

## **BILL ANALYSIS**

C.S.H.B. 2667  
By: Ashby  
Economic & Small Business Development  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties note that there are multiple economic development programs under the Texas Economic Development Bank, some of which are no longer in operation or have been stagnant for several years. C.S.H.B. 2667 seeks to eliminate certain of these unused programs from statute.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 2667 repeals Government Code provisions establishing the business development linked deposit program and Local Government Code provisions establishing the Texas Small Business Industrial Development Corporation.

C.S.H.B. 2667 amends the Government Code and the Utilities Code to make conforming changes.

C.S.H.B. 2667 requires the Texas Economic Development Bank to reject any application for a linked deposit loan submitted to the bank before the bill's effective date for which a linked deposit has not been made in accordance with the linked deposit program as that program existed immediately before being repealed by the bill's provisions. The bill continues the linked deposit program in effect for the limited purpose of allowing the Texas Economic Development Bank to administer linked deposits made before the bill's effective date and to pursue the bank's remedies under the program if a recipient of a loan to which a deposit is linked defaults on the loan or if a lending institution that makes a loan for which a linked deposit is made fails to comply with that program.

C.S.H.B. 2667 requires the Texas Economic Development Bank, as soon as practicable after the bill's effective date, to send to the comptroller of public accounts for deposit in the general revenue fund any revenue or other money of the Texas Small Business Industrial Development Corporation held in financial institutions as the holdings existed immediately before the bill's effective date.

C.S.H.B. 2667 repeals the following provisions:

- Subchapter N, Chapter 481, Government Code
- Chapter 503, Local Government Code

**EFFECTIVE DATE**

September 1, 2015.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2667 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

**INTRODUCED**

**HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. The following laws are repealed:

SECTION 1. The following laws are repealed:

- (1) Subchapter N, Chapter 481, Government Code;
- (2) Subchapter BB, Chapter 481, Government Code;
- (3) Subchapter D, Chapter 489, Government Code; and
- (4) Chapter 503, Local Government Code.

- (1) Subchapter N, Chapter 481, Government Code; and
- (2) Chapter 503, Local Government Code.

SECTION 2. Section 447.013, Government Code, is amended by amending Subsection (i) and adding Subsection (j) to read as follows:

SECTION 2. Section 447.013(i), Government Code, is amended to read as follows:

(i) A recipient of a grant or loan under this section is encouraged to purchase goods and services from small businesses and historically underutilized businesses [~~as those terms are defined by Section 481.191, Government Code~~].

(i) A recipient of a grant or loan under this section is encouraged to purchase goods and services from small businesses and historically underutilized businesses, as those terms are defined by former Section 481.191, as that section existed on January 1, 2015 [~~Government Code~~].

(j) For the purposes of Subsection (i):

(1) "Historically underutilized business" means:

(A) a corporation formed for the purpose of making a profit in which at least 51 percent of all classes of the shares of stock or other equitable securities is owned by one or more persons who are members of certain groups, including black Americans, Hispanic Americans, women, Asian Pacific Americans, and American Indians;

(B) a sole proprietorship formed for the purpose of making a profit that is 100 percent owned, operated, and controlled by a person described by Paragraph (A);

(C) a partnership formed for the purpose of making a profit in which 51 percent of the assets and interest in the partnership is

owned by one or more persons described by Paragraph (A). Those persons must have proportionate interest and demonstrate active participation in the control, operation, and management of the partnership's affairs;

or

(D) a joint venture in which each entity in the joint venture is a historically underutilized business under this subdivision.

(2) "Small business" means a corporation, partnership, sole proprietorship, or other legal entity that:

(A) is domiciled in this state;

(B) is formed to make a profit;

(C) is independently owned and operated;

and

(D) employs fewer than 100 full-time employees.

