

## **BILL ANALYSIS**

Senate Research Center

H.B. 3657  
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Economic Development  
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Engrossed

### **DIGEST**

Currently, the smart jobs fund program provides grants to employers for customized training. The program is administered by the Texas Department of Economic Development (TDED) and is set to expire December 31, 1999. H.B. 3657 reauthorizes the program until TDED's 2001 sunset date. The bill also creates a rainy day fund to provide a financial cushion for the program during economic slowdowns, directs new funding to the skills development fund from the unemployment insurance trust fund, modifies the wage requirement necessary to access the program, modifies the information included in the annual report, and requires the performance of a biennial evaluation of the program.

### **PURPOSE**

As proposed, H.B. 3657 sets forth provisions for the continuation, funding, and operation of certain workforce development programs.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the governing board of the Texas Department of Economic Development in SECTIONS 1.02 , 1.03 and 1.08 (Sections 481.152(d), 481.153, and 481.157(b), Government Code) and the TexasWorkforce Commission in SECTION 1.04 (Section 481.154(f), Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

#### **ARTICLE 1. SMART JOBS FUND PROGRAM**

SECTION 1.01. Amends Section 481.151, Government Code, to define "county average weekly wage," "group health benefit plan," "high impact development project," "large business," "medium business," and "minimally qualified job;" to redefine "employee," "micro-business," and "small business;" and to delete the definitions of "business development," "demand occupation," "emerging occupation," "family wage job," "manufacturing occupation," "state average weekly wage," and "targeted industry."

SECTION 1.02. Amends Section 481.152, Government Code, as follows:

Sec. 481.152. New heading: SMART JOBS FUND PROGRAM; PURPOSE; ADMINISTRATION. Provides that the smart jobs fund program (program) is created in the Texas Department of Economic Development (department) as a work force development incentive program to enhance employment opportunities for residents of this state and to increase the job skills of the existing work force by providing job training assistance to businesses operating in, or locating to, this state, rather than meet the needs of existing and new industries in this state. Requires the program to award grants for the creation and retention of jobs that pay more than the county average weekly wage and are covered by a group health benefit plan for which the business pays at least 80 percent of the premiums or other charges assessed for employee-only coverage under the plan. Requires the program to specifically give priority to high impact development project and job training designed to improve the skills of the existing work force in this state. Requires the governing board of the Texas Department of Economic Development (governing board) to develop and adopt, by rule, a scoring system that evaluates the economic impact of grant applications and reflects the criteria set forth in this subchapter. Requires the executive director of the Texas Department of Economic Development (executive director) and the governing board to use the scoring system and a competitive process to award grants. Sets forth the intent of the legislature. Requires at least 70 percent of the money, rather than 60 percent, spent under the

program to be used for projects that assist existing employers located in this state by training or retraining employees. Requires the balance of the money spent under the program to be used for high impact development projects. Requires the governing board to determine appropriate means to accomplish the goals of the program. Authorizes the governing board, as necessary to implement those goals, to work in conjunction with the Texas Workforce Commission and the comptroller of public accounts (comptroller). Requires the department, in implementing provisions under this subchapter regarding the classification of this state into regions, to use the information service regions established by the comptroller under Section 120, Article V, Chapter 19, Acts of the 72nd Legislature, 1st Called Session, 1991 (the General Appropriations Act). Deletes text requiring the program to give priority to the creation and retention of family wage jobs and on employers in industries that promote high skill, high wage jobs in high technology areas and on demand occupations that provide those jobs.

SECTION 1.03. Amends Section 481.153, Government Code, to require the governing board, rather than the policy board, to adopt rules as necessary to implement the program.

SECTION 1.04. Amends Section 481.154, Government Code, as follows:

Sec. 481.154. New heading: FUNDING; RAINY DAY FUND. Sets forth the composition of the fund, including any amounts appropriated by the legislature for the program from the general revenue fund. Prohibits certain department costs from exceeding the lesser of five percent of the total amount appropriated for the program for that fiscal year, or \$1.5 million in any fiscal year. Provides that the smart jobs rainy day fund is established as a special trust fund in the custody of the comptroller separate and apart from all public money or funds of this state. Sets forth the composition of the smart jobs rainy day fund. Authorizes the governing board to authorize the executive director to use money in the smart jobs rainy day fund under certain conditions. Requires the Texas Workforce Commission (commission), by rule, to define "severe economic dislocation," for purposes of Subsection (e). Sets forth the information to be considered by the commission in adopting a definition. Authorizes the executive director to use the money allocated in the affected region, if the governing board approves the use of money from the smart jobs rainy day fund because of a severe economic dislocation occurring in a specific region of the state. Prohibits, notwithstanding any other provision of this section, the total combined amount spent in any fiscal year from the smart jobs fund and the smart jobs rainy day fund from exceeding the amount appropriated by the legislature for that fiscal year for the operation of the smart jobs fund program. Requires the executive director to immediately transfer an excess from the applicable fund to the Unemployment Compensation Fund, if during any three consecutive months, the balance in the smart jobs fund or the smart jobs rainy day fund exceeds a certain amount.

