LEGISLATIVE UPDATE 2003

TEXAS ZONING AND LAND USE PLANNING

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LEGISLATIVE UPDATE 2003

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LAND USE

MUNICIPAL (HOUSTON) ENFORCEMENT OF DEED RESTRICTIONS

H.B. 1129

1. prohibits the city from initiating a suit to enjoin a violation if a property owners’ association files suit first;

2. prohibits the city from enforcing a deed restriction that attempts to limit the rights of public utilities to operate facilities within easements and private or public rights-of-way;

3. prohibits the city from participating in a suit to foreclose a property association lien; and

4. prohibits the use of city attorney work product in suits in which the city is prohibited from participating under this act.

ANNEXATION

H.B. 1197

Annexation Agreements. City contract with an owner to:

1. guarantee the land's immunity from annexation for 15 years extended up to a max of 45 years by renewals not to exceed 15 years;

2. allow the approval of a development plan authorizing general uses and;

3. authorize enforcement of land use and development regulations;

4. authorize enforcement of land use and development regulations not applicable in the municipality under terms agreed to by the landowner;

5. provide for infrastructure for the land;

6. authorize enforcement of environmental regulations;
7. provide for the annexation the terms of annexation, if agreed to by the parties; and

8. specify uses and development of land before and after annexation.

The act sets specific requirements for the written agreement, and excepts certain types of municipalities. It also provides that a municipality may not require such an agreement as a condition to extending municipal utility service.

**SUBDIVISION AUTHORITY (ETJ)**

**H.B. 1204**

**Required City-County Agreements.**

1. extends the statute to cover not only plats, but also related permits;

2. requires cities and counties to certify that the agreement complies with the Act;

3. mandates arbitration if an agreement is not in effect by the statutory deadline (January 1, 2004 for cities with a population of 100,000 or more, or January 1, 2006 for cities with a population of 99,000 or less) and sets the terms for arbitration; and

4. specifies that if an agreement establishes a plan for future roads that conflicts with a proposal or plan for future roads adopted by a metropolitan planning organization, the proposal or plan of the metropolitan planning organization prevails.

**ZONING**

**H.B. 1207**

**Appearance and Open Space Regulations (single family homes).** This act specifies that a zoning regulation that affects the exterior appearance (including type and amount of building materials) or the landscaping of a single-family home and that was adopted after the approval of the subdivision plat does not apply to the subdivision until the second anniversary of the date on which the plat was approved or the date that the city accepts the improvements dedicated by the plat, whichever is later. There is an exception for regulating building materials that have been proven to be inherently dangerous.
VESTING STATUTE

H.B. 2130

Hazard Exception. Clarifies an existing exception to the permit vesting statute on regulations necessary “to prevent imminent destruction of property or injury to persons only if those regulations do not:

1. affect lot size, lot dimensions, lot coverage, building size, residential or commercial density, or the timing of a project, or
2. do not change development permitted by a restrictive covenant required by a municipality.

This new limitation on the exception does not apply to flood plain regulations.

INDUSTRIALIZED HOUSING

S.B. 279 and S.B. 1326

Regulation of Industrialized Single Family and Duplex Housing. Abolishes the Texas Department of Licensing and Regulation on September 1, 2015.

1. Requires that s.f. or duplex industrialized housing must have all local permits and licenses that are applicable to other s.f. or duplex dwellings.

2. Permits a municipality to adopt regulations that require single family and duplex industrialized housing to:
   a) have a value equal to or greater than the median taxable value for each single-family dwelling located within 500 feet of the lot on which the industrialized housing is proposed to be located;
   b) have exterior siding, roofing, roofing pitch, foundation fascia, and fenestration compatible with the single-family dwellings located within 500 feet of the lot on which the industrialized housing is proposed to be located;
   c) comply with city aesthetic standards, building setbacks, side and rear yard offsets, subdivision control, architectural landscaping, square footage, and other site requirements applicable to single family dwellings; and
   d) be securely fixed to a permanent foundation.

SIGN REGULATION

H.B. 212

Political Signs. This act prohibits a municipality from the following with respect to political signs on private property with owner consent:
a) prohibiting such signs from being placed;

b) requiring a permit or fee;

c) restricting the size; or

d) imposing a charge for the removal of the sign that is greater than the charge for removal of other regulated signs.

The act does not apply to billboards or to political signs that a) has an effective area greater than thirty-six feet, b) are more than eight feet high, c) are illuminated, or d) have any moving elements.

**ECONOMIC DEVELOPMENT**

**DEVELOPMENT (4A AND 4B) CORPORATIONS**

**H.B. 2912**

**Eligible Projects.** This act modifies the Development Corporation Act (the Act under which 4A and 4B Economic Development Corporations operate) as follows:

1. it modifies the definition of “project” to: a) eliminate “general promotion and expansion of business development”, b) require the creation or retention of primary jobs, c) add “expenditures” as a type of project, d) limit higher education facility projects to those that provide primary job training, e) specifically add “regional or national headquarters facilities”, f) expressly add expenditures for infrastructure and communications improvements; and g) delete (as to 4B Corporations) “learning centers” and “municipal buildings”.

2. it defines “primary jobs” by use of industry classification numbers and the exporting of products and services to at least a regional level.

3. it deletes the specification that the Act shall be liberally construed.

4. it expressly prohibits projects which are primarily to provide water and sewer to the general public (4A Corporations).

5. it gives greater latitude in residency requirements for board members (4B Corporations);

6. it modifies the parameters under which funds may be spent for job training through a business enterprise;

7. it requires a performance agreement for a direct incentive to a business enterprise;
8. it requires written contract with board approval as a prerequisite to a commission, fee or other compensation to a third party for business recruitment, and it imposes penalties for violations of this requirement; and

9. it prohibits incentives to certain purchasing corporations.

H.B. 3075

Extraterritorial 4A Projects. Allows a 4A Corporation to contract with a taxing unit to invest in a project outside of the taxing unit’s boundaries, and to receive in return a percentage of the increase in property taxes collected on an area defined for the project.

This return is to be accomplished by a corresponding agreement that the 4A Corporation makes with the taxing unit with taxing authority over the defined project area.

ENTERPRISE ZONES

S.B. 275

Enterprise Zone/Enterprise Project Criteria and Oversight. This act abolishes the Department of Economic Development and reorganizes its functions into the governor’s Texas Economic Development and Tourism Office, and a newly created Texas Economic Development Bank. Article 3 of the act includes the following changes related to enterprise zones/enterprise projects:

1. Administration of Enterprise Zones is placed with the Texas Economic Development Bank;

2. An area automatically qualifies for zone status if the area is a block group under the census in which 20% of the residents are at or below the federal poverty level or the area is a federal renewal community or a federal enterprise community. The seven year term on designation has been eliminated.

3. The definitions of “new permanent job” and “retained job” are clarified to include an intention that they remain at the site for a minimum of three years.

4. “Qualifying business” in a zone 25 percent of the employees to be residents of any enterprise zone anywhere within the state (or economically disadvantaged).

Outside of an enterprise zone if 35% of the new employees reside within an enterprise zone or are economically disadvantaged.

5. New criteria require that the project be “an expansion or relocation from out-of-state, an expansion, renovation or new construction, or other property to be undertaken by a qualified business.” Designation is limited to five years.
6. Nominations “in-process” will be accepted if received within 30 days that an area loses enterprise zone status due to updated block group data.

7. A public hearing and the adoption of local ordinances/orders identifying local incentives (including at least one incentive that does not apply generally throughout the jurisdiction of the nominating body) and nominating the project is a prerequisite to submitting an enterprise project nomination to the state.

8. Job retention benefits allow for a business seeking to avoid a net decrease in production capacity by replacing one business line with another.

