a single qualifying occupant for the processing, storage, and distribution of data;
- is not used primarily by a telecommunications provider to place tangible personal property that is used to deliver telecommunications services; and
- has an uninterruptible power source, generator backup power, a fire suppression and prevention system, and physical security that includes restricted access, video surveillance, and electronic systems.

For a qualifying project with a single occupant that creates at least 40 jobs and invests at least $500 million, exempts from sales tax tangible personal property including electricity, computing hardware, software, and other items for 20 years. This list of eligible items and the programmatic functioning of the exemption is similar to that in current law established as Section 151.359 from the 2013 session for data centers of up to $250 million in size, except that the new exemption created by this bill also applies to local sales taxes.

**House Bill 1000** by Representative John Zerwas (R-Richmond) renames the Research Development Fund (RDF) as the Comprehensive Research Fund and would make changes to the eligibility of the fund. The provisions of the bill define eligible institutions as general academic teaching institutions other than The University of Texas (UT) at Austin, Texas A&M University, or emerging research universities. The bill creates the Core Research Support Fund to provide funding to promote increased research capacity at emerging research universities. Under provisions of the bill, 50 percent of funding would be distributed to eligible institutions each fiscal year based on the average amount of restricted research funds expended by each institution per year for the three preceding state fiscal years, as reported to the Higher Education Coordinating Board. The remaining 50 percent would be distributed based on the average amount of total research funds expended by each institution per year for the three preceding state fiscal years. The money received by an institution from the fund could be used only for the support and maintenance of educational and general activities that promote increased research capacity at the institution.

**Senate Bill 100** by Senator Juan "Chuy" Hinojosa (D-McAllen) revises the definition of a qualified employee, a veteran, and a qualified business as they relate to an Enterprise Zone relating to the Texas Economic Development Bank. The bill provides for the nomination and administration of certain enterprise projects by governing bodies, it allows an enterprise project to be split into two half designations, and revises certain requirements for an enterprise project to be eligible to receive a tax refund (instead of a tax credit).

**Senate Bill 458** by Eddie Lucio, Jr. (D-Brownsville) and Greg Bonnen (R-Friendswood) requires the Governor's Aerospace and Aviation Office and the Aerospace and Aviation Advisory Committee to develop short-term and long-term policy initiatives or recommend reforms the state may undertake or implement. The short-term plan must be submitted to the legislative by September 1, 2017 and fully implemented by September 1, 2020. The long-term plan must be submitted to the legislature by September 1, 2020 and fully implemented by September 1, 2025.

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