SECTION 1.05. Amends Section 481.155, Government Code, to authorize the executive director and the governing board to award grants for projects that meet the requirements of this chapter. Requires the governing board to make the final award decision for a grant application regarding a high impact development project or requesting an award of at least \$250,000. Prohibits a grant from being awarded unless each employer participating in the project certifies that each job under the project is covered by a group health benefit plan for which the business pays at least 80 percent of the premiums or other charges assessed for employee-only coverage under the plan. Prohibits a grant from being awarded for a certain project unless each employer participating in the project certifies that the starting wage for a new job created through the project will be equal to or greater than the county average weekly wage for the county in which the job or project is located, rather than for that occupation in the local labor market area, and that the wage for a job existing on a certain date will be increased to the greater of: three percent for a micro-business or small business or five percent for a business that is not a micro-business or small business over a certain wage before a certain date; or 100 percent of the county average weekly wage for the county in which the job or project is located. Authorizes an employer to request a modification of the requirements provided by Subsection (e), rather than Subsection (d), and Section 481.159(c), if reasonable factors exist for the modification. Deletes text requiring money from the smart jobs fund to be spent in all areas of the state. Deletes text authorizing the executive director to award certain grants at certain times in certain amounts under certain conditions. Deletes text requiring the executive director to make a certain insurance. Deletes text regarding the program being job driven. Deletes existing subsections (d) (1) and (2), (i), and (j).

SECTION 1.06. Amends Section 481.156, Government Code, as follows:

Sec. 481.156. New heading: GRANT APPLICATION; AWARDING OF GRANTS. Authorizes an employer to apply for a grant under this subchapter. Requires the executive director to establish multiple application review and grant award tracks as provided by this subsection. Sets forth the entities to which the department is authorized to award grants, including one or more employers to secure training. Requires applications submitted by medium and large businesses to include a complete business and training plan. Requires the executive director to establish a quarterly competitive application process for certain grant applications. Requires the governing body to ensure that the complexity of the application process appropriately corresponds to the size of the business and the amount of funds awarded under the grant. Requires the executive director to establish a simplified application process for grant applications from small businesses and micro-businesses and to ensure that the application process for small businesses and micro-businesses is an open and ongoing process. Authorizes the department to provide assistance with the application process to all applicants and to give priority to assisting applicants who are small business or micro-businesses. Requires the department to minimize the length of the application form and to simplify as much as possible the review process for grant applications. Requires the department to notify each applicant as to whether the application is complete within a certain time period. Requires the executive director to act on a completed application requesting an award of less than \$250,000 not later than the 30th day after the date on which the department notifies the applicant that the application is complete. Makes conforming changes.

SECTION 1.07. Amends Chapter 481J, Government Code, by adding Section 481.1565, as follows:

Sec. 481.1565. CONFIDENTIALITY REQUIREMENTS. Provides that information provided by an applicant in a grant application is confidential information for purposes of Chapter 552 only as provided by this section. Provides that information provided by an applicant whose application is denied is confidential information for purposes of Chapter 552. Provides that information provided by an applicant whose application is granted and who accepts an award is confidential information for purposes of Chapter 552 only if the information would otherwise be confidential under the terms of that chapter. Requires the department to make a good faith effort to notify an applicant whose application is granted and who accepts an award of each request for information regarding the applicant that is determined by the department to be a request for information that is not confidential under this subsection and that the department will release to the person requesting the information.

SECTION 1.08. Amends Section 481.157(b), Government Code, authorizes the governing board, rather than the policy board, to adopt rules modifying the requirement of Subsection (a) for employers that are small business or micro-businesses, rather than for employers with fewer than 50 employees.