9. The limitation on the number of jobs eligible for tax refund has been replaced with a schedule of caps that is based on the capital investment in the project.

10. The $250,000 cap on the amount of refund that can be applied annually has been doubled and tripled for projects with capital investments of $150M and 250M, respectively.

11. Three percent of any tax refund is “taxed” to defray costs of administering the program.

12. Following the issuance of certificate of occupancy, the nominating body is responsible to monitor the project and submit a report of findings.

13. An audit and certification by the comptroller is a prerequisite to receipt of state benefits.

14. Similar changes have been made for defense readjustment zone projects.

**National/International Sporting Events.** Article Five of this Act also allows for counties and municipalities to cooperate in offering incentives for major national and international sporting events (Olympics, Super Bowl, Final Four, Major League All-Star Games, as listed in the act).

**TEXAS ENTERPRISE FUND (NEW)**

**S.B. 1771**

Creates the Texas Enterprise Fund from which the governor is authorized to make grants for economic development. Grant awards require written approval of the lieutenant governor and the speaker of the house.

TEDTO may make recommendations to local governing bodies and tax increment financing boards regarding the granting of tax abatements.
Appendix

Enrolled Text

The following pages contain the enrolled text of the bills outlined in this Legislative Update. The bills are in numerical order with House Bills preceding Senate Bills. S.B. 1326 has been omitted, it’s relevant provisions having been repeated in S.B. 279. S.B.275 has been omitted due to its length.
AN ACT

relating to the regulation of political signs by a municipality.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter Z, Chapter 216, Local Government Code, is amended by adding Section 216.903 to read as follows:

Sec. 216.903. REGULATION OF POLITICAL SIGNS BY MUNICIPALITY.

(a) In this section, “private real property” does not include real property subject to an easement or other encumbrance that allows a municipality to use the property for a public purpose.

(b) A municipal charter provision or ordinance that regulates signs may not, for a sign that contains primarily a political message and that is located on private real property with the consent of the property owner:

(1) prohibit the sign from being placed;

(2) require a permit or approval of the municipality or impose a fee for the sign to be placed;

(3) restrict the size of the sign; or

(4) provide for a charge for the removal of a political sign that is greater than the charge for removal of other signs regulated by ordinance.

(c) Subsection (b) does not apply to a sign, including a billboard, that contains primarily a political message on a temporary basis and that is generally available for rent or purchase to carry commercial advertising or other messages that are not primarily political.

(d) Subsection (b) does not apply to a sign that:

(1) has an effective area greater than 36 feet;

(2) is more than eight feet high;

(3) is illuminated; or

(4) has any moving elements.

SECTION 2. This Act takes effect September 1, 2003.
H.B. NO. 1129

AN ACT

relating to enforcement of certain types of restrictions in certain municipalities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 212.132, Local Government Code, as redesignated by Chapter 1420, Acts of the 77th Legislature, Regular Session, 2001, is amended to read as follows:

Sec. 212.132. DEFINITION. In this subchapter, "restriction" means a land-use regulation that:

1. affects the character of the use to which real property, including residential and rental property, may be put;
2. fixes the distance that a structure must be set back from property lines, street lines, or lot lines;
3. affects the size of a lot or the size, type, and number of structures that may be built on the lot;
4. regulates or restricts the type of activities that may take place on the property, including commercial activities, sweepstakes activities, keeping of animals, use of fire, nuisance activities, vehicle storage, and parking;
5. regulates architectural features of a structure, construction of fences, landscaping, garbage disposal, or noise levels; or
6. specifies the type of maintenance that must be performed on a lot or structure, including maintenance of a yard or fence.

SECTION 2. Section 212.133, Local Government Code, as redesignated by Chapter 1420, Acts of the 77th Legislature, Regular Session, 2001, is amended to read as follows:

Sec. 212.133. SUIT TO ENFORCE RESTRICTIONS. (a) Except as provided by Subsection (b), the municipality may sue in any court of competent jurisdiction to enjoin or abate a violation of a restriction contained or incorporated by reference in a properly recorded plan, plat, or other instrument that affects a subdivision located inside the boundaries of the municipality.

(b) The municipality may not initiate or maintain a suit to enjoin or abate a violation of a restriction if a property owners' association with the authority to enforce the restriction files suit to enforce the restriction.

(c) In a suit by a property owners' association to enforce a restriction, the association may not submit into evidence or otherwise use the work product of the municipality's legal counsel.
(d) In a suit filed under this section alleging that any of the following activities violates a restriction limiting property to residential use, it is not a defense that the activity is incidental to the residential use of the property:

1. storing a tow truck, crane, moving van or truck, dump truck, cement mixer, earth-moving device, or trailer longer than 20 feet; or

2. repairing or offering for sale more than two motor vehicles in a 12-month period.

(e) A municipality may not enforce a deed restriction which purports to regulate or restrict the rights granted to public utilities to install, operate, maintain, replace, and remove facilities within easements and private or public rights-of-way.

SECTION 3. Section 212.133, Local Government Code, as redesignated by Chapter 1420, Acts of the 77th Legislature, Regular Session, 2001, and amended by this Act, applies only to a suit filed on or after the effective date of this Act. A suit filed before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 4. Subchapter E, Chapter 212, Local Government Code, as redesignated by Chapter 1420, Acts of the 77th Legislature, Regular Session, 2001, is amended by adding Section 212.1335 to read as follows:

Sec. 212.1335. FORECLOSURE BY PROPERTY OWNERS' ASSOCIATION. (a) A municipality may not participate in a suit or other proceeding to foreclose a property owners' association's lien on real property.

(b) In a suit or other proceeding to foreclose a property owners' association's lien on real property in the subdivision, the association may not submit into evidence or otherwise use the work product of the municipality's legal counsel.

SECTION 5. Subchapter E, Chapter 212, Local Government Code, as redesignated by Chapter 1420, Acts of the 77th Legislature, Regular Session, 2001, is amended by adding Section 212.138 to read as follows:

Sec. 212.138. EFFECT ON OTHER LAW. This subchapter does not prohibit the exhibition, play, or necessary incidental action thereto of a sweepstakes not prohibited by Chapter 43, Business & Commerce Code, as added by Chapter 1119, Acts of the 77th Legislature, Regular Session, 2001.

SECTION 6. Section 212.1335, Local Government Code, as added by this Act, applies only to a suit filed on or after the effective date of this Act. A suit filed before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 7. This Act takes effect September 1, 2003.
relating to authorization for a development agreement between a municipality and an owner of land in the municipality's extraterritorial jurisdiction.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 212, Local Government Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. AGREEMENT GOVERNING CERTAIN LAND IN A MUNICIPALITY'S EXTERRITORIAL JURISDICTION

Sec. 212.171. APPLICABILITY. This subchapter does not apply to land located in the extraterritorial jurisdiction of a municipality with a population of 1.9 million or more.

Sec. 212.172. DEVELOPMENT AGREEMENT.

(a) In this subchapter, "extraterritorial jurisdiction" means a municipality's extraterritorial jurisdiction as determined under Chapter 42.

(b) The governing body of a municipality may make a written contract with an owner of land that is located in the extraterritorial jurisdiction of the municipality to:

(1) guarantee the continuation of the extraterritorial status of the land and its immunity from annexation by the municipality for a period not to exceed 15 years;

(2) extend the municipality's planning authority over the land by providing for a development plan to be prepared by the landowner and approved by the municipality under which certain general uses and development of the land are authorized;

(3) authorize enforcement by the municipality of certain municipal land use and development regulations in the same manner the regulations are enforced within the municipality's boundaries;

(4) authorize enforcement by the municipality of land use and development regulations other than those that apply within the municipality's boundaries, as may be agreed to by the landowner and the municipality;

(5) provide for infrastructure for the land, including:

(A) streets and roads;
(B) street and road drainage;
(C) land drainage; and
(D) water, wastewater, and other utility systems;

(6) authorize enforcement of environmental regulations;
(7) provide for the annexation of the land as a whole or in parts and to provide for the terms of annexation, if annexation is agreed to by the parties;

(8) specify the uses and development of the land before and after annexation, if annexation is agreed to by the parties; or

(9) include other lawful terms and considerations the parties consider appropriate.

