

LOCAL GOVERNMENT CODE
TITLE 12. PLANNING AND DEVELOPMENT
SUBTITLE A. MUNICIPAL PLANNING AND DEVELOPMENT
CHAPTER 379A. MUNICIPAL DEVELOPMENT CORPORATIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 379A.001. SHORT TITLE. This chapter may be cited as the Better Jobs Act.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

Sec. 379A.002. FINDINGS AND PURPOSES. (a) The legislature finds that:

(1) it is an appropriate role for a municipality to foster economic opportunity, job generation, and capital investment by promoting a favorable business climate, preparing the workforce for productive employment, and supporting infrastructure development;

(2) while some municipalities choose to meet that role through the creation of economic development zones and reinvestment zones, the core root of all economic development is a competent and qualified workforce; and

(3) the programs designed to create a competent and qualified workforce are essential both to the economic growth and vitality of many municipalities in this state and to the elimination of unemployment and underemployment in those municipalities.

(b) The programs authorized by this chapter are in the public interest, promote the economic welfare of this state, and serve the state public purpose of developing and diversifying the economy of this state and eliminating unemployment and underemployment in this state.

(c) This chapter shall be liberally construed in conformity with the findings and purposes stated in this section.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

Sec. 379A.003. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of a municipal development corporation.

(2) "Corporation" means a municipal development corporation created under this chapter.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

Sec. 379A.004. APPLICATION OF NON-PROFIT CORPORATION ACT. A corporation created under this chapter is governed by the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes), except to the extent inconsistent with this chapter.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

SUBCHAPTER B. CREATION OF CORPORATION

Sec. 379A.011. CREATION. The governing body of a municipality may create a municipal development corporation under this chapter.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

Sec. 379A.012. ARTICLES OF INCORPORATION. The articles of incorporation of the corporation must state that the corporation is governed by this chapter.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

Sec. 379A.013. NUMBER OF CORPORATIONS. A municipality may not create more than one corporation under this chapter.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

Sec. 379A.014. ADOPTION AND APPROVAL OF BYLAWS. The initial bylaws of a corporation shall be adopted by its board of directors and approved by resolution of the governing body of the municipality that created the corporation, and any subsequent changes made to the bylaws must be approved by the governing body of the municipality that created the corporation.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

Sec. 379A.015. PERFORMANCE REVIEW AND ASSESSMENT. The governing body of the municipality that creates the corporation shall undertake a performance review and assessment of the corporation once every five years. Based on the performance review and assessment, the governing body of the municipality shall issue a finding of whether the corporation is satisfying the objectives set forth in this chapter.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

SUBCHAPTER C. BOARD OF DIRECTORS

Sec. 379A.021. COMPOSITION AND APPOINTMENT OF BOARD. (a) Except as provided by Subsection (g), the corporation is governed by a board of 5, 7, 9, 11, 13, or 15 directors, as determined by the governing body of the municipality that created the corporation. The number of directors may not exceed the number of members, including the mayor, constituting the governing body of the municipality.

(b) The governing body of the municipality that created the corporation shall appoint the members of the board.

(c) Directors serve staggered two-year terms, with as near as possible to one-half of the members' terms expiring each year. A director serves at the will of the governing body of the municipality that created the corporation. Successor directors are appointed in the same manner as the original appointees.

(d) Each director of a corporation created by a municipality that has a population of 20,000 or more must be a resident of the municipality. Each director of a corporation created by a municipality that has a population of less than 20,000 must be a resident of the municipality or the county in which the major part of the area of the municipality is located.

(e) A person is disqualified from serving as a director if the person is an employee, officer, or member of the governing body of the municipality that created the corporation.

(f) A director may not have a personal interest in a contract executed by the corporation.

(g) In a municipality that has a population of more than one

million and that creates a corporation under this chapter, the board of the corporation is composed of persons appointed to the board as required by this subsection. The governing body of the municipality shall appoint one director to the board of the corporation from each district that elects a member to the governing body of the municipality.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

Sec. 379A.022. COMPENSATION. A board member is not entitled to compensation, but is entitled to reimbursement for actual and necessary expenses incurred in serving as a director.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

Sec. 379A.023. MEETINGS. The board shall conduct its meetings in the municipality that created the corporation.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

Sec. 379A.024. OFFICERS. The board shall appoint from its members a presiding officer, a secretary, and other officers of the corporation that the governing body of the municipality that created the corporation considers necessary.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

Sec. 379A.025. ADOPTION AND APPROVAL OF BUDGET; REVIEW OF CORPORATE FINANCES. (a) The board shall prepare an annual budget for the corporation. To be effective, the budget must be approved by the board and presented to and approved by the governing body of the municipality that created the corporation. The corporation may not make any expenditure authorized by this chapter until the budget has been approved as provided by this section. An amendment of the budget must be approved in the same manner as the budget.

