

BILL ANALYSIS

Senate Research Center

C.S.S.B. 932
By: Sibley
Economic Development
4-9-97
Committee Report (Substituted)

DIGEST

Currently, the Texas Department of Commerce, the lead agency for the state's economic development and tourism efforts, is governed by a policy board whose members are appointed by the governor. The executive director of the Department of Commerce is also appointed by the governor. The Department of Commerce has undergone numerous changes in structure and focus since its inception in 1987. This bill will abolish the Department of Commerce and create the Texas Department of Economic Development and Tourism, replace the policy board with a governing board that has the authority to hire an executive director, provide for the privatization of certain economic development programs and services, and require the agency to upgrade its current business information and referral program.

PURPOSE

As proposed, C.S.S.B. 932 abolishes the Department of Commerce and creates the Texas Department of Economic Development and Tourism, replaces the policy board with a governing board that has the authority to hire an executive director, provides for the privatization of certain economic development programs and services, and requires the agency to upgrade its current business information and referral program.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the governing board of the Texas Department of Economic Development and Tourism in SECTIONS 8, 9, 10, 34, and 35 (Sections 481.0043(d), 481.0044(a), 481.005(d), 481.153, 481.157(b), Government Code) and to the Texas Department of Economic Development and Tourism in SECTION 30 (Section 481.075(a), Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Chapter 481, Government Code, as follows:

CHAPTER 481. New heading: TEXAS DEPARTMENT OF ECONOMIC DEVELOPMENT
AND TOURISM

SECTION 2. Amends Section 481.001, Government Code, to redefine "governing board" and "department," and to delete the definition of "border region."

SECTION 3. Amends Section 481.002, Government Code, to provide that the Texas Department of Economic Development and Tourism (department), rather than the Texas Department of Commerce, is an agency of the state.

SECTION 4. Amends Section 481.003, Government Code, to make a conforming change.

SECTION 5. Amends Section 481.004, Government Code, as follows:

Sec. 481.004. New heading: GOVERNING BOARD. Provides that the governing board (board), rather than the policy board, is composed of nine public members. Deletes existing text regarding ex officio members of the board. Requires at least one member of the board to be a resident of a county with a population of less than 30,000; at least one other member

to have experience in international trade and at least one other member to have experience in tourism. Makes conforming changes.

SECTION 6. Amends Section 481.0041, Government Code, as follows:

Sec. 481.0041. New heading: REMOVAL OF GOVERNING BOARD MEMBERS. Makes conforming changes.

SECTION 7. Amends Sections 481.0042(a), (b), and (e), Government Code, to make conforming and nonsubstantive changes.

SECTION 8. Amends Section 481.0043, Government Code, to require the board to meet at least eight times each year. Makes conforming changes.

SECTION 9. Amends Section 481.0044, Government Code, to require a report on the department's activities to include certain information. Deletes existing text regarding recommendations to be made by the policy board. Makes conforming changes.

SECTION 10. Amends Section 481.005, Government Code, as follows:

Sec. 481.005. New heading: EXECUTIVE DIRECTOR; GOVERNING BOARD DUTIES. Requires the board to employ an executive director of the department (executive director) who serves at the pleasure of the the board. Deletes text regarding appointment by the governor of an executive director who serves a two-year term. Requires the executive director to have demonstrated experience in the areas of economic development or tourism. Requires the executive director to manage the affairs of the department under the direction of the board. Requires the members of the board to direct the activities of the department and, in performing that duty, to take certain actions. Deletes existing text regarding the relationship of the policy board with the department and the executive director.

SECTION 11. Amends Section 481.006(a), Government Code, to require the board, rather than the executive director, to establish the divisions within the department, which may include an information and referral division, a business development division, rather than a domestic business development division, and a international trade division, rather than a business development division. Deletes a reference to a job training division. Makes nonsubstantive changes.

SECTION 12. Amends Chapter 481A, Government Code, by adding Section 481.0065, AS FOLLOWS:

Sec. 481.0065. OFFICE OF DEFENSE AFFAIRS. Requires the department to establish and maintain an Office of Defense Affairs (office). Sets forth requirements for the office. Authorizes the department to enter into an agreement with a private contractor to perform the assessment required under Subsection (a).