(c) An agreement under this subchapter must:

(1) be in writing;
(2) contain an adequate legal description of the land;
(3) be approved by the governing body of the municipality and the landowner; and
(4) be recorded in the real property records of each county in which any part of the land that is subject to the agreement is located.

(d) The parties to a contract may renew or extend it for successive periods not to exceed 15 years each. The total duration of the original contract and any successive renewals or extensions may not exceed 45 years.

(e) A municipality in an affected county, as defined by Section 16.341, Water Code, may not enter into an agreement under this subchapter that is inconsistent with the model rules adopted under Section 16.343, Water Code.

(f) The agreement between the governing body of the municipality and the landowner is binding on the municipality and the landowner and on their respective successors and assigns for the term of the agreement. The agreement is not binding on, and does not create any encumbrance to title as to, any end-buyer of a fully developed and improved lot within the development, except for land use and development regulations that may apply to a specific lot.

(g) An agreement under this subchapter constitutes a permit under Chapter 245.

(h) An agreement between a municipality and a landowner entered into prior to the effective date of this section and that complies with this section is validated.

Sec. 212.173. CERTAIN COASTAL AREAS. This subchapter does not apply to, limit, or otherwise affect any ordinance, order, rule, plan, or standard adopted by this state or a state agency, county, municipality, or other political subdivision of this state under the federal Coastal Zone Management Act of 1972 (16 U.S.C. Section 1451 et seq.), and its subsequent amendments, or Subtitle E, Title 2, Natural Resources Code.

Sec. 212.174. MUNICIPAL UTILITIES. A municipality may not require an agreement under this subchapter as a condition for providing water, sewer, electricity, gas, or other utility service from a municipally owned or municipally operated utility that provides any of those services.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2003.
H.B. NO. 1204

AN ACT

relating to the authority of municipalities and counties to regulate subdivisions and certain development in a municipality’s extraterritorial jurisdiction and in the unincorporated area of a county.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading of Section 242.001, Local Government Code, is amended to read as follows:

Sec. 242.001. REGULATION OF SUBDIVISIONS IN EXTRATERRITORIAL JURISDICTION GENERALLY.

SECTION 2. (a) Section 242.001(a), Local Government Code, as amended by Chapters 736 and 1028, Acts of the 77th Legislature, Regular Session, 2001, is reenacted and amended to read as follows:

(a) This section applies only to a county operating under Sections 232.001-232.005 or Subchapter B, C, or E, Chapter 232, and a municipality that has extraterritorial jurisdiction in that county. Subsections (b) - (g) [(b) - (e)] do not apply:

(1) within a county that contains extraterritorial jurisdiction of a municipality with a population of 1.9 million or more; or

(2) within a county within 50 miles of an international border, or to which Subchapter C, Chapter 232, applies.

(b) This section takes effect only if House Bill No. 1197, Acts of the 78th Legislature, Regular Session, 2003, becomes law. If that bill does not become law, this section has no effect.

SECTION 3. (a) Section 242.001(a), Local Government Code, as amended by Chapters 736 and 1028, Acts of the 77th Legislature, Regular Session, 2001, is reenacted and amended to read as follows:

(a) This section applies only to a county operating under Sections 232.001-232.005 or Subchapter B, C, or E, Chapter 232, and a municipality that has extraterritorial jurisdiction in that county. Subsections (b) - (g) [(b) - (e)] do not apply:

(1) within a county that contains extraterritorial jurisdiction of a municipality with a population of 1.9 million or more; [or]

(2) within a county within 50 miles of an international border, or to which Subchapter C, Chapter 232, applies; or

(3) to a tract of land subject to a development agreement under Subchapter G, Chapter 212, or other provisions of this code.

(b) This section takes effect only if House Bill No. 1197, Acts of the 78th Legislature, Regular Session, 2003, becomes law. If that bill does not become law, this section has no effect.
SECTION 4. Section 242.001, Local Government Code, is amended by reenacting and amending Subsection (c), as amended by Chapters 736 and 1028, Acts of the 77th Legislature, Regular Session, 2001, and by amending Subsections (d), (f), and (g) and adding Subsections (h) and (i) to read as follows:

(c) Except as provided by Subsections (d)(3) and (4), a municipality and a county may not both regulate subdivisions and approve related permits in the extraterritorial jurisdiction of a municipality after an agreement under Subsection (d) is executed. The municipality and the county shall enter into a written agreement that identifies the governmental entity authorized to regulate subdivision plats and approve related permits in the extraterritorial jurisdiction. For a municipality in existence on September 1, 2001, the municipality and county shall enter into a written agreement under this subsection on or before April 1, 2002. For a municipality incorporated after September 1, 2001, the municipality and county shall enter into a written agreement under this subsection not later than the 120th day after the date the municipality incorporates. On reaching an agreement, the municipality and county shall certify that the agreement complies with the requirements of this chapter. The municipality and the county shall adopt the agreement by order, ordinance, or resolution. The agreement must be amended by the municipality and the county if necessary to take into account an expansion or reduction in the extraterritorial jurisdiction of the municipality. The municipality shall notify the county of any expansion or reduction in the municipality's extraterritorial jurisdiction. Any expansion or reduction in the municipality's extraterritorial jurisdiction that affects property that is subject to a preliminary or final plat, a plat application, or an application for a related permit filed with the municipality or the county or that was previously approved under Section 212.009 or Chapter 232 does not affect any rights accrued under Chapter 245. The approval of the plat, or any permit, a plat application, or an application for a related permit remains effective as provided by Chapter 245 regardless of the change in designation as extraterritorial jurisdiction of the municipality.

(d) An agreement under Subsection (c) may grant the authority to regulate subdivision plats and approve related permits in the extraterritorial jurisdiction of a municipality as follows:

(1) the municipality may be granted exclusive jurisdiction to regulate subdivision plats and approve related permits in the extraterritorial jurisdiction and may regulate subdivisions under Subchapter A of Chapter 212 and other statutes applicable to municipalities;

(2) the county may be granted exclusive jurisdiction to regulate subdivision plats and approve related permits in the extraterritorial jurisdiction and may regulate subdivisions under Sections 232.001-232.005, Subchapter B or C, Chapter 232, and other statutes applicable to counties;

(3) the municipality and the county may apportion the area within the extraterritorial jurisdiction of the municipality with the municipality regulating subdivision plats and approving related permits in the area assigned to the municipality and the county regulating subdivision plats and approving related permits in the area assigned to the county; or

(4) the municipality and the county may enter into an interlocal agreement that:

(A) establishes one office that is authorized to:

(i) accept plat applications for tracts of land located in the extraterritorial jurisdiction;

(ii) collect municipal and county plat application fees in a lump-sum amount; and
(iii) provide applicants one response indicating approval or denial of the plat application; and

(B) establishes a single set of consolidated and consistent [set of] regulations related to plats, subdivision construction plans, and subdivisions of land as authorized by Chapter 212, Sections 232.001-232.005, Subchapters B and C, Chapter 232, and other statutes applicable to municipalities and counties that will be enforced in the extraterritorial jurisdiction.