(b) The governing body of the municipality that created the corporation may amend the corporation's budget with the approval of at least two-thirds of the members of the governing body.

(c) The budget presented to the governing body of the municipality that created the corporation must provide a detailed description of the proposed expenditures for the corporation's

fiscal year, including expenditures for each program authorized by Subchapter D.

(d) The board shall annually prepare and present financial statements from the preceding fiscal year to the governing body of the municipality that created the corporation.

(e) The governing body of the municipality that created the corporation is entitled, at all times, to access to the books and records of the corporation.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

SUBCHAPTER D. POWERS OF CORPORATION

Sec. 379A.051. PROGRAMS. (a) A corporation may develop and implement programs for:

(1) job training, including long-term job training and in-training support service grants;

(2) early childhood development that prepare each child to enter school and make each child ready to learn after completing the program and that provide educational services that must include services designed to enable a child to:

(A) develop phonemic, print, and numeracy awareness, including the ability to:

(i) recognize that letters of the alphabet are a special category of visual graphics that can be individually named;

(ii) recognize a word as a unit of print;

(iii) identify at least 10 letters of the alphabet; and

(iv) associate sounds with written words;

(B) understand and use language to communicate for various purposes;

(C) understand and use an increasingly complex and varied vocabulary;

(D) develop and demonstrate an appreciation of books; and

(E) progress toward mastery of the English language, if the child's primary language is a language other than

English;

(3) after-school programs for primary and secondary schools;

(4) the provision of funding to accredited postsecondary educational institutions, including public and private junior colleges, public and private institutions of higher education, and public and private technical institutions, to be used to award scholarships;

(5) the promotion of literacy; and

(6) any other undertaking that the board determines will directly facilitate the development of a skilled workforce.

(b) A corporation may accept donated property, may develop or use land, buildings, equipment, facilities, and other improvements in connection with a program described by Subsection (a), or may dispose of property or an interest in property under terms determined by the corporation.

(c) A municipality may contract with a community nonprofit organization that sponsors long-term job training and related support services.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

Sec. 379A.052. GENERAL POWERS OF CORPORATION. The corporation may:

(1) own or operate a program authorized by this chapter;

(2) perform any act necessary to the full exercise of the corporation's powers;

(3) accept a grant or loan from a:

(A) department or agency of the United States;

(B) department, agency, or political subdivision of this state; or

(C) public or private person;

(4) employ any necessary personnel, who shall be employees of the municipality;

(5) adopt rules to govern the operation of the corporation and its employees and property; and

(6) contract or enter into a memorandum of

understanding or a similar agreement with a public or private person, including local workforce development boards or any political subdivision, in connection with a program authorized by this chapter.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

Sec. 379A.053. NATURE OF CORPORATE PROPERTY. (a) The legislature finds for all constitutional and statutory purposes that the corporation owns, uses, and holds its property for public purposes.

(b) Section 25.07(a), Tax Code, does not apply to a leasehold or other possessory interest granted by the corporation.

(c) Property owned by the corporation is exempt from taxation under Section 11.11, Tax Code, while the corporation owns the property.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

Sec. 379A.054. OPEN RECORDS AND MEETINGS. The board is treated as a governmental body for the purposes of Chapters 551 and 552, Government Code.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

Sec. 379A.055. ADMINISTRATION OF SCHOLARSHIP FUND. (a) In providing funds to an accredited postsecondary educational institution to be used for scholarships as authorized by Section 379A.051, the corporation by agreement with the institution shall ensure that:

(1) the funds are distributed to individuals as scholarships connected with the institution; and

(2) no more than a maximum amount, as set by the corporation, of the funds are spent on administering the award of the scholarship.