SECTION 13. Amends Section 481.007, Government Code, as follows:

Sec. 481.007. New heading: ADVISORY COMMITTEES. Makes conforming changes.

SECTION 14. Amends Sections 481.010(a), (b), and (c), Government Code, to make conforming changes.

SECTION 15. Amends Sections 481.012(c) and (d), Government Code, to make conforming changes.

SECTION 16. Amends Section 481.022, Government Code, to set forth the general duties of the department. Deletes existing text regarding attracting and locating new businesses, encouraging the growth and expansion of existing businesses, working with local governments and organizations, and emphasizing rural economic development. Deletes existing text regarding actions to be taken by the department to carry out its duties.

SECTION 17. Amends Section 481.023, Government Code, to prohibit the department from using appropriated funds to support the Texas leverage fund. Deletes existing text regarding the Texas Department of Community Affairs and assistance for businesses or industries seeking employment training, retraining, or manpower development.

SECTION 18. Amends Sections 481.024(a) and (f), Government Code, to delete a reference to the Texas Economic Development Foundation. Makes conforming changes.

SECTION 19. Amends Section 481.028(b), Government Code, to require the department to enter into agreements with the Texas Workforce Commission and the office of the comptroller regarding certain items. Deletes the provisions requiring the department to enter into agreements with the Texas Higher Education Coordinating Board, the Central Education Agency, and the Texas Department of Human Services.

SECTION 20. Amends Section 481.029, Government Code, to require the department to recover the cost of providing publications and services, rather than direct technical assistance and management training services, to businesses and communities when reasonable and practical. Makes conforming and nonsubstantive changes.

SECTION 21. Amends Chapter 481C, Government Code, as follows:

SUBCHAPTER C. New heading: TEXAS STRATEGIC ECONOMIC DEVELOPMENT
PLANNING COMMISSION

Sec. 481.0301. DEFINITION. Defines "commission."

Sec. 481.031. New heading: COMMISSION. Sets forth the composition of the Texas Strategic Economic Development Planning Commission (commission). Deletes existing text regarding findings made by the legislature regarding the state's economy. Requires the governor to designate a presiding officer and an assistant presiding officer. Deletes existing text regarding the policy of this state on economic development. Sets forth duties of, compensation, and administrative support for the commission. Provides that an affirmative vote of a majority of the entire membership of the commission is necessary for an action of the commission.

Sec. 481.032. New heading: DUTIES OF COMMISSION. Sets forth duties of the commission. Authorizes the commission to take certain actions. Deletes the provisions regarding diversifying and developing the economy, evaluation of the performance of existing state economic development efforts, review of economic policy recommendations, undertaking specialized studies and preparing specialized reports, and conducting a biennial review of economic development activities. Makes conforming changes.

Sec. 481.033. New heading: STRATEGIC PLAN. Requires the commission to submit to certain persons, before November 1, 1998, a strategic plan for economic development. Requires a copy of the strategic plan to also be distributed to other state agencies that impact the economic development of the state. Requires the board and the department to provide oversight for the implementation of the strategic plan. Deletes existing text regarding recommendations by the department for policies and programs.

Sec. 481.034. ABOLITION OF COMMISSION. Provides that the Texas Strategic Economic Development Policy Commission is abolished and this subchapter expires February 1, 1999.

SECTION 22. Amends the heading to Chapter 481D, Government Code, as follows:

SUBCHAPTER D. New heading: INTERNATIONAL TRADE

SECTION 23. Amends Section 481.041, Government Code, to delete a reference to stimulating the expansion of international markets. Makes a nonsubstantive change.

SECTION 24. Amends Section 481.043, Government Code, as follows:

Sec. 481.043. New heading: GENERAL POWERS AND DUTIES RELATING TO INTERNATIONAL TRADE. Requires the department to take certain actions relating to international trade. Deletes existing text regarding the department's duties in regards to international trade.

SECTION 25. Amends Section 481.059(a), Government Code, to delete a reference to guarantee fees. Deletes references to bonds.