(f) If a certified agreement between a county and municipality as required by Subsection (c) is not in effect on or before the applicable date prescribed by Section 242.0015(a), the municipality and the county must enter into arbitration as provided by Section 242.0015. If the arbitrator or arbitration panel, as applicable, has not reached a decision in the 60-day period as provided by Section 242.0015, the arbitrator or arbitration panel, as applicable, shall issue an interim decision regarding the regulation of plats and subdivisions and approval of related permits in the extraterritorial jurisdiction of the municipality. The interim decision shall provide for a single set of regulations and authorize a single entity to regulate plats and subdivisions. The interim decision remains in effect only until the arbitrator or arbitration panel reaches a final decision. [This subsection applies until an agreement is reached under Subsection (d). For an area in a municipality's extraterritorial jurisdiction, as defined by Section 212.001, a plat may not be filed with the county clerk without the approval of both the municipality and the county. If a municipal regulation and a county regulation relating to plats and subdivisions of land conflict, the more stringent regulation prevails. However, if one governmental entity requires a plat to be filed for the subdivision of a particular tract of land in the extraterritorial jurisdiction of the municipality and the other governmental entity does not require the filing of a plat for that subdivision, the authority responsible for approving plats for the governmental entity that does not require the filing shall issue on request of the subdivider a written certification stating that a plat is not required to be filed for that subdivision of the land. The certification must be attached to a plat required to be filed under this subsection.]

(g) If a regulation or agreement adopted under this section relating to plats and subdivisions of land or subdivision development establishes a plan for future roads that conflicts with a proposal or plan for future roads adopted by a metropolitan planning organization, the proposal or plan of the metropolitan planning organization prevails [Subsection (f) applies to a county and area to which Subsections (b) - (e) do not apply].

(h) This subsection applies only to a county to which Subsections (b)-(g) do not apply, except that this subsection does not apply to a county subject to Section 242.002. For an area in a municipality's extraterritorial jurisdiction, as defined by Section 212.001, a plat may not be filed with the county clerk without the approval of both the municipality and the county. If a municipal regulation and a county regulation relating to plats and subdivisions of land conflict, the more stringent regulation prevails. However, if one governmental entity requires a plat to be filed for the subdivision of a particular tract of land in the extraterritorial jurisdiction of the municipality and the other governmental entity does not require the filing of a plat for that subdivision, the authority responsible for approving plats for the governmental entity that does not require the filing shall issue on request of the subdivider a written certification stating that a plat is not required to be filed for that subdivision of the land. The certification must be attached to a plat required to be filed under this subsection.

(i) Property subject to pending approval of a preliminary or final plat application filed after September 1, 2002, that is released from the extraterritorial jurisdiction of a municipality shall be subject only to county approval of the plat application and related permits and county regulation of that plat. This subsection does not apply to the simultaneous exchange of extraterritorial jurisdiction between two or more municipalities or an exchange of extraterritorial jurisdiction that is contingent on the subsequent approval by the releasing municipality.
SECTION 5. Chapter 242, Local Government Code, is amended by adding Section 242.0015 to read as follows:

Sec. 242.0015. ARBITRATION REGARDING SUBDIVISION REGULATION AGREEMENT.

(a) This section applies only to a county and a municipality that are required to make an agreement as described under Section 242.001(f). If a certified agreement between a county and a municipality with an extraterritorial jurisdiction that extends 3.5 miles or more from the corporate boundaries of the municipality is not in effect on or before January 1, 2004, the parties must arbitrate the disputed issues. If a certified agreement between a county and a municipality with an extraterritorial jurisdiction that extends less than 3.5 miles from the corporate boundaries of the municipality is not in effect on or before January 1, 2006, the parties must arbitrate the disputed issues. A party may not refuse to participate in arbitration requested under this section. An arbitration decision under this section is binding on the parties.

(b) The county and the municipality must agree on an individual to serve as arbitrator. If the county and the municipality cannot agree on an individual to serve as arbitrator, the county and the municipality shall each select an arbitrator and the arbitrators selected shall select a third arbitrator.

(c) The third arbitrator selected under Subsection (b) presides over the arbitration panel.

(d) Not later than the 30th day after the date the county and the municipality are required to have an agreement in effect under Section 242.001(f), the arbitrator or arbitration panel, as applicable, must be selected.

(e) The authority of the arbitrator or arbitration panel is limited to issuing a decision relating only to the disputed issues between the county and the municipality regarding the authority of the county or municipality to regulate plats, subdivisions, or development plans.

(f) Each party is equally liable for the costs of an arbitration conducted under this section.

(g) The arbitrator or arbitration panel, as applicable, shall render a decision under this section not later than the 60th day after the date the arbitrator or arbitration panel is selected. If after a good faith effort the arbitrator or panel has not reached a decision as provided under this subsection, the arbitrator or panel shall continue to arbitrate the matter until the arbitrator or panel reaches a decision.

(h) A municipality and a county may not arbitrate the subdivision of an individual plat under this section.

SECTION 6. Subchapter A, Chapter 212, Local Government Code, is amended by adding Section 212.0025 to read as follows:

Sec. 212.0025. CHAPTER-WIDE PROVISION RELATING TO REGULATION OF PLATS AND SUBDIVISIONS IN EXTRATERRITORIAL JURISDICTION. The authority of a municipality under this chapter relating to the regulation of plats or subdivisions in the municipality's extraterritorial jurisdiction is subject to any applicable limitation prescribed by an agreement under Section 242.001.

SECTION 7. Subchapter A, Chapter 232, Local Government Code, is amended by adding Section 232.0013 to read as follows:

Sec. 232.0013. CHAPTER-WIDE PROVISION RELATING TO REGULATION OF PLATS AND SUBDIVISIONS IN EXTRATERRITORIAL JURISDICTION. The authority of a county under this chapter
relating to the regulation of plats or subdivisions in the extraterritorial jurisdiction of a municipality is subject
to any applicable limitation prescribed by an agreement under Section 242.001 or by Section 242.002.

SECTION 8. Section 232.0015(b), Local Government Code, is amended to read as follows:

(b) Except as provided by Section 232.0013, this [This] subchapter does not apply to a subdivision of
land to which Subchapter B applies.

SECTION 9. Section 232.009(b), Local Government Code, is amended to read as follows:

(b) A person who owns real property in a tract that has been [has] subdivided and [land] that is
subject to the subdivision controls of the county in which the property [land] is located may apply in writing
to the commissioners court of the county for permission to revise the subdivision plat that applies to the
property and that is filed for record with the county clerk.

SECTION 10. Subchapter A, Chapter 232, Local Government Code, is amended by adding Section
232.0095 to read as follows:

Sec. 232.0095. ALTERNATIVE PROCEDURES FOR PLAT REVISION.

(a) This section applies only to real property located outside municipalities and outside the
extraterritorial jurisdiction, as determined under Chapter 42, of municipalities with a population of 1.5 million
or more.

(b) As an alternative to the provisions in Section 232.009 governing the revision of plats, a county by
order may adopt the provisions in Sections 212.013, 212.014, 212.015, and 212.016 governing plat vacations,
replatting, and plat amendment within a municipality’s jurisdiction. A county that adopts the provisions in
those sections may approve a plat vacation, a replat, and an amending plat in the same manner and under the
same conditions, including the notice and hearing requirements, as a municipal authority responsible for
approving plats under those sections.

