

BILL ANALYSIS

Senate Research Center

S.B. 1084
By: Hinojosa
Economic Development
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1084 makes changes to the enterprise zone program. The enterprise zone program was initially created in the 1980s to provide businesses with incentives to locate in economically disadvantaged areas and create jobs. The enterprise zone program refunds sales taxes to qualifying businesses that meet employment and investment criteria set out in statute.

S.B. 1084 seeks to maximize the benefits and incentives of the program while limiting costs to the state. S.B. 1084 accomplishes its objective by emphasizing stronger incentives for job creation, maintaining incentives for job retention, freeing up slots to allow more businesses to participate, not wasting unused incentives from underutilized designations by smaller projects, spreading the allocation of awards across the biennium, and incentivizing the hiring of veterans.

As proposed, S.B. 1084 amends current law relating to the enterprise zone program.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2303.003, Government Code, by amending Subdivision (7) to redefine "qualified employee" and adding Subdivision (9) to define "veteran."

SECTION 2. Amends Section 2303.402(a), Government Code, as follows:

(a) Provides that a person is a qualified business if the Texas Economic Development Bank (bank), for the purpose of state benefits under this chapter (Enterprise Zones), or the nominating body of a project or activity of the person under this chapter, for the purpose of local incentives, certifies that:

(1) the person is engaged in or has provided substantial commitment to initiate the active conduct of a trade or business in an enterprise zone, and at least 25 percent of the person's new permanent jobs and retained jobs, rather than the person's new employees, in the enterprise zone eligible for enterprise zone program benefits are held by, among other certain individuals, veterans;

(2) the person is engaged in or has provided substantial commitment to initiate the active conduct of a trade or business in an area of this state that does not qualify as an enterprise zone, and at least 35 percent of the person's new permanent jobs and retained jobs, rather than the person's new employees, at the qualified business site eligible for enterprise zone program benefits are held by, among other certain individuals, veterans.

SECTION 3. Amends Section 2303.403, Government Code, as follows:

Sec. 2303.403. PROHIBITION ON QUALIFIED BUSINESS CERTIFICATION; LIMIT ON ENTERPRISE PROJECT DESIGNATIONS. (a) Creates this subsection from existing text and makes no further change to this subsection.

(b) Creates this subsection from existing text. Prohibits the bank from designating more than 10 percent of the maximum allowed enterprise projects in each of the application rounds during the biennium, except that the bank is authorized to exceed the 10 percent limit during any application round to designate an enterprise project of a qualified business considered by the Texas Economic Development and Tourism Office (office) to be a state priority project.

SECTION 4. Amends Section 2303.4052, Government Code, to require the nominating body, before nominating the project or activity of a qualified business for designation as an enterprise project, to submit to the bank certain information, including a certified copy of the minutes, rather than a transcript, of all public hearings conducted with respect to local incentives available to qualified businesses within the jurisdiction of the governmental entity nominating the project or activity, regardless of whether those businesses are located in an enterprise zone, and documentation showing the number of employment positions, rather than documentation showing the number of employment positions at the qualified business site, if the business is seeking job retention benefits.

SECTION 5. Amends Section 2303.406, Government Code, by amending Subsections (b), (e), and (g), as follows:

(b) Deletes existing text providing that this subsection does not apply to certain qualified businesses. Requires the bank to designate qualified businesses as enterprise projects on a competitive basis, subject to the limitations provided by Section 2303.403.

(e) Prohibits the office, during any biennium, from designating multiple concurrent enterprise projects to a qualified business located at a qualified business site.

(g) Authorizes the bank to split or lower the designation level of a proposed project or activity nominated for enterprise project designation based on the number of projected new permanent jobs or retained jobs under certain conditions. Authorizes the bank to determine how to proportionally allocate state benefits among the projects or activities if an enterprise project designation is split between two or more projects or activities. Makes nonsubstantive changes.

SECTION 6. Amends Section 2303.407, Government Code, by amending Subsections (b), (c), and (d) and adding Subsection (e), as follows:

(b) Provides that a capital investment in a project of:

(1)-(3) Makes no changes to these subdivisions;

(4) \$5,000,000 or more, rather than \$5,000,000 to \$149,999,999, will result in a refund of up to \$2,500 per job with a maximum refund of \$1,250,000 for the creation or retention of 500 jobs, except as provided by Subdivision (5) or (6);

(5) \$150,000,000 to \$249,999,999 will result in a refund of up to \$5,000 per job with a maximum refund of \$2,500,000 for the creation of 500 new permanent jobs, rather than the creation or retention of 500 jobs, if the bank designates the project as a double jumbo enterprise project; or

(6) \$250,000,000 or more will result in a refund of up to \$7,500 per job with a maximum refund of \$3,750,000 for the creation of at least 500 new permanent jobs, rather than the creation or retention of at least 500 jobs, if the bank designates the project as a triple jumbo enterprise project.