SECTION 26. Amends the heading to Chapter 481E, Government Code, as follows:

SUBCHAPTER E. New heading: BUSINESS DEVELOPMENT--GENERAL PROVISIONS

SECTION 27. Amends Section 481.071, Government Code, to provide that the legislature finds that the department should focus business development efforts on rural areas and small business and should actively seek private funding to supplement the department's marketing and advertising efforts. Deletes existing text regarding the economic growth of the state and the securing and retaining of private business enterprises.

SECTION 28. Amends Chapter 481E, Government Code, by adding Section 481.0725, as follows:

Sec. 481.0725. GENERAL POWERS AND DUTIES. Sets forth the powers and duties of the department.

SECTION 29. Amends Section 481.073(b), Government Code, to make a conforming change.

SECTION 30. Amends Section 481.075(a), Government Code, to make conforming changes.

SECTION 31. Amends Section 481.077, Government Code, by adding Subsection (f), to require the department to transfer the Statewide Certified Development Corporation to the private sector not later than June 1, 1999. Requires the department to submit a report to the legislature and the comptroller detailing the plan for the transfer not later than December 1, 1997.

SECTION 32. Amends the heading to Chapter 481H, Government Code, as follows:

SUBCHAPTER H. New heading: BUSINESS DEVELOPMENT--PERMIT ASSISTANCE

SECTION 33. Amends the heading to Chapter 481J, Government Code, as follows:

SUBCHAPTER J. New heading: BUSINESS DEVELOPMENT--SMART JOBS FUND PROGRAM

SECTION 34. Amends Section 481.153, Government Code, make a conforming change.

SECTION 35. Amends Section 481.157(b), Government Code, to make a conforming change.

SECTION 36. Amends Section 481.172, Government Code, to set forth the duties of the department. Deletes existing text regarding certain duties.

SECTION 37. Amends the heading to Chapter 481N, Government Code, as follows:

SUBCHAPTER N. New heading: BUSINESS DEVELOPMENT--LINKED DEPOSIT PROGRAM

SECTION 38. Amends Chapter 481, Government Code, by adding Subchapters K and P, as

follows:

SUBCHAPTER K. INFORMATION AND REFERRAL

Sec. 481.166. LEGISLATIVE FINDINGS. Provides that the legislature makes certain findings regarding economic development and state agencies.

Sec. 481.167. TEXAS BUSINESS AND COMMUNITY ECONOMIC DEVELOPMENT CLEARINGHOUSE. Requires the department to establish the Texas Business and Community Economic Development Clearinghouse (clearinghouse) to provide information and assistance to businesses and communities in the state through the use of a statewide toll-free telephone service. Requires the clearinghouse to collect and disseminate certain information. Requires the clearinghouse to provide access to the information compiled under this subchapter in a user-friendly format through use of the Internet. Requires the department to obtain from other state agencies appropriate information needed by the department to carry out its duties under this subchapter. Requires the comptroller to assist the department in furthering the purposes of this chapter by allowing the department to use the field offices and personnel of the comptroller to disseminate certain information useful to businesses in the state.

SUBCHAPTER P. RESEARCH AND DATA SERVICES

Sec. 481.211. POWERS AND DUTIES. Requires the department to compile, develop, and research certain economic information.

Sec. 481.212. COMPILATION AND DISTRIBUTION OF DATA AND RESEARCH. Requires the department to obtain from other state agencies and organizations, including the comptroller and the Texas Workforce Commission, business-related statistics and data in order to serve as a one-stop center for business-related information. Requires the department to create a web site to publish business-related information on the Internet in order to maximize the accessibility of business-related data. Requires the web site to provide connections to other business-related web sites. Authorizes the department to charge a reasonable access fee in connection with this subchapter.

SECTION 39. Amends Chapter 484, Government Code, as follows:

CHAPTER 484. TEXAS MANUFACTURING INSTITUTE

Sec. 484.001. ESTABLISHMENT. Requires the Texas Manufacturing Institute (institute) to be established as a nonprofit corporation, organized under the Texas Non-Profit Corporation Act, to carry out the purposes of this chapter. Deletes existing text providing that the institute consists of entities involved in the promotion of manufacturing, that join as members of the institute.

Sec. 484.002. DUTIES. Makes conforming changes.

