

LEGISLATIVE WRAP-UP REPORT

The 82nd Texas Legislature

OVERVIEW

The 82nd Texas Legislature will surely go down in history as one of the state's most contentious and challenging. When the legislative session kicked off in January, it did so with a massive \$27 billion budget deficit. Public agencies across state government were put on notice that dollars were scarce and that cutbacks would be largely unavoidable.

Fortunately, economic development fared well, despite some setbacks. For example:

- The economic development sales tax, which serves as the backbone of local economic development efforts in more than 500 Texas communities, went largely unchanged.
- Lawmakers did not revoke the Texas Economic Development Act, which allows school districts to cap property values for eligible companies.
- The popular Skills Development Fund, the state's only customized job training program, received \$48 million in new funding.

In addition, both the Texas Enterprise Fund (TEF) and Texas Emerging Technology Fund (TETF) were retained, although they received only modest levels of new funding for the 2012-2013 biennium. However, the legislature authorized the programs to use unspent balances which will sustain both programs for the next two years (TEF at approximately \$150 million for biennium and TETF at approximately \$140 million).

The TEDC actively monitored more than 50 bills during the 2011 legislative session. At the end of session, less than 20 were sent to Governor Perry's desk. A detailed matrix which lists all bills tracked by the TEDC during the 82nd Texas Legislature is posted in the member center at www.texasedc.org.

THE TEDC LEGISLATIVE AGENDA

Months before the start of each legislative session, the TEDC develops a legislative agenda that identifies key policy priorities for the economic development profession. For 2011, the TEDC identified five critical priorities. The legislative priorities and final outcome from the 2011 general and special session is summarized below, with details in the following pages.

TEDC Legislative Priority	2011 Session Outcome
Maintain the local economic development sales tax for economic development purposes	Economic development sales tax went largely unchanged. Two bills passed that apply only to smaller economic development corporations.
Continue funding the Texas Enterprise Fund and the Texas Emerging Technology Fund	Both TEF and TETF maintained, but received only modest levels of new funding. Unused funds from previous years were allowed to roll over to the next biennium so both programs will remain active. In addition, changes were made to the membership of the TETF Advisory Committee and a provision was added in the budget which allows the Enterprise Fund to be used for certain homeless projects.
Maintain funding for the Skills Development Fund	Skills Development program was continued and funded. However, General Revenue funding reduced from \$90 million in the last biennium to \$48 million for 2012-2013 biennium. In addition, Senate Bill 1 (the budget) granted the Governor the authority to transfer money from the Texas Enterprise Fund to the Skills Development Fund.
Reinstate research & development tax credits and other business tax incentives that attract high-quality jobs	The R&D tax credit was not reinstated. However, the carry-forward of job creation and investment tax credits under the old franchise tax were extended from 2012 to 2016 and the “goods in transit” exemption to items stored in public warehouses was extended. Several bills passed which will result in studies during the interim. One bill directs the Legislative Budget Board to study the costs and benefits of reinstating the R&D credit, while another established a new Select Committee on Economic Development, which was charged with studying the full scope of economic development programs and business tax incentives.
Develop strategic tax and financial incentives to promote Texas’ renewable energy sector	A handful of bills passed, but no major legislation.

STATE INCENTIVES AND PROGRAMS

Texas Enterprise Fund

The Texas Enterprise Fund was the subject of much discussion and debate during the 2011 legislative session. Some opponents called for the program's abolition, but at the end of the day, the TEF was maintained. Although, only modest levels of new dollars were allocated for the 2012-2013 biennium, the legislature authorized the rollover of unspent balances so the TEF will have as much as \$150 million to spend over the next two years.

A bill by Senator John Carona (**SB 991**) would have replaced the Governor's role in the administration of both the TEF and the TETF with an oversight committee. However, the bill did not receive a hearing in the Senate.

A provision in the budget bill (Senate Bill 1 by Duncan/Shapiro) authorized the use of the Texas Enterprise Fund to certain projects relating to the homeless. In addition, \$20 million from the Enterprise Fund was appropriated to the Texas Workforce Commission for the *Texas Back-to Work Program*, which offers employers wage subsidies for hiring unemployed Texas workers. The program is available to employers through the state's 28 Texas local workforce development boards.

Texas Emerging Technology Fund

The Texas Emerging Technology Fund was under even more scrutiny than the Texas Enterprise Fund during the 2011 legislative session. However, the program, which awards cash grants to businesses and higher education institutions to promote new technology and innovation, was also left intact and has approximately \$140 million to spend over the next biennium.

