

SUBJECT: Amending the Texas Enterprise Zone Act

COMMITTEE: Economic Development — committee substitute recommended

VOTE: 6 ayes — Oliveira, Yarbrough, Raymond, Seaman, Siebert, Van de Putte
0 nays
3 absent — Greenberg, Keffer, Luna

WITNESSES: For — Chris Shields and Gary Bushnell, Corpus Christi Business Alliance; Karin Richmond; Norman D. Bell and Victor A. DeFilippis, Owens-Corning; Claudia Mora, City of San Antonio; Cathy Golden, Greater Dallas Chamber of Commerce; Joe Newman and John Prickette, Texas Economic Development Council; Tom Utter, City of Corpus Christi; Michael White, Texas Association of Business and Chambers of Commerce
Against — None
On — Dan Wattles and Jim Albright, Texas Department of Commerce

BACKGROUND
: The Texas Enterprise Zone Act allows municipalities to designate enterprise zones based upon employment levels and lack of private investment in an area. Under state law, each municipality may nominate up to three areas for designation as enterprise zones. Businesses are offered tax refunds and abatements as incentives to remain or locate within the designated enterprise zone.

Businesses that locate in an enterprise zone and commit to hiring at least 25 percent of its new employees from zone residents or economically disadvantaged persons can be designated qualified businesses. Qualified businesses that meet time and job criteria are eligible for a one-time state sales tax refund of up to \$5,000 and for incentives from cities and counties, including up to a five-percent reduction in electric utility rates and some sales tax refunds.

The program is administered by the Texas Department of Commerce (TDOC). TDOC may designate qualified businesses as enterprise projects,

up to a maximum of 65 enterprise projects per biennium. A business can petition the governing body to be designated as an enterprise project if the enterprise zone has certain unemployment rates or certain population losses.

A qualified business can receive enterprise project designation for five years following a determination that the business meets the criteria and the designation will significantly contribute to the revitalization of the zone. The project also is evaluated based on a weighted scale of factors, including level of economic distress in the zone, community revitalization support pledged by the applicant, type and wage level of jobs to be created, and local efforts.

Enterprise projects must commit to create or retain permanent jobs, make a minimum investment in the zone and maintain a certain level of jobs. Projects are eligible for a one-time sales tax refund against building materials, machinery and equipment to be used in the zone. The tax refund allows a \$2,000 refund for each permanent job for five years, up to 625 jobs and \$1.25 million. Enterprise projects can also receive franchise tax reductions based on capital or surplus income based on the investment made in the enterprise zone and some local sales tax refunds.

By December 1 of each year, TDOC submits reports the governor, the Legislature and the Legislative Budget Board on the effectiveness of the enterprise zone program. TDOC also prepares a cost-benefit analysis of the enterprise program by December 1 in even-numbered years.

DIGEST:

CSHB 2001 would change the methods TDOC uses to designate enterprise projects. A business would be required to make a commitment to create or retain at least 10 jobs if the zone was located in a community with a population of 50,000 or less or at least 25 jobs if the community had a population of more than 50,000.

The bill also would require TDOC to establish a minimum scoring threshold for projects and would change the percentages used to determine business eligibility for enterprise project designation. Businesses would receive points based upon the following criteria:

- 35 percent would depend upon the location of the business;

- 20 percent on the local public effort used for the project;
- 20 percent on the level of cooperation and support the business committed the revitalization goals of the zone;
- 15 percent on the type and wage level of jobs in relation to the prevailing wage for the occupation in the local labor market; and
- 10 percent on the amount of capital investment.

CSHB 2001 would limit on the number of enterprise projects to 65 during the next two biennia. TDOC could withhold from designation a maximum of five project slots per biennium.

CSHB 2001 would change the utility rates charged enterprise projects by cooperative corporations or utilities owned by private investors. The rate could not be more than five percent below the lowest rate allowable for the business' customer class. An enterprise project could petition the utility, in addition to the regulatory authority, to receive the reduced rate.

CSHB 2001 would add equipment repaired for or rented by an enterprise project to the list of items available for sales tax refunds and raise the maximum amount of tax refunds to \$2,500 for each new permanent or retained job. The Legislative Budget Board would no longer have to certify the tax refunds. The bill would limit the amount of state sales tax refunds to enterprise projects to \$8 million per biennium for the next three biennia.