SECTION 11. Section 232.100, Local Government Code, is amended to read as follows:

Sec. 232.100. APPLICABILITY. This subchapter applies only to the subdivision of the land that is:

(1) subject to county regulations under Subchapter A or B; and

(2) in a county that:

(A) has a population of 150,000 or more and is adjacent to an international border;

(B) has a population of 700,000 or more; [or]

(C) is adjacent to a county with a population of 700,000 or more and is within the
same metropolitan statistical area as that adjacent county, as designated by the United States Office of
Management and Budget; or

(D) is adjacent to a county with a population of 700,000 or more, is not within the
same metropolitan statistical area as that adjacent county, and has a population that has increased after the
1990 decennial census, from one decennial census to the next, by more than 40 percent.
SECTION 12. If any provision of this Act or its application to any county, municipality, or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

SECTION 13. Except as provided by Section 242.001(i), Local Government Code, as added by this Act, the changes in law made by this Act to Chapters 212, 232, and 242, Local Government Code, apply only to a development agreement or subdivision plat that is filed on or after the effective date of this Act, and to the subdivision covered by the plat. A development agreement or subdivision plat that is filed before the effective date of this Act, and the subdivision covered by the plat, are governed by the law in effect immediately preceding that date, and the former law is continued in effect for that purpose.

SECTION 14. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2003.
AN ACT

relating to the application of certain municipal zoning regulations affecting the appearance of buildings or open spaces.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 211, Local Government Code, is amended by adding Section 211.016 to read as follows:

Sec. 211.016. ZONING REGULATION AFFECTING APPEARANCE OF BUILDINGS OR OPEN SPACE. (a) This section applies only to a zoning regulation that affects:

(1) the exterior appearance of a single-family house, including the type and amount of building materials; or

(2) the landscaping of a single-family residential lot, including the type and amount of plants or landscaping materials.

(b) A zoning regulation adopted after the approval of a residential subdivision plat does not apply to that subdivision until the second anniversary of the later of:

(1) the date the plat was approved; or

(2) the date the municipality accepts the subdivision improvements offered for public dedication.

(c) This section does not prevent a municipality from adopting or enforcing applicable building codes or prohibiting the use of building materials that have been proven to be inherently dangerous.

SECTION 2. (a) This Act takes effect September 1, 2003.

(b) The change in law made by this Act applies only to a residential subdivision plat approved by a municipality on or after the effective date of this Act. A residential subdivision plat approved by a municipality before the effective date of this Act is governed by the law in effect when the plat was approved, and the former law is continued in effect for that purpose.
AN ACT

relating to the exemptions from requirements applicable to local permits.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 245.004, Local Government Code, is amended to read as follows:

Sec. 245.004. EXEMPTIONS. This chapter does not apply to:

(1) a permit that is at least two years old, is issued for the construction of a building or structure intended for human occupancy or habitation, and is issued under laws, ordinances, procedures, rules, or regulations adopting only:

(A) uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization; or

(B) local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons;

(2) municipal zoning regulations that do not affect lot size, lot dimensions, lot coverage, or building size or that do not change development permitted by a restrictive covenant required by a municipality;

(3) regulations that specifically control only the use of land in a municipality that does not have zoning and that do not affect lot size, lot dimensions, lot coverage, or building size;

(4) regulations for sexually oriented businesses;

(5) municipal or county ordinances, rules, regulations, or other requirements affecting colonias;

(6) fees imposed in conjunction with development permits;

(7) regulations for annexation;

(8) regulations for utility connections;

(9) regulations to prevent imminent destruction of property or injury to persons from flooding that are [including regulations] effective only within a flood plain established by a federal flood control program and enacted to prevent the flooding of buildings intended for public occupancy; or

(10) construction standards for public works located on public lands or easements; or

(11) regulations to prevent the imminent destruction of property or injury to persons if the regulations do not:

(A) affect lot size, lot dimensions, lot coverage, building size, residential or commercial density, or the timing of a project; or
(B) change development permitted by a restrictive covenant required by a municipality.

SECTION 2. This section applies only to a project, as defined by Chapter 245, Local Government Code, in progress on the date a water district or authority with regional management and regulatory authority over groundwater withdrawals within all or part of at least five counties adopts any rule requiring a permit or authorization for a project to improve or develop land. A project is considered in progress if a permit or other form of authorization establishing vested rights for the project pursuant to Chapter 245, Local Government Code, was in effect in the area of the authority's jurisdiction as of the rule's adoption date, whether before, on, or after the effective date of this Act. A district or authority may not impose permit requirements on or otherwise regulate a project in progress as described by this section. This section supersedes any other applicable law to the extent of any conflict.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2003.
AN ACT

relating to industrial development corporations; providing a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2(11)(A), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:

(A) "Project" shall mean the land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements (one or more) that are for the creation or retention of primary jobs and that are [to promote new and expanded business development or] found by the board of directors to be required or suitable for the [promotion of] development, retention, or [and] expansion of manufacturing and industrial facilities, [job creation and retention, job training, educational facilities,] research and development facilities, transportation facilities (including but not limited to airports, ports, mass commuting facilities, and parking facilities), sewage or solid waste disposal facilities, recycling facilities, air or water pollution control facilities, facilities for the furnishing of water to the general public, distribution centers, small warehouse facilities capable of serving as decentralized storage and distribution centers, [and] primary job training facilities for use by institutions of higher education, and regional or national corporate headquarters facilities [for the promotion of development or redevelopment and expansion, including costs of administration and operation, of a military base closed or realigned pursuant to recommendation of the Defense Closure and Realignment Commission pursuant to the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. Section 2687 note) as amended, and of facilities which are related to any of the foregoing, and in furtherance of the public purposes of this Act, all as defined in the rules of the department, irrespective of whether in existence or required to be identified, acquired, or constructed thereafter].

"Project" also includes job training required or suitable for the promotion of development and expansion of business enterprises and other enterprises described by this Act, as provided by Section 38 of this Act.

"Project" also includes expenditures found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises limited to streets and roads, rail spurrs, water and electric utilities, gas utilities, drainage and related improvements, and telecommunications and Internet improvements.

SECTION 2. Section 2, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended by adding Subdivisions (17) and (18) to read as follows:

(17) "Primary job" means a job that is:

(A) 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

(B) included in one of the following sectors of the North American Industry Classification System (NAICS):
<table>
<thead>
<tr>
<th>NAICS Sector #</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>111</td>
<td>Crop Production</td>
</tr>
<tr>
<td>112</td>
<td>Animal Production</td>
</tr>
<tr>
<td>113</td>
<td>Forestry and Logging</td>
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<td>Commercial Fishing</td>
</tr>
<tr>
<td>115</td>
<td>Support Activities for Agriculture and Forestry</td>
</tr>
<tr>
<td>211-213</td>
<td>Mining</td>
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<tr>
<td>221</td>
<td>Utilities</td>
</tr>
<tr>
<td>311-339</td>
<td>Manufacturing</td>
</tr>
<tr>
<td>42</td>
<td>Wholesale Trade</td>
</tr>
<tr>
<td>48-49</td>
<td>Transportation and Warehousing</td>
</tr>
<tr>
<td>51 (excluding 51213)</td>
<td>Information (excluding movie theaters and 512132 drive-in theaters)</td>
</tr>
<tr>
<td>523-525</td>
<td>Securities, Commodity Contracts, and Other Financial Investments and Related Activities; Insurance Carriers and Related Activities; Funds, Trusts, and Other Financial Vehicles</td>
</tr>
<tr>
<td>5413, 5415, 5416</td>
<td>Scientific Research and Development Services</td>
</tr>
<tr>
<td>5417, and 5419</td>
<td>Management of Companies and Enterprises</td>
</tr>
<tr>
<td>551</td>
<td>Correctional Institutions</td>
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<td>922140</td>
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(18) "Corporate headquarters facilities" means buildings proposed for construction or occupancy as the principal office for a business enterprise's administrative and management services.

SECTION 3. Section 3(b), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) This Act shall be [liberally] construed in conformity with the intention of the legislature herein expressed.