SECTION 3. Section 489.105(b), Government Code, is amended to read as follows:

(b) The fund consists of:

(1) appropriations for the implementation and administration of this chapter;

(2) ~~[investment earnings under the capital access fund established under Section 481.402;~~

~~[(3) fees charged under Subchapter BB, Chapter 481;~~

~~[(4) interest earned on the investment of money in the fund;~~

~~(3) [(5) fees charged under this chapter;~~

~~(4) [(6) investment earnings from the programs administered by the bank;~~

~~(5) [(7) amounts transferred under Section 2303.504(b), as amended by Article 2, Chapter 1134, Acts of the 77th Legislature, Regular Session, 2001; and~~

~~(6) [(8) investment earnings under the Texas product development fund under Section 489.211;~~

~~[(9) investment earnings under the Texas small business incubator fund under Section 489.212; and~~

~~[(10) any other amounts received by the state under this chapter.~~

No equivalent provision.

SECTION 4. Section 489.108, Government Code, is amended to read as follows:

Sec. 489.108. PROGRAMS, SERVICES, AND FUNDS UNDER BANK'S

SECTION 3. Section 489.108, Government Code, is amended to read as follows:

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DIRECTION. Notwithstanding any other law, the bank shall perform the duties and functions of the office with respect to the following programs, services, and funds:

- (1) ~~[the Texas Small Business Industrial Development Corporation established under Chapter 503, Local Government Code;~~
- ~~[(2) the capital access program established under Section 481.405;~~
- ~~[(3) the Texas leverage fund;~~
- ~~(2) [(4) the linked deposit program established under Section 481.193;~~
- ~~[(5) the enterprise zone program established under Chapter 2303;~~
- (3) ~~[(6) the industrial revenue bond program;~~
- (4) ~~[(7) the defense economic readjustment zone program established under Chapter 2310;~~
- (5) ~~[(8) the Empowerment Zone and Enterprise Community grant program established under Section 481.025; and~~
- (6) ~~[(9) the renewal community program.~~

SECTION 5. Section 39.909(a), Utilities Code, is amended to read as follows:

- (a) In this section:
  - (1) "Small [~~,"small~~] business" means a corporation, partnership, sole proprietorship, or other legal entity that:
    - (A) is domiciled in this state;
    - (B) is formed to make a profit;
    - (C) is independently owned and operated;and
    - (D) employs fewer than 100 full-time employees.
  - (2) "Historically [~~and~~ "historically] underutilized business" means:
    - (A) a corporation formed for the purpose of making a profit in which at least 51 percent of all classes of the shares of stock or other equitable securities is owned by one or more persons who are members of certain groups, including black Americans, Hispanic Americans, women, Asian Pacific Americans, and American Indians;
    - (B) a sole proprietorship formed for the purpose of making a profit that is 100 percent owned, operated, and controlled by a person described by Paragraph (A);
    - (C) a partnership formed for the purpose of making a profit in which 51 percent of the assets and interest in the partnership is owned by one or more persons described by

DIRECTION. Notwithstanding any other law, the bank shall perform the duties and functions of the office with respect to the following programs, services, and funds:

- (1) ~~[the Texas Small Business Industrial Development Corporation established under Chapter 503, Local Government Code;~~
- ~~[(2) the capital access program established under Section 481.405;~~
- ~~(2) [(3) the Texas leverage fund;~~
- ~~(3) [(4) the linked deposit program established under Section 481.193;~~
- ~~[(5) the enterprise zone program established under Chapter 2303;~~
- (4) ~~[(6) the industrial revenue bond program;~~
- (5) ~~[(7) the defense economic readjustment zone program established under Chapter 2310;~~
- (6) ~~[(8) the Empowerment Zone and Enterprise Community grant program established under Section 481.025; and~~
- (7) ~~[(9) the renewal community program.~~

SECTION 4. Section 39.909(a), Utilities Code, is amended to read as follows:

- (a) In this section, "small business" and "historically underutilized business" have the meanings assigned by former Section 481.191, Government Code, as that section existed on January 1, 2015.