Sec. 484.003. New heading: GOVERNING BOARD. Sets forth provisions for the creation of a governing board of the institute. Deletes existing text regarding the policy board.

Sec. 484.004. New heading: CONFIDENTIALITY. Sets forth confidentiality regulations for the institute. Deletes existing text regarding the technical advisory council.

Sec. 484.005. New heading: PUBLIC FUNDS. Authorizes the Texas Department of Commerce to contract with the institute for the purpose of providing state appropriated funds for use as matching funds for federal grants for programs and purposes within the scope of the institute. Requires the contract to adequately provide for the department's oversight of the use of state funds to ensure that those funds are being used by the institute in accordance with the contract. Deletes text regarding specialized equipment and facilities.

Sec. 484.006. New heading: IMMUNITY FROM LIABILITY. Provides that a member of the governing board or any person acting on behalf of the institute in executing a contract, commitment, or agreement under this chapter is not personally liable on the contract, commitment, or agreement. Deletes existing text regarding disbursement of funds by the policy board. Provides that a member of the board or another person acting on behalf of the institute is not personally liable for damage or injury resulting from the performance of duties under this chapter.

Sec. 484.007. New heading: TRANSFER TO PRIVATE SECTOR. Requires the governing board to submit a plan for transferring the institute to the private sector to certain persons not later than December 1, 1997. Requires the transfer of the institute to the private sector to be complete not later than September 1, 1999. Deletes existing text regarding staffing.

SECTION 40. (a) Repealers: Sections 481.0075, 481.026, 481.042, 481.044, 481.046, 481.048-481.058, 481.060, 481.061, 481.074, 481.078, 481.081-481.0831, 481.0841-481.086, 481.088-481.093, and 483.001-483.006, Government Code (Texas-Mexico Authority, Literacy, Definitions, Powers and Duties Relating to Financing, Honorary Commercial Attache Program, Program Rules, Tax Exemption; Exempt Securities, Conflicts of Interest, Personal Liability of Members of Persons Acting on Behalf of Department, Revenue Bonds Authorized, Bond Sale and Issuance, Agreements in Bonds, Refunding Bonds, Bond Proceeds; Funds, Tax Exemption, Obligations as Legal Investments for Fiduciaries, Electronic Data Base, Compact Exploration With the United Mexican States, Bonds, and Major Employer Development Programs, Short Title, Purpose, Definitions, Office of Rural Affairs, Payments not to be Made to Defaulting Users, Guarantee-to-Reserve Ratio, Penalty for False Information on Application, Additional Powers and Duties, Directive, Criteria, Business Service Outreach Study, Expired, Review, Gifts and Grants, Definitions, Texas Business Enhancement Fund; Creation and Administration, Powers of Department, Support to Department by Other State Departments and Agencies, Provisions Relating to Loan Guarantees, Reports; Audits).

(b) Repealers: Subchapters G, I, M, Q, R, S, T, U, V, X, and Y, Chapter 481, Government Code (Small Business Assistance, State and Local Permits, Data Depository, Development of Products, Small Business Incubators, Shared Foreign Sales Corporations, Indemnification in Connection with Art and Artifacts, Product Commercialization, Small Business Innovation Research, International Trade Commission, At Risk Youth and Dropouts).

(c) Repealer: Chapter 481AA, Government Code (Workforce Development Incentive for Youth; Recycling Market Development).

SECTION 41. (a) Effective date: September 1, 1997.

(b) Provides that the Texas Department of Commerce is abolished and its powers and duties are transferred to the Texas Department of Economic Development and Tourism. Provides that a reference in law to the Texas Department of Commerce means the Texas Department of Economic Development and Tourism.

(c) Sets forth procedures for appointing members to the Texas Department of Economic Development and Tourism.

(d) Authorizes the person appointed to perform the duties of executive director of the Texas Department of Commerce abolished by this Act to continue to perform those duties and complete the term of office established under the prior law governing the authority of the executive director, and the prior law is continued in effect for that purpose.

(e) Authorizes the governor or the person appointed by the governor to be the presiding officer of the governing board of the Texas Department of Economic Development and Tourism to designate a person to perform certain ministerial duties.