HB 2457 by John Davis (Jackson in Senate) passed, which among other things, increased membership on the Texas Emerging Technology Advisory Committee to include four new appointees, two from the lieutenant governor and two from the speaker of the house. The bill also strengthened annual reporting requirements and required companies being considered for an award to disclose additional information related to grant awards. These changes were made in response to questions raised about the management of the TETF and how grant dollars were being allocated. The bill also removed language added during a previous legislative session which authorized moving funds from the Unemployment Compensation Fund to the Texas Enterprise Fund and Texas Emerging Technology Fund. However, funds can still transfer to the Skills Development Fund.

The Texas Enterprise Zone Program

A handful of bills were filed during the 2011 session to modify the Texas Enterprise Zone Program. First created in 1987, the Texas Enterprise Zone Program continues to be popular and many of its proponents, including the TEDC have supported efforts to expand the program. "Enterprise Projects" are businesses designated by the state's Economic Development Bank. To qualify, the business must demonstrate that they are either retaining or creating a specific number of jobs and hiring a certain number of economically disadvantaged workers. To manage costs, Texas law currently limits the number of eligible Enterprise Projects at 105 per biennium for the entire state.

The TEDC Legislative Agenda supported increasing the statutory cap in total enterprise projects from 105 enterprise projects to at least 200 per biennium. Although no new enterprise projects were authorized, the Texas Enterprise Zone Program was kept intact despite cutbacks elsewhere in state government programs.

Skills Development Fund

The Skills Development Fund was created in 1996 to help community colleges partner with local businesses to develop customized job training programs. Companies that commit to create new jobs or upgrade skills for existing jobs are eligible for financial support. Funding for the popular program has steadily grown over the years to a high of \$90 million during the 2010-2011 biennium. Despite cutbacks elsewhere in state government, including higher education, lawmakers continued to fund the Skills Development Program to the tune of \$24.3 million per year for the 2011-2012 biennium.

Tax Credits

Although no new tax credits for job creation, investment or research and development were created, carry forwards for job and capital investment tax credits offered under the old franchise tax that were due to expire in 2013 were extended for another four years. In addition, the “goods in transit” exemption to items stored in public warehouses was extended.

New to Texas politics? Here are a few things you need to know:

- The Texas Legislature meets in odd-numbered years for a total of 140 days.
- The Governor may call one or more special sessions for up to 30 days each.
- The Texas Legislature has a House of Representatives with 150 members and a Senate with 31 members.
- The period in between legislative sessions is called the interim. During this period, the presiding officer of both the House and Senate issue “interim charges” to committees, directing studies on specific policy issues.
- The presiding officer of the House of Representatives, the Speaker of the House, is selected by House members at the start of each session. The presiding officer of the Texas Senate, the Lieutenant Governor, is a statewide elected official with a four-year term of office.
- The *Senate Committee on Economic Development* and the *House Committee on Small Business and Economic Development* are the two key (but not only) legislative committees that handle most TEDC legislative issues.

Legislative Studies

The upcoming legislative interim will be busy one for the economic development profession. Several bills passed during the 2011 session which will put economic development incentives in the limelight.

One of the TEDC's Legislative Agenda items was the reinstatement of the research & development tax credits that were enacted in Subchapter O, Chapter 171, Tax Code back in 1999 as part of SB 441, an omnibus bill that created a series of business franchise tax credits. These credits were eliminated in 2006 when margins tax replaced franchise tax. Although the R&D tax credit was not reenacted this session, **HB 2383** by Geren, directed the Legislative Budget Board to conduct a study of the costs and benefits to the state of reenacting the tax incentive for research and development activities. The LBB will be required to conduct the study with existing resources and examine how R&D incentives are used in other states.

HB 2785 by John Davis (Shapiro in Senate) created a Select Committee on Economic Development to study and make recommendations on economic development incentives, including the economic development sales tax. The 12-member committee, which will be composed of both public members and members of the Texas Legislature (including two Senators and two House members), will release its final report no later than January 1, 2013.

The committee is charged with the following:

- Developing an economic development policy for the state and making recommendations to the legislature regarding the policy
- Conducting a study and making recommendations to the legislature regarding state and local economic development incentives
- Developing criteria for evaluating the effectiveness of existing economic development policies and incentives in this state and make recommendations the committee considers necessary to improve those policies and incentives
- Considering the benefits of consolidating state and local economic development incentives into a single statewide office or agency
- Evaluating existing state or local economic development incentives and make recommendations regarding the continuation, elimination, or modification of those incentives
- Making recommendations on whether the state should adopt new incentives to better accomplish the state's economic development policy
- It is expected that the appointments to the committee will be named (by the governor, speaker and lieutenant governor) and that organizational meetings will take place in the fall

SB 988 by Van de Putte established the Cybersecurity, Education, and Economic Development Council, a nine-member council which will meet quarterly over the next year. The Council is charged with developing an interim report, making recommendations and filing a report by December 1, 2012, with various state policy makers. The Council will focus on developing specific recommendations to improve the infrastructure of this state's cybersecurity operations and accelerate the growth of cybersecurity as an industry in this state.

