

BILL ANALYSIS

Senate Research Center

S.B. 226
By: Madla
Veterans Affairs
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As Filed

DIGEST

Currently, the Texas Defense Economic Adjustment Advisory Council addresses matters related to defense economic adjustment and transition for Texas workers, businesses, and communities impacted by reductions in federal defense contracting. The council visits many defense-dependent communities, which include municipalities or areas that rely on defense expenditures for contracts, purchases, or jobs to support the local economy, and then makes suggestions to the governor.

One suggestion was the establishment of defense economic readjustment zones in specific defense-dependent communities to aid the workers and businesses in these areas under the leadership of the Texas Department of Commerce. S.B. 226 sets forth the procedure for designation of an area as a defense economic readjustment zone.

PURPOSE

As proposed, S.B. 226 sets forth the procedure for designation of an area as a defense economic readjustment zone.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Department of Commerce in SECTION 1 (Sec. 2310.051(c), Government Code), to a state agency in SECTION 1 (Sec. 2310.402(a), Government Code), and to the governing body of the municipality or county in SECTION 1 (Sec. 2310.410(b), Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 10G, Government Code, by adding Chapter 2310, as follows:

CHAPTER 2310. DEFENSE ECONOMIC READJUSTMENT ZONE SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2310.001. DEFINITIONS. Defines "defense worker," "defense worker job," "department," "nominating body," "qualified business," "qualified employee," and "readjustment zone."

Sec. 2310.002. JURISDICTION OF MUNICIPALITY. Provides that territory in the extraterritorial jurisdiction of a municipality is considered to be in the jurisdiction of the municipality.

SUBCHAPTER B. DEPARTMENT POWERS AND DUTIES RELATING TO ZONES

Sec. 2310.051. GENERAL POWERS AND DUTIES. Requires the Texas Department of Commerce (department) to administer and monitor the implementation of this chapter. Requires the department to establish criteria and procedures for designating a qualified area as a readjustment zone and for designating a defense readjustment project. Requires the department to adopt rules necessary to carry out the purposes of this chapter.

Sec. 2310.052. EVALUATION; REPORT. Requires the department to conduct a continuing evaluation of the programs of readjustment zones. Requires the department to

submit to the governor, the legislature, and the Legislative Budget Board, on or before December 1 of each year, a report evaluating certain elements of readjustment zones.

Sec. 2310.053. ASSISTANCE. Requires the department to assist certain businesses and governing bodies with respect to readjustment zones. Requires the department to provide to persons desiring to locate and engage in business in a readjustment zone information and appropriate assistance relating to the required legal authorization. Requires the department to publicize existing tax incentives and economic development programs in readjustment zones. Requires the department to offer to a unit of local government having a readjustment zone within its jurisdiction technical assistance relating to tax abatement and the development of alternative revenue services.

Sec. 2310.054. COORDINATION WITH OTHER GOVERNMENTAL ENTITIES. Requires the department to coordinate and streamline state business assistance programs and permit or license application procedures for businesses in readjustment zones. Requires the department to work with responsible state and federal agencies to coordinate readjustment zones programs with other governmental programs carried out in a readjustment zone. Requires the department to encourage other state agencies in awarding grants, loans, or services to give priority to businesses in readjustment zones.

SUBCHAPTER C. DESIGNATION OF READJUSTMENT ZONE

Sec. 2310.101. CRITERIA FOR READJUSTMENT ZONE DESIGNATION. Requires an area to have certain physical properties to be designated a readjustment zone. Prohibits the department from designating an area as a readjustment zone if more than one other readjustment zone is located in the county in which the proposed zone is to be located.

Sec. 2310.102. ADVERSELY AFFECTED DEFENSE-DEPENDENT COMMUNITY. Provides that a municipality or county is an adversely affected defense-dependent community if the department determines the municipality or county requires assistance under certain conditions, or is expected to experience a direct loss of a certain percentage or number of defense worker or civilian jobs.

Sec. 2310.103. NOMINATION OF READJUSTMENT ZONE. Authorizes the governing body of a municipality or county that is an adversely affected defense-dependent community to nominate as a readjustment zone an area within its jurisdiction that meets the criteria under Section 2310.101. Provides that unless the nominating body holds a public hearing before adopting an ordinance or order under this section, the ordinance is not valid. Prohibits the governing body of a county from nominating territory in a municipality to be included in a proposed readjustment zone unless the governing body of the municipality also nominates the territory and files a joint application with the county under Section 2310.105. Prohibits the governing bodies of a combination of municipalities or counties from jointly nominating an area as a readjustment zone unless the governing bodies have entered into a binding agreement to administer the zone jointly.

