

The Texas Economic Development Sales Tax

A Primer for Local Officials 2021 Update

Background

The economic development sales tax was created in 1989 to give smaller Texas communities the financial resources to create top-flight economic development programs. Today, the tax is the undisputed workhorse of local economic development efforts, serving as the backbone of economic development programs in more than 600 communities and 700 economic development corporations (EDCs) across the state.

During the 2021 legislative session, the TEDC once again successfully advocated against bills that would have eroded the main purpose of the economic development sales tax -- that is to help create primary jobs and enhance the overall economic vitality of communities.

Economic Impact of Thirty Years of the Economic Development Sales Tax

In 2020 the TEDC commissioned The Perryman Group to research the economic impact of the economic development sales tax over the past three decades. Dr. Perryman's findings are below:

- Over 20 percent of the net new jobs generated in Texas over the past 30 years have involved efforts funded by the economic development sales tax.
- A primary reason for Texas' economic success is tireless efforts by local economic development professionals across the state who rely on funds provided by the sales tax for economic development to compete for quality corporate locations, expansions and retentions.
- The Perryman Group estimates that the fiscal benefits to the State of Texas from projects facilitated by the sales tax by economic development include **\$7.1 billion** per year, with **\$4.9 billion** per year to local taxing entities across the state.
- Every dollar in economic development sales tax paid by taxpayers yields \$131.84 in output an \$82.42 in income.

For more than 30 years, the economic development sales tax has helped bring billions of dollars of new investment to Texas... the most important difference-maker in the history of economic development in our state.

87th Texas Legislative Session Highlights

SB 1465

Adds Chapter 489 to the Government Code and created the "*Texas Small and Rural Community Success Fund*" administered by the State Comptroller's Office. SB 1465 amends Section 501.008 of the Act and authorizes Type A and Type B corporations to obtain loans pursuant to the fund for eligible projects. Type A and Type B corporations can pledge its revenue for said loans. SB 1465 became effective June 18, 2021.

HB 2404

Adds Chapter 403 of the Government Code and amends Chapter 380 an 381 of the Texas Local Government Code. HB 2404 requires the Comptroller's Office to create a database for Chapter 380 and 381 agreement to be viewed on its website. HB 2404 is effective September 1, 2021. Information on old active agreements must be submitted by January 1, 2022. The City or county has 14 days from entering into agreement to submit information to the Comptroller. There is a \$1,000 penalty for non-compliance.

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1979 Development Corporation Act passed authorizing cities to create economic development corporations

1989 4A tax authorized to provide funding source for recruiting and retaining manufacturing and industrial projects.

1991 4B tax authorized for broader community development projects.

1997 State reporting requirement enacted. 4A corporations authorized to undertake 4B projects with voter approval.

1999 Allowable 4A and 4B projects expanded to include targeted infrastructure, job creation and retention, job training, and educational facilities.

2001 R&D facilities added as eligible projects. Training requirements established.

2005 Restrictions on retail incentives removed for certain communities. Certain sewer utilities, site improvements and military projects added as eligible projects. Call centers added to definition of primary jobs.

2007 Light or commuter rail, or motor buses added to eligible projects. Hangars, airport maintenance and repair and air cargo facilities, related infrastructure located on or adjacent to an airport added to eligible 4B projects.

2009 Statute re-codified into Local Government Code, effective 4/1/09.

2015 HB 157 passed authorizing a city to hold an election to reallocate sales tax revenue within the two percent local sales tax cap.

2019 Deadline to file annual reports with the Texas Comptroller changed to April 1.

Pursuant to the economic development sales tax law, most Type A projects must create or retain PRIMARY JOBS. Exceptions to this rule include business airports, port-related facilities, job training classes, career centers and certain infrastructure improvements that promote new and expanded business enterprises.

The economic development sales tax statute defines a PRIMARY JOB as a job: (1) 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 (2) included in one of the following sectors of the North America Industry Classification System (NAICS).