(c) Provides that an enterprise project for which a commitment for a capital investment in the range amount and the creation of the number of new permanent jobs, rather than the creation or retention of the number of jobs, specified by Subsection (b)(5) is made is considered a double jumbo enterprise project if the project is so designated by the bank. Prohibits the bank from designating a project as a double jumbo enterprise project after the initial designation period approved by the bank under Section 2303.404(b) (relating to requiring that the enterprise project designation be for certain expansions, relocations, or predetermined designation period).

(d) Provides that an enterprise project for which a commitment for a capital investment in the range amount and the creation of the number of new permanent jobs, rather than the creation or retention of the number of jobs, specified by Subsection (b)(6) is made is considered a triple jumbo enterprise project if the project is so designated by the bank. Prohibits the bank from designating a project as a triple jumbo enterprise project after the initial designation period approved by the bank under Section 2303.404(b).

(e) Provides that state-mandated and federally mandated capital investments, including pollution abatement equipment, do not qualify as committed capital investment in an enterprise project under this chapter.

SECTION 7. Amends Section 2303.504, Government Code, as follows:

Sec. 2303.504. New heading: STATE TAX REFUNDS; REPORT. (a) Entitles an enterprise project, subject to Section 2303.516, to a refund of state taxes under Section 151.429, Tax Code. Deletes existing text entitling an enterprise project, subject to Section 2303.516, to a franchise tax credit under Subchapter Q-1 (Tax Credits for Enterprise Projects for Certain Capital Investments [repealed]), Chapter 171 (Franchise Tax), Tax Code. Makes nonsubstantive changes.

(b) Requires three percent of the amount of the tax benefit to be transferred to the Texas economic development bank fund under Subchapter B (Creation and Operation of Bank; Texas Economic Development Bank Fund), Chapter 489 (Texas Economic Development Bank), to defray the cost of administering this chapter at the time of receipt of any tax benefit available as a result of participating in the enterprise zone program, including a state sales and use tax refund, rather than a state sales and use tax refund or franchise tax credit.

(c) Requires the comptroller of public accounts of the State of Texas (comptroller), not later than the 60th day after the last day of each fiscal year, to report to the bank the statewide total of actual jobs created, actual jobs retained, and the tax refunds, rather than the statewide total of actual jobs created, actual jobs retained, and the tax refunds and credits, made under this section during that fiscal year.

SECTION 8. Amends Section 2303.516(b), Government Code, to authorize the comptroller to determine that the business or project is not entitled to a refund, rather than refund or credit, of state taxes under Section 2303.504 if certain conditions are met.

SECTION 9. Amends Section 151.429, Tax Code, by amending Subsections (b) and (c), as follows:

(b) Provides that a capital investment at the qualified business site of:

(1)-(3) Makes no changes to these subdivisions;

(4) \$5,000,000 or more, rather than \$5,000,000 to \$149,999,999, will result in a refund of up to \$2,500 per job with a maximum refund of \$1,250,000 for the creation or retention of 500 jobs, except as provided by Subdivision (5) or (6);

(5) \$150,000,000 to \$249,999,999 will result in a refund of up to \$5,000 per job with a maximum refund of \$2,500,000 for the creation of 500 new permanent jobs, rather than the creation or retention of 500 jobs, if the bank designates the project as a double jumbo enterprise project; or

(6) \$250,000,000 or more will result in a refund of up to \$7,500 per job with a maximum refund of \$3,750,000 for the creation of at least 500 new permanent jobs, rather than the creation or retention of at least 500 jobs, if the bank designates the project as a triple jumbo enterprise project.

(c) Makes conforming changes.

SECTION 10. Repealer: Section 2303.109(b) (relating to authorizing that certain areas be designated as an enterprise zone without further qualification for not longer than a certain period), Government Code.

SECTION 11. (a) Provides that the changes in law made by this Act to Subsection (a), Section 2303.402, Government Code, apply only to an application for a designation of an enterprise project under the enterprise zone program under Chapter 2303, Government Code, as amended by this Act, filed on or after the effective date of this Act. Provides that an application for designation of an enterprise project under the enterprise zone program filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(b) Provides that the changes in law made by this Act to Section 2303.407, Government Code, and Section 151.429, Tax Code, as amended by this Act, apply only to an enterprise project designation made on or after the effective date of this Act. Provides that an enterprise project designation made before the effective date of this Act is governed by the law in effect when the designation was made, and the former law is continued in effect for that purpose.

SECTION 12. Effective date: upon passage or September 1, 2013.