At least three of the tax incentives applying to businesses in the nominated enterprise area could not apply throughout the governmental entity, and at least two of the incentives would have to be financial incentives. A municipality or county would still be able to extend additional incentives to business by a written agreement.

CSHB 2001 would lower to 500 the maximum number of jobs that could be included in the computation of a tax refund for the project.

In other provisions, CSHB 2001 would:

- add the definition of “retained job”;
- repeal the limit on the number of enterprise zone boundary changes that could be made each year;
- change the deadline dates to December 15 for the annual enterprise zone program and the bi-annual cost-benefit analysis report.

An enterprise project designated after the effective date of the bill would not be able to receive tax refunds or tax reductions before September 1, 1999. An enterprise project designated after August 31, 1999, would not be able to receive tax refunds or reductions before September 1, 2001.

CSHB 2001 would take effect September 1, 1997.

**SUPPORTERS
SAY:**

CSHB 2001 would improve on a program that has proven successful and profitable for Texas and Texas businesses. The enterprise zone program is a worthwhile investment that attracts business to economically distressed areas of Texas and creates high-wage and permanent jobs for many Texans.

Since the program began in 1988, 57,085 jobs and almost \$7.3 billion in capital investments have been created in enterprise zones. Businesses eligible for state incentives have created 6,511 jobs and \$154 million in capital investments. The cost of the program has been kept to a minimum because the majority of the funding for tax incentives for businesses comes from the local level.

In addition, enterprise projects and enterprise zones positively impact the state's economy. The increase in business activity produces an increase in sales and property taxes that exceed the costs of the program and create jobs employing economically disadvantaged individuals who would otherwise might be on the state's welfare rolls.

CSHB 2001 would build on these successes by expanding the items that would qualify for sales tax refunds to include equipment repaired or rented. This would help increase the attractiveness of enterprise zones to companies, especially since the potential exists to phase-out statewide sales taxes for business purchases. Furthermore, the measures proposed would generate a

negative fiscal impact of only \$800,000 over the next biennium — a small investment for continued economic growth in the long term.

The bill also would direct TDOC to fine tune criteria used to determine eligibility of businesses for enterprise project designation. This would make the process more competitive and would ensure the jobs created would be good jobs, characterized by higher wages and permanency.

The increase in the number of financial incentives, as required by CSHB 2001, would apply to the enterprise zone, not individual businesses. Financial incentives would be offered by municipalities to ensure quality and effective incentives attract businesses to the zone.

It is important to diversify the criteria used to designate enterprise projects because unemployment rates, the criteria used to determine economic distress, remain static unless a municipality recomputes a new unemployment rate for each new project. Because this is unrealistic, other factors, as defined in the bill, would help distinguish between enterprise projects.

CSHB 2001 would relate wages to prevailing wages in local labor markets because that information is kept by the Texas Workforce Commission. Municipalities would be able to access this information as needed.

**OPPONENTS
SAY:**

The increased number of financial incentives municipalities would be required to offer businesses within the zone would pose difficulties. Municipalities have limited resources and would not be able to meet this requirement.

The changes to the weights used designation of enterprise projects would be too drastic. Decreasing the weight factored for economic distress from 50 to 35 percent would negate the purpose of the enterprise zone program, which is to assist areas of economic distress.

In addition, it would be difficult for municipalities to determine the type of jobs and wage levels in relation to prevailing wages for each occupation in the local labor market. Municipalities would be required to undertake their own individual and primary research to fulfill this requirement.

NOTES:

The committee substitute deleted provisions limiting the number of enterprise projects for the upcoming biennium; changed the weights used to designate enterprise projects; added effective dates for tax refunds for enterprise projects designated after September 1, 1997 and after August 31, 1999; and added the sections regarding utility rate reductions and eligibility for tax refunds on machinery and equipment rented or repaired.

Rep. Oliveira plans to offer amendments to remedy the negative fiscal note to CSHB 2001.

Related bills, HB 1328 by Serna, which would limit the number of enterprise projects in a zone, and HB 1396 by Rodriguez, which would increase the number of enterprise zones in each municipality, were left pending in the House Economic Development Committee on March 25.