Sec. 2310.104. NOMINATING ORDINANCE OR ORDER. Requires an ordinance or order nominating an area as a readjustment zone to contain certain information. Prohibits at least one of the incentives summarized under Subsection (a)(3) from being offered elsewhere within the jurisdiction except within an enterprise zone designated under Chapter 2303, Government Code. Provides that this section does not prohibit a municipality or county from extending additional incentives, including tax incentives, for business enterprises in a readjustment zone by a separate ordinance or order.

Sec. 2310.105. APPLICATION FOR DESIGNATION. Requires the nominating body, after nominating the area as a readjustment zone, to send to the department a written application for designation of the area as a readjustment zone. Requires the application to include certain information. Provides that the information required by Subsection (b) is for evaluation purposes only.

Sec. 2310.106. REVIEW OF APPLICATION. Requires the department to review the application to determine if the nominated area qualifies for designation as a readjustment zone under this chapter. Requires the department to allow an applicant to correct any omission or clerical error in the application and to return the application to the department on a certain date.

Sec. 2310.107. DESIGNATION AGREEMENT. Requires the department to negotiate with the nominating body for a designation agreement if the department determines that a nominating area satisfies the criteria under Section 2310.101. Sets forth the requirements for a designation agreement. Requires the department to complete the negotiations and sign the agreement by a certain date determined by the department. Requires the department to provide to the nominating body the specific areas of concern and a final proposal for the agreement if an agreement is not completed within the period provided by Subsection (c). Provides that if the agreement is not executed before the period ends, the application is considered to be denied.

Sec. 2310.108. DENIAL OF APPLICATION; NOTICE. Authorizes the department to deny an application for the designation of a readjustment zone only if the department determines that the nominated area does not satisfy the criteria under Section 2310.101. Requires the department to inform the nominating body of the specific reasons for denial of an application.

Sec. 2310.109. PERIOD OF DESIGNATION. Authorizes an area to be designated as a readjustment zone for a maximum of seven years. Provides that a designation remains in effect until September 1 of the final year of the designation.

Sec. 2310.110. AMENDING BOUNDARIES. Authorizes the nominating body to amend the boundary of a readjustment zone by ordinance or order, as appropriate, adopted after a public hearing on the issue. Sets forth provisions for the amended boundary. Requires the readjustment zone with the amended boundary to continue to meet the location requirements of Section 2310.101(4). Prohibits the nominating body from making more than one boundary amendment annually for a readjustment zone. Requires the nominating body to pay the department a fee, specified by the department, not to exceed \$500, for each amendment of a readjustment zone boundary. Authorizes the department to use the fees collected to administer this chapter and for other purposes to advance this chapter.

Sec. 2310.111. REMOVAL OF DESIGNATION. Authorizes the department to remove the designation of an area as a readjustment zone under certain conditions. Provides that the removal of a designation does not affect the validity of a tax incentive or regulatory relief granted or accrued before the removal.

SUBCHAPTER D. ADMINISTRATION OF READJUSTMENT ZONES

Sec. 2310.201. ADMINISTRATION BY GOVERNING BODY. Provides that the governing body of a readjustment zone is the governing body of the municipality or county, or the governing bodies of the combination of municipalities or counties, that applied to have the area designated as a readjustment zone.

Sec. 2310.202. ADMINISTRATION BY ADMINISTRATIVE AUTHORITY. Authorizes the governing body of a readjustment zone to delegate its administrative duties to an administrative authority appointed by the governing body. Requires the administrative authority to possess certain qualities.

Sec. 2310.203. LIAISON. Requires the governing body to designate a liaison to communicate and negotiate with certain entities relating to the readjustment zone.

Sec. 2310.204. ANNUAL REPORT. Requires the governing body of a readjustment zone to submit to the department a report in the form required by the department by a certain date. Requires the report to be approved by the readjustment zones's administrative authority if one

exists. Requires the report to include certain information for the year preceding the date of the report.

SUBCHAPTER E. QUALIFIED BUSINESSES AND DEFENSE READJUSTMENT PROJECTS

Sec. 2310.301. DEFINITION. Defines "new permanent job."

Sec. 2310.302. QUALIFIED BUSINESS. Provides that a person is a qualified business if the department certifies that the person is engaged in or has provided substantial commitment to initiate the active conduct of a trade or business in the readjustment zone, and at least 25 percent of the person's new employees in the readjustment zones meet certain specifications. Authorizes the governing body of a readjustment zone to certify a franchise or subsidiary of a new or existing business as a qualified business if the franchise or subsidiary meets certain specifications.

Sec. 2310.303. PROHIBITION ON QUALIFIED BUSINESS CERTIFICATION. Requires the department to prohibit the certification of a qualified business in the zone until the department determines that the governing body is complying with this chapter. Prohibits the department from designating more than two businesses in a single readjustment zone as defense readjustment projects.