SECTION 4. Section 4A(i), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:

(i) Except as provided by this subsection, the corporation may not undertake a project the primary purpose of which is to provide transportation facilities, solid waste disposal facilities, sewage facilities, facilities for furnishing water to the general public, or air or water pollution control facilities. However, the corporation may provide those facilities to benefit property acquired for a project having another primary purpose. The corporation may undertake a project the primary purpose of which is to provide:

(1) a general aviation business service airport that is an integral part of an industrial park; or

(2) port-related facilities to support waterborne commerce.

SECTION 5. Section 4A(t), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:
The department, with the assistance of the Texas [Natural Resource Conservation] Commission on Environmental Quality, may encourage the cleanup of contaminated property by corporations created under this section through the use of sales and use tax proceeds. A corporation created under this section may use proceeds from the sales and use tax to undertake the cleanup of contaminated property only if the use of tax proceeds for that purpose is authorized by a majority of the qualified voters of the city voting in an election called and held for that purpose. The ballot in an election held under this subsection shall be printed to provide for voting for or against the proposition: "The use of sales and use tax proceeds for the cleanup of contaminated property."

SECTION 6. Section 4B(a)(2), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:

(2) "Project" means land, buildings, equipment, facilities, expenditures, and improvements included in the definition of that term under Section 2 of this Act, and includes job training as provided by Section 38 of this Act. For purposes of this section, the term includes recycling facilities, and land, buildings, equipment, facilities, and improvements found by the board of directors to:

(A) be required or suitable for use for professional and amateur (including children's) sports, athletic, entertainment, tourist, convention, and public park purposes and events, including stadiums, ball parks, auditoriums, amphitheaters, concert halls, [learning centers,] parks and park facilities, open space improvements, [municipal buildings,] museums, exhibition facilities, and related store, restaurant, concession, and automobile parking facilities, related area transportation facilities, and related roads, streets, and water and sewer facilities, and other related improvements that enhance any of those items;

(B) promote or develop new or expanded business enterprises that create or retain primary jobs, including a project to provide public safety facilities, streets and roads, drainage and related improvements, demolition of existing structures, general municipally owned improvements, as well as any improvements or facilities that are related to any of those projects and any other project that the board in its discretion determines promotes or develops new or expanded business enterprises that create or retain primary jobs;

(C) be required or suitable for the promotion of development and expansion of affordable housing, as defined by 42 U.S.C. Section 12745;

(D) be required or suitable for the development or improvement of water supply facilities, including dams, transmission lines, well field developments, and other water supply alternatives; or

(E) be required or suitable for the development and institution of water conservation programs, including incentives to install water-saving plumbing fixtures, educational programs, brush control programs, and programs to replace malfunctioning or leaking water lines and other water facilities.

SECTION 7. Section 4B(a-5), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:

(a-5)(1) Notwithstanding any other provision of this section, a corporation created under this section may use proceeds from the sales and use tax to undertake a project described by Subsection (a)(2)(D) or (E) of this section only if the use of tax proceeds for that purpose is authorized by a majority of the qualified voters of the city voting in an election called and held for that purpose. The ballot in an [proposition at the] election held under this subsection shall be printed to provide for voting for or against the proposition: "The use of sales and use tax proceeds for infrastructure relating to _______ (insert water supply facilities or water conservation programs, as appropriate)."
(2) An election held under Subdivision (1) of this subsection may be authorized by the governing body of an eligible city subsequent to an earlier election authorized under Subsection (d) of this section [to adopt a sales and use tax under Subsection (d) of this section must clearly describe the project to be undertaken by the corporation if the project is described by Subsection (a)(2)(D) or (E) of this section].

SECTION 8. Section 4B(c), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) The board of directors of a corporation under this section consists of seven directors who are appointed by the governing body of the eligible city for two-year terms of office. A director may be removed by the governing body of the eligible city at any time without cause. Each director of a corporation created by an eligible city with a population of 20,000 or more must be a resident of the eligible city. Each director of a corporation created by an eligible city with a population of less than 20,000 must be a resident of the eligible city, be a resident of or the county in which the major part of the area of the eligible city is located, or reside at a place that is within 10 miles of the eligible city's boundaries and is in a county bordering the county in which the major part of the area of the eligible city is located. Three directors shall be persons who are not employees, officers, or members of the governing body of the eligible city. A majority of the entire membership of the board is a quorum. The board shall conduct all meetings within the boundaries of the eligible city. The board shall appoint a president, a secretary, and other officers of the corporation that the governing body of the eligible city considers necessary. The corporation's registered agent must be an individual resident of the state and the corporation's registered office must be within the boundaries of the eligible city.

SECTION 9. Section 4B(p), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:

(p) The department, with the assistance of the Texas [Natural Resource Conservation] Commission on Environmental Quality, may encourage the cleanup of contaminated property by corporations created under this section through the use of sales and use tax proceeds. Notwithstanding any other provision of this section, a corporation created under this section may use proceeds from the sales and use tax to undertake the cleanup of contaminated property only if the use of tax proceeds for that purpose is authorized by a majority of the qualified voters of the city voting in an election called and held for that purpose. The ballot in an election held under this subsection shall be printed to provide for voting for or against the proposition: "The use of sales and use tax proceeds for the cleanup of contaminated property."

SECTION 10. Section 38(b), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) A [Except as provided by Subsection (c) of this section, 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:

(1) create new jobs that pay wages that are at least equal to the prevailing [average weekly] wage for the applicable occupation in the local labor market area; or

(2) 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 [the county in which the jobs are to be located].

SECTION 11. Section 39, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended by amending Subsections (b) and (c) and adding Subsections (e)-(h) to read as follows:
(b) At least once in each 24-month period, the following persons shall attend a training seminar regarding the operation of a corporation created under this Act [sponsored by the department under Section 481.0231, Government Code]:

(1) the city attorney, the city administrator, or the city clerk of a city that created a corporation;

(2) the county clerk or the county attorney of a county that created a corporation; and

(3) the executive director of the corporation or other person who is responsible for the daily administration of the corporation.

(c) A corporation shall present proof of compliance with this section to the comptroller by presenting the certificates of completion issued under Subsection (h) of this section [Section 481.0231, Government Code,] for each person that was required to attend the training seminar. The comptroller may impose an administrative penalty, in an amount not to exceed $1,000 for each violation, against a corporation that fails to present proof in accordance with this section.

(e) The training seminar described by Subsection (b) of this section must:

(1) be provided by a statewide organization that represents corporations organized under this Act, except as provided by Subsection (f) of this section;

(2) provide at least six hours of instruction devoted to topics relating to the legal and proper operation of a corporation created under this Act; and

(3) be held at least four times per calendar year in a different geographical region of this state.

(f) If the department or its successor determines that no statewide organization is able to provide a training seminar as prescribed by Subsection (e) of this section, the department or its successor, in conjunction with the attorney general and the comptroller, shall by rule develop a training seminar in conformance with this section. The department or its successor may enter into an agreement for the provision of a training seminar developed under this subsection with any person determined by the department or its successor to be qualified to provide the training seminar.

(g) A person, entity, or organization that provides a training seminar under this section may:

(1) charge a reasonable fee for attending the seminar; and

(2) compensate an individual who provides instruction at the seminar.

(h) The person, entity, or organization providing a training seminar under this section shall issue a certificate of completion, on a form approved by the comptroller, to each person who completes the training seminar.

SECTION 12. The Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes) is amended by adding Sections 40, 41, and 42 to read as follows:
Sec. 40. DIRECT INCENTIVE PROVIDED TO BUSINESS ENTERPRISE.

(a) A corporation created under this Act may not provide a direct incentive to or make an expenditure on behalf of a business enterprise under a project as defined by Section 2 or 4B(a)(2) of this Act unless the corporation enters into a performance agreement with the business enterprise.