Eligible NAICS Codes

| | |
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| 111 | Crop Production |
| 112 | Animal Production |
| 113 | Forestry and Logging |
| 11411 | Commercial Fishing |
| 115 | Support Activities for Agriculture and Forestry |
| 211 to 213 | Mining |
| 221 | Utilities |
| 311 to 339 | Manufacturing |
| 42 | Wholesale Trade |
| 48 and 49 | Transportation and Warehousing |
| 51 | Information, excluding movie theaters (51213) and drive-in theaters (512132) |
| 523-525 | Securities, Commodity Centers, and Other Financial Investments and Related Activities; Insurance Carriers and Related Activities; Funds, Trusts and Other Financial Vehicles |
| 5413, 5415, 5416, 5417 and 5419 | Scientific Research and Development Services |
| 551 | Management of Companies and Enterprises |
| 56142 | Telephone Call Centers |
| 92140 | Correctional Institutions |
| 928110 | National Security |

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Type A Eligible Projects

- Land, buildings, equipment, facilities, improvements, and expenditures that are for the creation and retention of primary jobs and suitable for the development, retention, or expansion of the following types of projects: manufacturing, industrial, research & development, recycling, small warehouses, distribution centers, regional or national corporate headquarters, closed or realigned military bases, and primary job training facilities by higher education institutions
- Job training classes and career centers (no primary job requirement)
- Business airport facilities and port-related facilities
- Clean-up of contaminated project sites (with a special election and specific ballot language)
- Infrastructure assistance to retail or commercial projects
- Business-related sewer utilities and site improvements
- Beach remediation in Gulf communities required or suitable to promote or develop new or expanded business enterprise
- Projects designed to attract new military missions, prevent the closure of existing missions, and redevelop a closed or realigned military base
- General airport facilities for communities located 25 miles from the US/Mexico border only
- Light rail, commuter rail, or motor buses
- Type B projects with voter approval
- The City of Port Arthur is authorized to use the tax on certain general infrastructure, job training and university housing projects
- Ownership of a certain project based in Hidalgo County

Type B Eligible Projects

- Everything authorized under Type A, including retail and commercial projects with the same restrictions
- Water supply facilities (with a special election and specific ballot language)
- Projects that improve a community's quality of life, including parks, professional and amateur sport and athletic facilities, tourism and entertainment facilities, affordable housing, and other improvements or expenditures that promote new or expanded business activity that create or retain primary jobs.
- Projects designed to attract new military missions, prevent the closure of existing missions, and redevelop a closed or realigned military base.
- Sewer or solid waste disposal facilities in Hidalgo County
- Direct incentives for retail in communities with fewer than 20,000 residents and certain land-locked cities
- Hangars, airport maintenance and repair facilities, air cargo facilities, related infrastructure located on or adjacent to an airport facility
- Airport facilities provided that the eligible municipality enter into an approved development agreement with an entity that acquires a leasehold or other possessory interest from the economic development corporation
- Rail ports, rail switching facilities, marine ports, and inland ports

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The Economic Development Sales Tax: Working for Texas

The economic development sales tax is the state's largest and most effective local revenue source for economic development. The best way to protect the tax for years to come is to use it with caution, care, and common sense.

The Texas Economic Development Council (TEDC) will continue to advocate, educate, and inform economic development professionals, local officials, and lawmakers on developments related to the tax, including best practices. The TEDC will continue to offer state-mandated training for local economic development officials, which provides the tools and knowledge needed to develop and implement effective economic development programs.

Key Contacts

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Key Terminology

Economic Development Corporations (EDCs) are legal entities with the statutory authority to spend economic development sales tax dollars. The EDCs are city-chartered and governed by a city-appointed board of directors. EDCs are referred to as either "Type A" or "Type B" depending on the type of economic development sales tax uses approved by the local voters.

Chapters 501-501, Local Government Code is the section of the Texas law that contains the rules governing the uses of the economic development sales tax, including eligible uses of revenues and procedures that must be followed to enact the tax.

For More Information About the Economic Development Sales Tax

The Texas Municipal League (TML) publishes an Economic Development Handbook. This comprehensive document provides a legal and technical overview of Texas state and local economic development programs, including an extensive section on the economic development sales tax. Please visit <https://www.tml.org/185/Economic-Development-Handbook-2017>.

The Comptroller of Public Accounts (<https://comptroller.texas.gov>) provides extensive information on the economic development sales tax, links to relevant statutes, and a link to the online mandatory annual expenditure reporting form.



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