Sec. 2310.304. REQUEST FOR APPLICATION FOR DEFENSE READJUSTMENT PROJECT DESIGNATION. Authorizes a qualified business in a readjustment zone to request that the governing body of the readjustment zone apply to the department for designation of the business as a defense readjustment project, and requires the request to also be made to the readjustment zone's administrative authority, if one exists.

Sec. 2310.305. APPLICATION FOR DEFENSE READJUSTMENT PROJECT DESIGNATION. Authorizes the governing body to apply to the department for the designation of the qualified business as a defense readjustment project. Requires an application to contain certain information. Provides that local effort to develop and revitalize a readjustment zone includes certain activities performed by public entities, qualified businesses, and other local groups. Sets forth the factors to be considered in evaluating the local effort of a public entity and a private entity.

Sec. 2310.306. DEFENSE READJUSTMENT PROJECT DESIGNATION. Authorizes the department to designate a qualified business as a defense readjustment project only if the department makes certain determinations concerning the business. Requires the department to designate qualified businesses as defense readjustment zones on a competitive basis. Requires the department to make its designation decisions using a weighted scale which assigns certain percentages to the evaluation. Authorizes the department to remove a defense readjustment project designation if it determines that the business is not complying with a requirement for its designation.

Sec. 2310.307. ALLOCATION OF JOBS ELIGIBLE FOR TAX REFUND. Requires the department to allocate to the project the maximum number of new permanent jobs or retained jobs eligible to be included in a computation of a tax refund for the project. Prohibits this number from exceeding 500 or a number equal to 110 percent of the number of anticipated new permanent jobs or retained jobs specified in the application for designation of the business as a defense readjustment project under Section 2310.305, whichever is less.

Sec. 2310.308. DURATION OF CERTAIN DESIGNATIONS. Provides that the department's designation of a qualified business as a defense readjustment project is effective until the fifth anniversary of the date on which the designation is made regardless of whether the readjustment zone in which the project is located expires before the fifth anniversary of the project.

SUBCHAPTER F. READJUSTMENT ZONE BENEFITS

Sec. 2310.401. EXEMPTIONS FROM STATE REGULATION; SUSPENSION OF LOCAL REGULATION. Authorizes a state agency to exempt from its regulation a qualified business, qualified employee, or qualified property in a readjustment zone if the exemption is consistent with certain criteria. Authorizes a local government to suspend local regulation, including an ordinance, rule, or standard, relating to zoning, licensing, or building codes in a readjustment zone. Requires an exemption from or suspension of regulation under this section to be adopted in the same manner that the regulation was adopted. Provides that the authorization provided by Subsections (a) and (b) does not apply to regulation that relates to certain principles. Provides that property is classified as qualified property if the property has certain characteristics.

Sec. 2310.402. REVIEW OF STATE AGENCY RULES; REPORT. Authorizes a state agency, by rule, to provide, when applicable, encouragements and incentives to increase certain conditions of readjustment zones. Requires the department to disseminate the reports to the governing bodies of readjustment zones and others. Authorizes the agency to waive, modify, provide exemptions to, or otherwise minimize the adverse effects of the rules it administers on certain procedures relating to readjustment zones.

Sec. 2310.403. STATE PREFERENCES. Requires the state agency to give preference to the governing body of a readjustment zone or a qualified business or qualified employee located in a readjustment zone over other eligible applicants for grants, loans, or credit enhancements that are administered by the state agency under certain conditions. Authorizes the comptroller to deposit state money in financial institutions located or doing business in readjustment zones. Authorizes a state agency to contract with businesses located in readjustment zones. Authorizes the department to give preferences to readjustment zones in granting economic development money or other benefits.

Sec. 2310.404. STATE TAX REFUNDS AND DEDUCTION; REPORT. Sets forth refunds and deductions for which a defense readjustment project is eligible. Requires the comptroller to report to the department the statewide total of the tax refunds made under this section during that fiscal year by a specified date.

Sec. 2310.405. LOCAL SALES AND USE TAX REFUNDS. Authorizes the governing body of a municipality to refund its local sales and use taxes paid by a qualified business on certain expenditures. Authorizes the governing body of a municipality or county to refund its local sales and use taxes paid by qualified business or by a qualified employee. Authorizes the governing body of a municipality or county that is the governing body of a readjustment zone to provide for the partial or total refund of its local sales and use taxes paid by a person making a taxable purchase, lease or rental for development or revitalization in the zone. Requires a person eligible for a refund of local sales and use taxes to pay the entire amount of state and local sales and use taxes at the time the taxes would be due if an agreement for the refund did not exist. Requires the agreement to contain certain information. Requires the municipality or county to make the refund directly to the person eligible for the refund in the manner provided by the agreement.