(b) A performance agreement between a corporation and business enterprise, at a minimum, must provide for a schedule of additional payroll or jobs to be created or retained and capital investment to be made as consideration for any direct incentives provided or expenditures made by the corporation under the agreement. The performance agreement must also specify the terms under which repayment must be made if the business enterprise fails to meet the performance requirements specified in the agreement.

Sec. 41. REQUIREMENT FOR THIRD-PARTY CONTRACT FOR BUSINESS RECRUITMENT OR DEVELOPMENT.

(a) This section does not apply to a payment to an employee of the corporation.

(b) A corporation organized under Section 4A or 4B of this Act must enter into a written contract approved by the corporation's board of directors in connection with the payment of a commission, fee, or other compensation or thing of value to a broker, agent, or other third party who is involved in business recruitment or development.

(c) A corporation that violates Subsection (b) of this section is liable to the state for a civil penalty in an amount not to exceed $10,000.

(d) The attorney general may bring an action to recover the civil penalty in a district court in Travis County or the county in which the violation occurred.

Sec. 42. ECONOMIC INCENTIVE FOR CERTAIN BUSINESS ENTERPRISE PROHIBITED.

(a) In this section, "related party" means a person or entity that owns at least 80 percent of the business enterprise to which the sales and use tax would be rebated as part of an economic incentive.

(b) Notwithstanding any other provision of this Act, a corporation created under this Act may not offer to provide an economic incentive for a business enterprise whose business consists primarily of purchasing taxable items using a resale certificate and then reselling those items to a related party.

SECTION 13. Sections 2(11)(B) and (C), 38(a), and 38(c)-(e), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), and Section 481.0231, Government Code, are repealed.

SECTION 14. The changes in law made by this Act apply only to a project that is undertaken or approved, by an election or otherwise, on or after the effective date of this Act. A project that is undertaken or approved before the effective date of this Act is governed by the law in effect on the date the project is undertaken or approved, and the former law is continued in effect for that purpose.

SECTION 15. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2003.
AN ACT

relating to local agreements to allow certain development corporations and taxing units to invest in and receive tax revenues from certain regional economic development projects.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 4A, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended by adding Subsection (u) to read as follows:

(u)(1) In this subsection:

(A) "Base taxable value" means the taxable value of property located in the defined area of a project as of January 1 of the year in which the agreement is entered into under this subsection.

(B) "Corresponding taxing unit" means another taxing unit of the same type of political subdivision as a taxing unit that enters into an agreement under this subsection.

(C) "Taxing unit" has the meaning assigned by Section 1.04, Tax Code.

(2) Before entering into an agreement under this subsection, the corporation undertaking the project must designate a defined area that includes the territory where the project is to be located.

(3) A taxing unit may enter into an agreement with a corporation created under this section to invest in a project that is undertaken by the corporation and that is not located in the territory of the taxing unit. A corporation may enter into an agreement under this subsection with more than one taxing unit.

(4) An agreement entered into under this subsection shall state the base taxable value of the property in the defined area of the project.

(5) The agreement may provide that the taxing unit is entitled to receive from the corporation, in exchange for the investment, an amount equal to a specified percentage of the tax revenue from taxes imposed by the corresponding taxing unit that taxes property located in the defined area of the project on the taxable value of the property in the defined area that exceeds the base taxable value, for so long as the corresponding taxing unit imposes taxes on that property.

(6) If a corporation enters into an agreement under this subsection, the corporation shall enter into an agreement with a corresponding taxing unit that taxes property located in the defined area of the project to recover the amount paid by the corporation to a taxing unit as provided by Subdivision (5).

(7) This subsection does not affect a taxing unit's authority to grant a tax abatement.

(8) This subsection does not affect a corporation's authority to invest in a project or recover its total investment by contract under Section 23(a) of this Act.

SECTION 2. Section 23(a), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:
(a) The corporation shall have and exercise all of the rights, powers, privileges, authority, and functions given by the general laws of this state to nonprofit corporations incorporated under the Texas Non-Profit Corporation Act, as amended (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes); but to the extent that the provisions of the general laws are in conflict or inconsistent with this Act, this Act prevails. In addition, the corporation shall have the following powers with respect to projects together with all powers incidental thereto or necessary for the performance of those hereinafter stated:

(1) to acquire, whether by construction, devise, purchase, gift, lease, or otherwise or any one or more of such methods and to construct, improve, maintain, equip, and furnish one or more projects undertaken by a different corporation or located within the state or within the coastal waters of the state and within or partially within the limits of the unit under whose auspices the corporation was created or within the limits of a different unit, where the governing body of the different corporation or the unit thereof requests the corporation to exercise its powers therein;

(2) to recover the costs of an investment under Subdivision (1) of this subsection from a unit or another corporation under a contract that may have an unlimited duration;

(3) to lease to a user all or any part of any project for such rentals and upon such terms and conditions as its board of directors may deem advisable and not in conflict with the provisions of this Act;

(4) to sell by installment payments or otherwise and convey all or any part of any project to a user for such purchase price and upon such terms and conditions as its board of directors may deem advisable and not in conflict with the provisions of this Act;

(5) to donate, exchange, convey, sell, or lease land, improvements, or any other interest in real property or furnishings, fixtures or equipment, or personal property to an institution of higher education for a legal purpose of the institution upon such terms and conditions as the corporation's board of directors may deem advisable that are not in conflict with the provisions of this Act;

(6) to make secured or unsecured loans to a user for the purpose of providing temporary or permanent financing or refinancing of all or part of the cost of any project, including the refunding of any outstanding obligations, mortgages, or advances issued, made, or given by any person for the cost of a project; and to charge and collect interest on such loans for such loan payments and upon such terms and conditions as its board of directors may deem advisable and not in conflict with the provisions of this Act;

(7) to issue bonds for the purpose of defraying all or part of the cost of any project, whether or not the bonds are exempt in whole or part from federal income taxation, to secure the payment of such bonds as provided in this Act, and to sell bonds at a price or prices determined by the board of directors or to exchange bonds for property, labor, services, material, or equipment comprising a project or incidental to the acquisition of a project, and those bonds may bear interest at any rate or rates determined by the board of directors, subject to the limitations set forth in this Act;

(8) as security for the payment of the principal of and interest on any bonds issued and any agreements made in connection therewith, to mortgage and pledge any or all of its projects or any part or parts thereof, whether then owned or thereafter acquired, and to assign any mortgage and repledge any security conveyed to the corporation to secure any loan made by the corporation and to pledge the revenues and receipts therefrom;

(9) to sue and be sued, complain and defend, in its corporate name;
(10) [49] to have a corporate seal and to use the same by causing it or a facsimile thereof to be impressed on, affixed to, or in any manner reproduced upon instruments of any nature required to be executed by its proper officers;

(11) [40] to make and alter bylaws not inconsistent with its articles of incorporation or with the laws of this state with the approval of the unit under whose auspices the corporation was created by resolution of the governing body for the administration and regulation of the affairs of the corporation;

(12) [44] to cease its corporate activities and terminate its existence by voluntary dissolution as provided herein; and

(13) [42] whether included in the foregoing or not, to have and exercise all powers necessary or appropriate to effect any or all of the purposes for which the corporation is organized which powers shall be subject at all times to the control of the governing body of the unit under whose auspices the corporation was created.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2003.
AN ACT

relating to the effect of tax increment financing by certain taxing units in the calculation of ad valorem tax rates for those taxing units.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsections (b) and (d), Section 26.03, Tax Code, are amended to read as follows:

(b) This section does not apply to [applies only to a taxing unit, other than] a school district[, that is located in a county with a population of less than 500,000].