(b) An accredited postsecondary educational institution receiving the funds for scholarships shall develop, in consultation with the corporation, a plan for awarding scholarships that will have the goal of having an eventual beneficial effect on the economic growth and vitality of and the elimination of unemployment

and underemployment in the municipality that created the corporation and that will ensure that the recipient:

(1) meets financial need requirements as defined by the corporation;

(2) is enrolled in an undergraduate degree or certificate program;

(3) is enrolled for at least three-fourths of a full course load for an undergraduate student, as determined by the corporation;

(4) makes satisfactory academic progress toward an undergraduate degree or certificate; and

(5) complies with any additional nonacademic requirement adopted by the corporation.

(c) If the municipality that created the corporation has established an education partnership composed of community-based organizations, school districts, public or private sector entities, or postsecondary institutions for the purpose of distributing scholarships to students of local schools, the corporation may provide funds to the education partnership to enable the partnership to award scholarships to directly facilitate the development of a skilled workforce.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

SUBCHAPTER E. SALES AND USE TAX

Sec. 379A.081. SALES AND USE TAX. (a) A municipality may levy a sales and use tax for the benefit of the corporation if the tax is authorized by a majority of the voters of the municipality voting at an election called for that purpose.

(b) The ballot for an election to impose the tax shall be printed to permit voting for or against the proposition: "Adoption of a sales and use tax at the rate of ____ of one percent (insert one-eighth, one-fourth, three-eighths, or one-half, as appropriate) for the purpose of financing authorized programs of the ____ Municipal Development Corporation (insert the name of the corporation)."

(c) The adoption of the tax may be limited on the ballot to

any specific program, or the tax may be adopted with general language permitting the use of the tax for any purposes authorized by this chapter.

(d) If a sales and use tax is levied, it may be adopted for a maximum of 20 years, but may then be reauthorized, subject to a payment of indebtedness. The tax may be authorized for a shorter period of time or limited to the time necessary to pay any indebtedness.

(e) The rate of a tax adopted under this section must be one-eighth, one-fourth, three-eighths, or one-half of one percent. A municipality may not adopt a sales and use tax under this chapter if the adoption of the tax under this chapter would result in a combined tax rate of all local sales and use taxes of more than two percent in any location in the municipality.

(f) Chapter 321, Tax Code, governs a municipality's imposition, computation, administration, collection, and remittance of a tax authorized by this section except as inconsistent with this chapter.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

Sec. 379A.082. ELECTION TO CHANGE RATE OF TAX. (a) A municipality that has adopted a sales and use tax under this chapter at a rate of less than one-half of one percent may increase or decrease the rate of the tax if the increase or decrease is approved by a majority of the voters of the municipality voting at an election called and held for that purpose.

(b) The tax may be increased or decreased under this section in one or more increments of one-eighth of one percent, but a maximum of one-half of one percent is permitted.

(c) The ballot for an election to increase or decrease the tax shall be printed to permit voting for or against the proposition: "The _____ (increase or decrease, as appropriate) of a sales and use tax to the rate of ____ of one percent (insert one-eighth, one-fourth, three-eighths, or one-half, as appropriate) for the purpose of financing authorized programs of the _____ Municipal Development Corporation (insert the name of the corporation)."

(d) Notwithstanding Subsections (a)-(c), in a municipality that is located within the territorial limits of a regional transportation authority and was added to the authority under Section 452.6025, Transportation Code, a sales and use tax imposed by the municipality under this subchapter is subject to reduction in the manner prescribed by that section.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.

Amended by Acts 2003, 78th Leg., ch. 915, Sec. 5, eff. June 20, 2003.

Sec. 379A.083. IMPOSITION OF TAX. (a) If the municipality adopts the tax, a tax is imposed on the receipts from the sale at retail of taxable items in the municipality at the rate approved at the election, and an excise tax is imposed on the use, storage, or other consumption in the municipality of tangible personal property purchased, leased, or rented from a retailer during the period that the tax is effective in the municipality. The rate of the excise tax is the same as the rate of the sales tax portion of the tax and is applied to the sale price of the tangible personal property.

(b) The adoption of the tax or the change of the tax rate takes effect on the first day of the first calendar quarter occurring after the expiration of the first complete quarter occurring after the date the comptroller receives a notice of the results of the election adopting, increasing, or decreasing the tax.

Added by Acts 2001, 77th Leg., ch. 149, Sec. 1, eff. May 16, 2001.