Other Bills

Several bills creating regional entities to promote economic development passed, including **SB 580** which addressed the community assistance and economic development program activities of the Lavaca-Navidad River Authority. **SB 309** by Harris adds the Academy of Country Music Awards and the national political conventions of the Republican National Committee or the Democratic National Committee to the list of eligible “events” for support under the Major Events Trust Fund. **HB 447** by Menendez also passed, which addressed the powers of a defense base development authority.

LOCAL INCENTIVES AND PROGRAMS

Economic Development Sales Tax

Only a handful of economic development sales tax bills were filed during the 2011 legislative session and just two passed into law. Both bills that passed apply only to smaller economic development corporations that meet specific population requirements.

The first bill, **HB 479** by Orr allows the Board of Directors of a Type A or B corporation located in an authorizing municipality with a population less than 30,000 to hold their board meetings within the boundaries of the county. Current law requires that meetings be held within the authorizing municipality.

The second bill, **HB 3302** by Reynolds, allows communities with populations of 7,500 or less with both Type A and Type B corporations to pass an ordinance authorizing Type A corporations to act as Type B corporations and undertake a wider range of civic and commercial projects. The bill also authorizes the governing body of the municipality to subsequently revoke the authority of Type A corporations to undertake the broader Type B corporation activities. However, any ordinance passed to revoke the authority to undertake Type B activities does not affect the authority of a corporation to complete an existing project or repay any debt incurred in connection with a previously authorized project.

The TEDC successfully defeated a bill (**HB 3283** by Guillen) that would have authorized the use of economic development sales tax revenues for community libraries. As a general rule, the TEDC opposes bills that divert economic development sales tax dollars away from core job creation activities, such as business attraction, marketing, incentives and small business development. Although libraries play an important role in local communities, there are other funding sources to address their needs.

The Texas Economic Development Act

The Texas Economic Development Act was also a target of review (and in some cases criticism), but ultimately no action was taken. All told, eight different bills were filed and none passed. Chapter 313, expires in two years and will be studied as part of the scope of work of the newly created Select Committee on Economic Development.

Tax Increment Financing

Although no bills were filed addressing Chapter 312 and property tax abatements, several bills were filed and passed that change the rules surrounding the use of tax increment financing. Two of the most important bills are **HB 2853** by John Davis and **SB 627** by Wendy Davis.

Among other changes, **HB 2853** amended the TIF Act (Chapter 311, Tax Code) to add the actual costs of remediation, preservation, or demolition of public or private buildings and school facilities costs to the definition of "project costs." The bill also amended the TIF act to add undeveloped land to the kinds of land that may be designated a reinvestment zone. The bill also addresses rules related to designating reinvestment zones in areas with certain levels of existing residential use. For more details on **HB 2853**, please consult the bill matrix on the members-only section of the TEDC website.

SB 627 by Davis (Wendy) also passed. The bill authorizes a commissioners court to enter into a TIF agreement with a municipality on behalf of other taxing units, if by statute the ad valorem tax rate of the other taxing unit is approved by the commissioners court or the commissioners court is expressly required by statute to levy the ad valorem taxes of the other taxing unit. Hospital districts are specifically excluded from this new provision.

A special thanks to our TEDC members for participating in the 2011 legislative session. Your personal visits, phone calls, emails, and committee testimony make a real difference.

ABOUT THE TEXAS ECONOMIC DEVELOPMENT COUNCIL

The Texas Economic Development Council (TEDC) is the nation's largest state association of economic development professionals, volunteers, and elected officials. As the collective voice of the economic development profession at the Texas State Capitol, the TEDC is dedicated to working closely with lawmakers to pass legislation that helps bring good jobs to Texas. As a leading training provider, the TEDC is also committed to preparing the next generation of economic development leaders for success and educating the public about the value of economic development.

Key Contact: Carlton Schwab, President/CEO of the Texas Economic Development Council

Phone: 512.480.8432 | **Email:** carlton@texasedc.org | **Website:** www.texasedc.org

Texas Economic Development Council

1011 San Jacinto, Suite 650

Austin, TX 78701