

## BILL ANALYSIS

Senate Research Center  
79R9363 JMM-F

S.B. 1096  
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S/C on Emerging Technologies & Economic Development  
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### AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, Texas does not have a reliable funding source for job training or the Texas Enterprise Fund. Additionally, Texas does not offer a program of incentives to employers to train and retain higher paid workers.

As proposed, S.B. 1096 creates a funding source for job training and the Texas Enterprise Fund. The bill also establishes a program that pays to train workers who are employed in higher paying jobs in the county where the worker is employed. The bill also provides grants to employers to train the employees by levying an additional 0.1 percent assessment on each employer paying contributions under the unemployment insurance fund.

S.B. 1096 does not increase an employer's unemployment insurance tax rate because the employment and training investment assessment is 0.1 percent with an offsetting reduction in the replenishment tax rate of 0.1 percent.

The bill also provides the state with a mechanism to set aside funds to be used for economic development during an economic downturn by establishing a holding fund to be used when the 0.1 percent set aside is no longer available.

### RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Workforce Commission in SECTION 1 (Sections 302.102, 302.103, 302.104, 302.107, 302.108, 302.109, 302.111, 302.112, and 302.113, Labor Code) of this bill.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 302, Labor Code, by adding Subchapter F, as follows:

#### SUBCHAPTER F. SMART JOBS FUND PROGRAM

Sec. 302.101. DEFINITIONS. Defines "county average weekly wage," "employee," "employer," "existing employer," "group health benefit plan," "in-kind contribution," "job," "large business," "medium business," "micro-business," "minority employer," "minority group members," "program," "project," "provider," "qualified job," "small business," "trainee," and "wages."

Sec. 302.102. SMART JOBS FUND PROGRAM; PURPOSE; ADMINISTRATION.  
(a) Provides that the smart jobs fund program (program) is created in the division of workforce development (division) of the Texas Workforce Commission (commission) as a workforce development incentive program to enhance employment opportunities for residents of this state and to increase the job skills of the existing workforce by providing job training assistance to businesses operating in, or relocating to, this state.

(b) Requires the program to award grants for the creation and retention of qualified jobs. Requires at least 60 percent of the money spent under the program to be used for projects that assist existing employers. Requires at least 20 percent to be used for employers that relocate operations to this state.

(c) Requires the commission, by rule, to develop and adopt 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 division (executive director) to use the scoring system and a competitive process to award grants. Provides that it is the intent of the legislature that, to the greatest extent possible, funds from the program be allocated in a certain manner.

(d) Requires the commission to determine appropriate means to accomplish the goals of the program. Authorizes the commission, as necessary to implement those goals, to work in conjunction with the comptroller.

(e) Requires the division to administer the program.

(f) Authorizes the executive director to employ personnel as necessary to administer the program.

(g) Requires the division, in implementing provisions under this subchapter regarding the classification of this state into regions, to use the uniform 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).

Sec. 302.103. RULES. Requires the commission to adopt rules as necessary to implement the program.

Sec. 302.104. FUNDING; RAINY DAY FUND. (a) Provides that the smart jobs 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 fund.

(b) Provides that the program is funded through the smart jobs fund.

(c) Authorizes money in the smart jobs fund to be used for program administration, marketing expenses, and evaluation of the program. Prohibits the cost of the division in any fiscal year from exceeding the lesser of certain amounts.

(d) Establishes the smart jobs rainy day fund is 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.

(e) Authorizes the commission to authorize the executive director to use money in the smart jobs rainy day fund if certain conditions are satisfied.

(f) Requires the commission, by rule, to define "severe economic dislocation" for purposes of Subsection (e). Requires the commission, in adopting a definition, to consider certain employment-related factors.

(g) Authorizes the executive director, if the commission 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, to use the money allocated from the smart jobs rainy day fund solely for projects located in the affected region.

(h) 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 program.

(i) Requires the executive director, if, during any three consecutive months, the balance in the smart jobs fund or the smart jobs rainy day fund exceeds 0.15 percent of the total taxable wages for the four calendar quarters ending the

preceding June 30, as computed under Section 204.062(c), to immediately transfer the excess from the applicable fund to the unemployment compensation fund created under Section 203.021.

Sec. 302.105. DESIGNATION OF PROGRAM FUNDS FOR ECONOMIC DEVELOPMENT. Requires a percentage of money in the smart jobs fund determined by the General Appropriations Act to be transferred to the office of the governor for the purpose of attracting businesses for economic development through the use of the program. Requires the governor to determine the qualified recipients of the money for the purpose of attracting businesses to the state in accordance with commission rules and requirements for smart jobs grants. Provides that the resulting smart jobs grants are exempt from Section 302.102(c) and administered by the division.

Sec. 302.106. GRANTS. (a) Authorizes the executive director to award grants for projects that meet the requirements of this subchapter.

(b) Prohibits a grant from being awarded unless each employer participating in the project certifies that certain criteria are met.

(c) 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 50 percent of the premiums or other charges assessed for employee-only coverage under the plan.

(d) Prohibits a grant from being awarded for a project under this section 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 and that the wage for a job existing on the date on which the project is scheduled to begin will be increased to the greater of certain amounts.