Sec. 2310.406. REDUCTION OR ELIMINATION OF LOCAL FEES OR TAXES. Authorizes the governing body of a municipality or county, through a program, to reduce or eliminate fees or taxes that it imposes on a qualified business or qualified employee. Provides that this section does not apply to sales and use taxes or property taxes.

Sec. 2310.407. TAX INCREMENT FINANCING AND ABATEMENT. Provides that designation of an area as a readjustment zone is also designation of the area as a reinvestment zone for certain tax incentives.

Sec. 2310.408. DEVELOPMENT BONDS. Authorizes bonds to be used under certain Acts in order to finance a project in a readjustment zone.

Sec. 2310.409. OTHER LOCAL INCENTIVES. Authorizes the governing body of a municipality or county that is the governing body of the readjustment zone to implement and

adopt certain procedures necessary to the maintenance of the readjustment zone. Provides that a reduction in utility rates under Subsection (a) (9)(B) is subject to the agreement of the affected utility and the approval of the appropriate regulatory authority. Authorizes the rates to be reduced up to a certain percentage and requires the regulatory authority to consider revitalization goals for the readjustment zone and allow the utility to recover the amount of the reduction.

Sec. 2310.410. DISPOSITION OF PUBLIC PROPERTY IN READJUSTMENT ZONE. Authorizes the entity that owns a surplus building or vacant land in the zone to dispose of the buildings or land by either selling the building or land at a public auction or establishing an urban homestead project described by Subsection (c). Authorizes the municipality or county to sell a surplus building or vacant land at less than fair market value if the governing body of the municipality or county by ordinance or order adopts certain criteria. Sets forth the conditions under which a sale can be conducted. Sets forth the requirements for designation of an urban homestead program.

Sec. 2310.411. WAIVER OF PERFORMANCE BOND. Provides that a subcontractor is not required to execute a performance bond under Chapter 2253 under certain conditions.

Sec. 2310.412. LIABILITY OF CONTRACTOR OR ARCHITECT. Provides that a contractor or architect who constructs or rehabilitates a building in a readjustment zone is liable for any structural defect in the building only for a certain time period, notwithstanding a statute of limitations to the contrary.

SECTION 2. Amends Chapter 151I, Tax Code, by adding Section 151.4291, as follows:

Sec. 151.4291. TAX REFUNDS FOR DEFENSE READJUSTMENT PROJECTS. Provides that a defense readjustment is eligible for a refund in a certain amount of the taxes imposed by this chapter on certain purchases. Provides that a defense readjustment project qualifies for a refund of taxes under this section of \$2,500 for each new permanent job or job that has been retained by the defense readjustment project for a qualified employee. Sets forth the procedure for a defense readjustment project that qualifies for certain tax refunds. Requires a defense readjustment project to apply to the comptroller for the refund. Requires the Texas Department of Commerce to provide the comptroller with the assistance that the comptroller requires in administering this section. Defines "defense readjustment project," "readjustment zone," "qualified employee," and "new permanent job." Authorizes items bought by a project after the date of designation to be considered eligible for a refund. Provides that the refund provided is conditioned on the defense readjustment project maintaining certain levels of employment of qualified employees which existed within a certain time period. Requires the Texas Department of Commerce to annually certify to the comptroller and the Legislative Budget Board certain information concerning the level of employment of qualified employees and to assess other information dealing with the refund.

SECTION 3. Amends Chapter 171C, Tax Code, by adding Section 171.1016, as follows:

Sec. 171.1016. REDUCTION OF TAXABLE CAPITAL FOR INVESTMENT IN A READJUSTMENT ZONE. Authorizes a corporation that has been designated as a defense readjustment project to make certain deductions. Sets forth the requirements for deductions authorized by this section and provides certain formulas for determining depreciated value. Sets forth the requirements for an investment to qualify for the deduction. Prohibits the deduction from being used to execute certain functions. Authorizes a corporation to elect to make the deduction from apportioned taxable capital or apportioned taxable earned surplus for each separate regular annual period. Provides that the election for an initial period applies to the second tax period and to the first regular annual period. Defines "defense readjustment project" and "readjustment zone." Provides that only qualified businesses that have been certified as eligible for a tax deduction under this section by certain other governmental entities are entitled to the tax deduction.

SECTION 4. Prohibits the Texas Department of Commerce from designating more than six defense

economic readjustment zones under Chapter 2310, Government Code, before September 1, 2001.

SECTION 5. Emergency clause.

Effective date: upon passage.