SECTION 1.09. Amends Section 481.159, Government Code, by amending Subsections (a) and (c), and adding Subsection (d) to authorize the executive director or governing board, as applicable, to approve any project that meets the requirements of this subchapter. Requires the department to enter into a contract with a grant applicant and with each employer participating in the project, if a project is approved and funds are available. Requires the amount of allowable expenditures withheld to be remitted to the employer, if a certain percent of project trainees, other than trainees who leave the employment voluntarily for better-paying jobs. Requires each contract to state the term of the grant award. Requires a grant recipient who does not use all money awarded under the grant for the prescribed purpose within the allotted term to reimburse the program by taking certain action within a certain time period. Requires the executive director to remit money received under this subsection to the comptroller for deposit in the smart jobs rainy day fund.

SECTION 1.10. Amends Section 481.160, Government Code, by amending Subsection (b), and adding Subsection (c), as follows:

Sets forth certain information to be included in the annual report. Requires the department, in addition to the information required under Subsection (b), to include in the annual report, for each region of the state in which a grant is awarded, the percentage paid by employers in that region of the total amount of unemployment insurance contributions paid by employers during the preceding calendar year. Deletes existing subsection (b) (5), (6), (12), and (13). Makes conforming changes.

SECTION 1.11. Amends Chapter 481J, Government Code, by adding Section 481.1605, as follows:

Sec. 481.1605. PERFORMANCE EVALUATION. Requires the governing board to provide for the implementation of a biennial performance evaluation of the smart jobs program. Sets forth the information to be included in the smart jobs program evaluation. Authorizes the governing board to contract with the comptroller or another state agency to perform the evaluation and to submit requests for proposals to contract with a private vendor for performance of the evaluation. Authorizes the governing board to enter into contracts, memoranda of understanding, or interagency agreements as necessary to implement this section. Requires the person performing the evaluation to also analyze the efficiency of the program and the use of administrative funds by the program in performing the evaluation required by this section. Requires the department, the Texas Workforce Commission, and the State Occupational Information Coordinating Committee to cooperate with the person who performs the evaluation in implementing this section. Requires the governing board to pay the costs of the evaluation from money authorized under Section 481.154(c). Prohibits any additional funds from being spent on the performance evaluation.

SECTION 1.12. Amends Section 481.161, Government Code, to provide that this chapter expires December 31, 2001, rather than December 31, 1999.

#### ARTICLE 2. SKILLS DEVELOPMENT FUND

SECTION 2.01. Amends Section 303.003(a), Labor Code, to set forth the composition of the skills development fund.

#### ARTICLE 3. CONFORMING AMENDMENTS

SECTION 3.01. Amends Section 204.0065, Labor Code, to provide that this section expires December 31, 2001, rather than December 31, 1999.

SECTION 3.02. Amends Section 204.0625, Labor Code, to provide that this section expires December 31, 2001, rather than December 31, 1999.

SECTION 3.03. Amends Section 204.123, Labor Code, as follows:

Sec. 204.123. New heading: TRANSFER TO SMART JOBS FUNDS, SKILLS, DEVELOPMENT FUND, AND COMPENSATION FUND. Requires the Texas Workforce Commission (commission) if, on September 1 of a year, the commission determines a certain compensation fund amount, to transfer from the holding fund created under Section 204.122: 50 percent of the amount in the holding fund to the smart jobs fund created under Section 481.154(a), rather than 481.154, Government Code; 30 percent of the amount in the holding fund to the skills development fund created under Section 303.003; and 20 percent of the amount in the holding fund to the smart jobs rainy day fund created under Section 481.154(d), Government Code. Requires the commission to transfer any remaining balance in the holding fund to the smart jobs fund, the skills development fund, and the smart jobs rainy day fund in the percentages prescribed by Subsection (a). Requires the commission, notwithstanding Subsection (a), if, on September 1, 1999, the commission determines that the amount in the compensation fund will exceed 100 percent of its floor as computed under Section 204.061 on the next October 1 computation date, to transfer certain percentage amounts from the holding fund created under Section 204.122. Provides that Subsection (c) and this subsection expire October 2, 1999.

SECTION 3.04. Amends Section 204.124, Labor Code, to provide that this subsection expires December 31, 2001, rather than December 31, 1999.

#### ARTICLE 4. TRANSITION; EFFECTIVE DATE; EMERGENCY

SECTION 4.01. Makes application of this Act prospective.

SECTION 4.02. Effective date: September 1, 1999.

SECTION 4.03. Emergency clause.