(f) Provides that the Texas Department of Economic Development and Tourism has all the powers and duties provided by law and all the property, funds, rules, employees, unspent

appropriations, documents, rights, and obligations of the abolished Texas Department of Commerce, except to the extent the laws governing the Texas Department of Commerce's powers and duties are amended by this Act.

(g) Provides for the continuation of the rules, policies, and procedures of the Texas Department of Commerce until superseded by a rule or other appropriate action of the Texas Department of Economic Development and Tourism.

(h) Provides that the validity of a rule, form, or procedure adopted, contract or acquisition made, proceeding begun, obligation incurred, right accrued, or other action taken by or in connection with the authority of the Texas Department of Commerce before it is abolished under Subsection (b) of this section is not affected by this Act. Provides that to the extent those actions continue to have any effect on or after September 1, 1997, they are considered to be the actions of the Texas Department of Economic Development and Tourism.

SECTION 42. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 5.

Amends Section 481.004(e), Government Code, to delete certain requirements for members of the board.

SECTION 8.

Amends Section 481.0043(b), Government Code, to require the board to meet at least eight times each year, rather than quarterly.

SECTION 9.

Amends Section 481.0044, Government Code, to require the report to include an assessment of the effectiveness of the agreements executed under Section 481.028(b).

SECTION 10.

Amends Section 481.005, Government Code, to delete a proposed strike regarding experience for the executive director and involvement of members of the policy board in the daily operation of the department.

SECTION 12.

Adds Section 481.0065, Government Code, to establish and set forth the duties of the Office of Defense Affairs. Redesignates subsequent SECTIONS.

SECTION 16.

Amends Section 481.022, Government Code, to make nonsubstantive changes.

SECTION 17.

Amends Section 481.023, Government Code, to delete references to specific programs and funds. Prohibits the department from using appropriated funds to support the Texas leverage fund.

SECTION 18.

Amends Section 481.024(f), Government Code, to delete a reference to the Texas Economic Development Foundation.

SECTION 19.

Amends Section 481.028(b)(3), Government Code, to require the department to enter into agreements with the Texas Workforce Commission, the office of the comptroller, and institutions of higher education regarding certain items.

SECTION 20.

Amends Section 481.029, Government Code, to make nonsubstantive changes.

SECTION 21.

Amends Section 481.031, Government Code, to change the composition of the commission. Changes staffing provisions for the commission.

Amends Section 481.032, Government Code, to change the duties of the commission, and to authorize, rather than require, the commission to take certain actions.

Amends Section 481.033, Government Code, to change the date by which the commission is required to submit the strategic plan to certain persons. Requires the board to provide oversight for the implementation of the plan.

Amends Section 481.034, Government Code, to change the date the commission is abolished and this subchapter expires.

SECTION 23.

Amends Section 481.041, Government Code, to reinstate a proposed deletion.

SECTION 24.

Amends Section 481.043, Government Code, to reinstate a proposed deletion and to make nonsubstantive changes.

SECTION 27.

Amends Section 481.071, Government Code, to change the focus of the department.

SECTION 28.

Amends Section 481.0725, Government Code, to make a nonsubstantive change.

SECTION 31.

Amends Section 481.077, Government Code, to change the date by which the department is required to transfer the corporation to the private sector.

SECTION 36.

Amends Section 481.172, Government Code, to change the duties of the department.

SECTION 38.

Amends Section 481.167, Government Code, to provide additional duties to the clearinghouse. Makes a nonsubstantive change.

Amends Section 481.211, Government Code, to change the duties of the department.

Amends Section 481.212, Government Code, to authorize the department to charge a reasonable access fee, and to make nonsubstantive changes.

SECTION 39.

Amends Section 484.001, Government Code, to make a nonsubstantive change.

Amends Section 484.003, Government Code, to change the composition of the governing board of the institute.

Amends Section 484.004, Government Code, to change the confidentiality requirements for the institute.

Amends Section 484.005, Government Code, to deleted private funding for the institute.

Amends Section 484.006, Government Code, to add a provision regarding personal liability for damage or injury. Makes nonsubstantive changes.

SECTION 40.

Repeals additional sections and deletes some repealers.