(d) The portion of the tax increment of a taxing unit that the unit has agreed to pay into the tax increment fund for a reinvestment zone is excluded from the amount of taxes imposed or collected by the unit in any tax rate calculation under this chapter, except that the portion of the tax increment is not excluded if in the same tax rate calculation there is no portion of captured appraised value excluded from the value of property taxable by the unit under Subsection (c) for the same reinvestment zone.

SECTION 2. This Act takes effect January 1, 2004, and applies to the tax rate calculations under Chapter 26, Tax Code, for a taxing unit only for a tax year that begins on or after the effective date of this Act.
AN ACT

relating to the municipal regulation of single-family and duplex industrialized housing.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (b), Section 1202.251, Occupations Code, is amended to read as follows:

(b) Except as provided by Section 1202.253, requirements and regulations not in conflict with this chapter or with other state law relating to transportation, erection, installation, or use of industrialized housing or buildings must be reasonably and uniformly applied and enforced without distinctions as to whether the housing or buildings are manufactured or are constructed on-site.

SECTION 2. Subchapter F, Chapter 1202, Occupations Code, is amended by adding Section 1202.253 to read as follows:

Sec. 1202.253. MUNICIPAL REGULATION OF SINGLE-FAMILY AND DUPLEX INDUSTRIALIZED HOUSING. (a) Single-family or duplex industrialized housing must have all local permits and licenses that are applicable to other single-family or duplex dwellings.

(b) For purposes of this section, single-family or duplex industrialized housing is real property.

(c) A municipality may adopt regulations that require single-family or duplex industrialized housing to:

(1) have a value equal to or greater than the median taxable value for each single-family dwelling located within 500 feet of the lot on which the industrialized housing is proposed to be located, as determined by the most recent certified tax appraisal roll for each county in which the properties are located;

(2) have exterior siding, roofing, roof pitch, foundation fascia, and fenestration compatible with the single-family dwellings located within 500 feet of the lot on which the industrialized housing is proposed to be located;

(3) comply with municipal aesthetic standards, building setbacks, side and rear yard offsets, subdivision control, architectural landscaping, square footage, and other site requirements applicable to single-family dwellings; or

(4) be securely fixed to a permanent foundation.

(d) For purposes of Subsection (c), "value" means the taxable value of the industrialized housing and the lot after installation of the housing.

(e) Except as provided by Subsection (c), a municipality may not adopt a regulation under this section that is more restrictive for industrialized housing than that required for a new single-family or duplex dwelling constructed on-site.

(f) This section does not:
(1) limit the authority of a municipality to adopt regulations to protect historic properties or historic districts; or

(2) affect deed restrictions.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2003.
AN ACT

relating to economic development programs and funding.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 481, Government Code, is amended by adding Section 481.0215 to read as follows:

Sec. 481.0215. COORDINATION OF ECONOMIC DEVELOPMENT EFFORTS. (a) The executive director of the department or its successor shall work with the legislature and state agencies to identify grants and programs at all levels of government and to maximize access to federal funds for economic development.

(b) At the direction of the governor, the executive director of the department or its successor shall work with each state agency that administers a program relating to job training or job creation, including the Texas Workforce Commission, the Council on Workforce and Economic Competitiveness, the Department of Agriculture, and the Office of Rural Affairs, to address the challenges facing the agencies relating to job training and job creation.

(c) The executive director of the department or its successor may form partnerships or enter into agreements with private entities and develop connections with existing businesses in this state for the purpose of improving the marketing of this state through networking and clarifying the potential of the businesses for expansion.

SECTION 2. Subchapter E, Chapter 481, Government Code, is amended by adding Section 481.078 to read as follows:

Sec. 481.078. TEXAS ENTERPRISE FUND.

(a) The Texas Enterprise Fund is a dedicated account in the general revenue fund.

(b) The following amounts shall be deposited in the fund:

(1) any amounts appropriated by the legislature for the fund for purposes described by this section;

(2) interest earned on the investment of money in the fund; and

(3) gifts, grants, and other donations received for the fund.

(c) Except as provided by Subsection (d), the fund may be used only for economic development, infrastructure development, community development, job training programs, and business incentives.

(d) The fund may be temporarily used by the comptroller for cash management purposes.

(e) The administration of the fund is considered to be a trusteed program within the office of the governor. The governor may negotiate on behalf of the state regarding awarding, by grant, money
appropriated from the fund. The governor may award money appropriated from the fund only with the express written prior approval of the lieutenant governor and speaker of the house of representatives.

(f) Before awarding a grant under this section, the governor may enter into a written agreement with the entity to be awarded the grant money specifying that:

(1) if all or any portion of the amount of the grant is used to build a capital improvement:

(A) the state retains a lien or other interest in the capital improvement in proportion to the percentage of the grant amount used to pay for the capital improvement; and

(B) the recipient of the grant shall, if the capital improvement is sold:

(i) repay to the state the grant money used to pay for the capital improvement, with interest at the rate and according to the other terms provided by the agreement; and

(ii) share with the state a proportionate amount of any profit realized from the sale; and

(2) if, as of a date certain provided in the agreement, the grant recipient has not used grant money awarded under this section for the purposes for which the grant was intended, the recipient shall repay that amount and any related interest to the state at the agreed rate and on the agreed terms.

SECTION 3. Subchapter K, Chapter 481, Government Code, is amended by adding Section 481.169 to read as follows:

Sec. 481.169. ADVISORY BOARD OF ECONOMIC DEVELOPMENT STAKEHOLDERS.

(a) An advisory board of economic development stakeholders is created to assist the department.

(b) The advisory board is composed of seven members who serve staggered four-year terms. The governor shall appoint three members, the lieutenant governor shall appoint two members, and the speaker of the house of representatives shall appoint two members to the advisory board. The governor, lieutenant governor, and speaker of the house of representatives shall each appoint one of the initial members to a two-year term. Thereafter, each member of the advisory board shall be appointed to a four-year term.

(c) The advisory board shall collect and disseminate information on federal, state, local, and private community economic development programs, including loans, grants, and other funding sources.

SECTION 4. Section 311.0125, Tax Code, is amended by adding Subsection (e) to read as follows:

(e) The Texas Department of Economic Development or its successor may recommend that a taxing unit enter into a tax abatement agreement with a person under this chapter. In determining whether to approve an agreement to abate taxes on real property in a reinvestment zone under Subsection (b), the board of directors of the reinvestment zone and the governing body of a taxing unit shall consider any recommendation made by the Texas Department of Economic Development or its successor.

SECTION 5. Section 312.204, Tax Code, is amended by adding Subsection (g) to read as follows:

(g) The Texas Department of Economic Development or its successor may recommend that a taxing unit enter into a tax abatement agreement with a person under this chapter. In determining whether to enter
into a tax abatement agreement under this section, the governing body of a municipality shall consider any recommendation made by the Texas Department of Economic Development or its successor.

SECTION 6.  Section 312.402, Tax Code, is amended by adding Subsection (f) to read as follows:

(f) The Texas Department of Economic Development or its successor may recommend that a taxing unit enter into a tax abatement agreement with a person under this chapter. In determining whether to enter into a tax abatement agreement under this section, the commissioners court of a county shall consider any recommendation made by the Texas Department of Economic Development or its successor.

SECTION 7.  Section 313.025, Tax Code, is amended by adding Subsection (g) to read as follows:

(g) The Texas Department of Economic Development or its successor may recommend that a school district grant a person a limitation on appraised value under this chapter. In determining whether to grant an application, the governing body of the school district shall consider any recommendation made by the Texas Department of Economic Development or its successor.

SECTION 8.  This Act takes effect September 1, 2003.