Paragraph (A). Those persons must have proportionate interest and demonstrate active participation in the control, operation, and management of the partnership's affairs;

or

(D) a joint venture in which each entity in the joint venture is a historically underutilized business under this subdivision [have the meanings assigned by Section 481.191, Government Code].

SECTION 6. Section 52.256(a), Utilities Code, is amended to read as follows:

(a) In this section:

(1) "Small [~~,"small~~] business" means a corporation, partnership, sole proprietorship, or other legal entity that:

(A) is domiciled in this state;

(B) is formed to make a profit;

(C) is independently owned and operated; and

(D) employs fewer than 100 full-time employees.

(2) "Historically [~~and—"historically~~] underutilized business" means:

(A) a corporation formed for the purpose of making a profit in which at least 51 percent of all classes of the shares of stock or other equitable securities is owned by one or more persons who are members of certain groups, including black Americans, Hispanic Americans, women, Asian Pacific Americans, and American Indians;

(B) a sole proprietorship formed for the purpose of making a profit that is 100 percent owned, operated, and controlled by a person described by Paragraph (A);

(C) a partnership formed for the purpose of making a profit in which 51 percent of the assets and interest in the partnership is owned by one or more persons described by Paragraph (A). Those persons must have proportionate interest and demonstrate active participation in the control, operation, and management of the partnership's affairs;

or

(D) a joint venture in which each entity in the joint venture is a historically underutilized business under this subdivision [have the meanings assigned by Section 481.191, Government Code].

SECTION 7. (a) The Texas Economic

SECTION 5. Section 52.256(a), Utilities Code, is amended to read as follows:

(a) In this section, "small business" and "historically underutilized business" have the meanings assigned by former Section 481.191, Government Code, as that section existed on January 1, 2015.

SECTION 6. Same as introduced version.

Development Bank shall reject any application for a linked deposit loan submitted to the bank before the effective date of this Act for which a linked deposit has not been made in accordance with Subchapter N, Chapter 481, Government Code, as that subchapter existed immediately before being repealed by this Act.

(b) Notwithstanding the repeal by this Act of Subchapter N, Chapter 481, Government Code, Subchapter N is continued in effect for the limited purpose of allowing the Texas Economic Development Bank to administer linked deposits made before the effective date of this Act and to pursue the bank's remedies under that subchapter if:

- (1) a recipient of a loan to which a deposit is linked defaults on the loan; or
- (2) a lending institution that makes a loan for which a linked deposit is made fails to comply with that subchapter.

SECTION 8. On the effective date of this Act the Texas Economic Development Bank shall allocate any unencumbered balance of the capital access fund to programs administered by the bank under Section 489.108, Government Code, as amended by this Act.

No equivalent provision.

SECTION 9. (a) Notwithstanding the repeal by this Act of Subchapter D, Chapter 489, Government Code, Subchapter D is continued in effect for the limited purpose of allowing the Texas Economic Development Bank to:

- (1) administer any outstanding loans entered into under that subchapter before the effective date of this Act; and
- (2) satisfy any bond obligations or pay any other obligations, contractual or otherwise, incurred under that subchapter before the effective date of this Act.

(b) After all the obligations described by Subsection (a)(2) of this section have been paid or satisfied, the Texas Economic Development Bank shall allocate any remaining balances of the Texas product development fund and the Texas small business incubator fund to programs administered by the bank under Section 489.108, Government Code, as amended by

No equivalent provision.

this Act.

SECTION 10. As soon as practicable after the effective date of this Act, the Texas Economic Development Bank shall send to the comptroller for deposit in the general revenue fund any revenue or other money of the Texas Small Business Industrial Development Corporation held in financial institutions as provided by Section 503.055, Local Government Code, as that section existed immediately before that section's repeal by this Act.

SECTION 11. This Act takes effect September 1, 2015.

SECTION 7. Same as introduced version.

SECTION 8. Same as introduced version.