

## **BILL ANALYSIS**

Senate Research Center  
76R15164 PB-D

C.S.H.B. 3657  
By: Oliveira (Sibley)  
Economic Development  
5/13/1999  
Committee Report (Substituted)

### **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. C.S.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 Smart Jobs and Skills Development program.

### **PURPOSE**

As proposed, C.S.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, 1.05, 1.06, 1.07, 1.08, 1.09 (Sections 481.152(c), 481.153, 481.155(c), 481.156(c), 481.1565(b), 481.157(b), and 481.159(c) Government Code); and the Texas Workforce Commission in SECTIONS 1.04 and 1.07 (Section 481.154(f) and 481.1565(b), 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," "large business," "medium business," and "qualified job"; to redefine "existing employer," "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 qualified jobs. 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) to use the scoring system and a competitive process to award grants. Sets forth the intent of the legislature. 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).

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 to award grants for projects that meet the requirements of this chapter. Prohibits a grant from being awarded unless each employer participating in the project certifies that each job is covered by a group health benefit plan for which the business pays at least a certain percentage of the plan. Authorizes the executive director to waive the coverage requirement for a particular job if the affected employee voluntarily waives the coverage in the manner prescribed by rules adopted by the governing board. 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 (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 (e) (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. Sets forth certain individuals who may apply for a grant. Authorizes the board to exempt, by rule, a micro-business from the requirement to submit a business and training plan that complies with Subsection (b). Requires the board to establish a simplified application process for grant applications from micro-businesses. 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. Deletes text

requiring the executive director to act on a certain application. Makes conforming changes.

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

Sec. 481.1565. PARTICIPATION IN ADDITIONAL PROGRAMS; APPLICATION REQUIREMENTS. Prohibits a business from applying for both a grant under this subchapter and to certain colleges for customized training and assessment from the college through a grant issued to the college under the skills development funds, unless the business and the college file an application for concurrent participation in both programs. Requires the commission and the board to jointly establish, by rule, the requirements for the application.

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 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, have been retained in employment for a certain time period. Requires the board to establish, by rule, procedures as necessary to verify that a trainee has left the employment for a better-paying job. 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), to set forth certain information to be included in the annual report. Makes conforming and nonsubstantive changes.

SECTION 1.11. 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.

SECTION 2.02. Amends Chapter 303, Labor Code, by adding Sections 303.005 and 303.006, as follows:

Sec. 303.005. PARTICIPATION IN ADDITIONAL PROGRAMS; APPLICATION REQUIREMENTS. Prohibits an employer from applying both to a public community or technical college for customized training and assessment from the college through a grant issued to the college under the fund program established under this chapter for a grant under the smart jobs fund program established under Chapter 481J, Government Code, unless the employer and the college file an application for concurrent participation in both programs that complies with Section 481.1565, Government Code.

Sec. 303.006. REPORTING REQUIREMENTS. Defines “employee,” “employer,” “existing employer,” “in-kind contribution,” “job,” “large employer,” “medium employer,” “micro-employer,” “program,” “small employer,” “trainee,” and “wages.” Requires the executive director to use the uniform service regions established by the comptroller, and to report to the governor and the legislature the status of the program each year. Sets forth information that the report must include.

## ARTICLE 3. STUDY OF WORKFORCE PROGRAMS BY COMPTROLLER

SECTION 3.01. Amends Chapter 403, Government Code, by adding Subchapter N, as follows:

## SUBCHAPTER N. STUDY OF CERTAIN WORKFORCE DEVELOPMENT PROGRAMS

Sec. 403.351. PERFORMANCE EVALUATION. Sets forth provisions regarding a biennial performance evaluation to be conducted by the comptroller.

### ARTICLE 4. CONFORMING AMENDMENTS

SECTION 4.01. Amends Section 204.0065, Labor Code, to provide that this section expires December 31, 2001, rather than December 31, 1999.

SECTION 4.02. Amends Section 204.0625, Labor Code, to provide that this section expires December 31, 2001, rather than December 31, 1999.

SECTION 4.03. 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 4.04. 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 5.01. Makes application of this Act prospective to January 1, 2000.

SECTION 5.02. Provides that Section 481.159(d), Government Code, applies to reimbursement by an employer of money awarded before, on, or after September 1, 1999.

SECTION 5.03. Effective date: September 1, 1999.

SECTION 5.04. Emergency clause.