(e) Authorizes an employer to apply for a grant under this subchapter. Authorizes the executive director, on request by an employer, to grant a modification of the requirements provided by Subsection (d) and Section 302.109, if the commission has made the determination under Section 302.104(e)(2).

(f) Prohibits grants awarded under this section for which the executive director has modified the requirements of Subsection (d), in any fiscal year, from exceeding 10 percent of the total dollar amount of grants awarded under the program in that year.

(g) Prohibits a grant, unless modified by the executive director under rules adopted by the commission, from being awarded for a project unless each employer participating in the project certifies that it will continue to spend on nonmanagerial training an amount from private sources equal to the average amount spent by that employer on such training for the most recent two-year period.

(h) Prohibits a grant from being awarded for a project if the project will impair existing contracts for services or collective bargaining agreements, except that a project inconsistent with the terms of a collective bargaining agreement may be undertaken with the written concurrence of the collective bargaining unit and the employer or employers who are parties to the agreement.

Sec. 302.107. GRANT APPLICATION; AWARDING OF GRANTS. (a) Authorizes certain persons to apply for a grant under this subchapter.

(b) Requires a grant application to be filed with the division in a form approved by the executive director and, except as provided by Subsection (c), to include a complete business and training plan, including certain information.

(c) Authorizes the commission by rule to exempt a micro-business from the requirement to submit a business and training plan that complies with Subsection (b). Requires the commission by rule to establish a simplified application process for grant applications from micro-businesses.

(d) Authorizes the division to provide assistance with the application process to all applicants and requires the division to give priority to assisting applicants who are small businesses or micro-businesses.

(e) Requires the division to minimize the length of the application form and simplify as much as possible the review process for grant applications.

(f) Requires the division to notify each applicant as to whether the application is complete not later than the fifth business day after the date on which the application is received by the division.

Sec. 302.108. PARTICIPATION IN ADDITIONAL PROGRAMS; APPLICATION REQUIREMENTS. (a) Prohibits a business from applying both for a grant under this subchapter and to a public community or technical college for customized training and assessment from the college through a grant issued to the college under the skills development fund program established under Chapter 303 unless the business and the college file an application for concurrent participation in both programs.

(b) Requires the commission by rule to establish the requirements for an application subject to this section.

Sec. 302.109. MATCHING REQUIREMENTS; EXEMPTIONS. (a) Requires money provided under a grant for a project to be matched by private funds provided by the employer benefiting from the project in an amount at least equal to the amount provided by the grant.

(b) Authorizes the commission to adopt rules modifying the requirements of Subsection (a) for employers that are small businesses or micro-businesses and also to adopt rules modifying the requirements of Subsection (a) for projects that provide significant economic benefits to an entire region of the state.

(c) Authorizes employer matches to include documented in-kind contributions as well as wages paid to trainees during the training period.

Sec. 302.110. TRAINEES. Requires the program to give priority to residents of this state, including residents formerly sentenced to the institutional division or the state jail division of the Texas Department of Criminal Justice.

Sec. 302.111. CONTRACTS. (a) Authorizes the executive director to approve any project that meets the requirements of this subchapter. Requires the division, if a project is approved and funds are available, to enter into a contract with the grant applicant and with each employer participating in the project. Requires the contract to specify those skills and competencies to be gained as a result of the project.

(b) Authorizes reimbursable costs in the contract to include only those expenses related to direct training in job-related basic skills, including literacy skills, job-related vocational skills, and administrative costs. Prohibits total administrative costs for any particular project from exceeding 10 percent of the project's expenditures.

(c) Requires each contract to provide a schedule for payment of smart jobs and fund money. Requires twenty-five percent of allowable expenditures to be withheld by the division from each scheduled payment for 90 days after the date of completion of the contract. Requires the amount of allowable expenditures withheld to be remitted to the employer if at least 85 percent of the trainees in the project have been retained in employment for that 90-day period, other than

trainees who leave the employment voluntarily for better-paying jobs, and have successfully achieved the skills and competencies, wage requirements, and other contractual obligations. Requires the commission by rule to establish procedures as necessary to verify that a trainee has left the employment for a better-paying job. Provides that, if there is a negative balance, the employer is liable for the amount of the negative balance and is required to remit that amount to the division not later than the 30th day after the date on which the employer is notified of the negative balance by the division.

(d) 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 submitting the appropriate amount to the executive director not later than the 30th day after the expiration date of the term of the grant award. Requires the executive director to remit money received under this subsection to the comptroller for deposit in the smart jobs rainy day fund.

Sec. 302.112. SMART JOBS PROGRAM CONTRACT PROVISIONS. Requires the commission by rule to require each smart jobs contract to have certain characteristics.

Sec. 302.113. SMART JOBS PROGRAM MONITORING PRACTICES. Requires the commission to adopt, by rule, program monitoring practice that include certain functions.

Sec. 302.114. ANNUAL REPORT. (a) Requires the commission to report to the governor and the legislature at the end of each fiscal year on the status of the program.

(b) Requires the annual report to include certain information for that fiscal year.

(c) Requires the commission, 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.

Sec. 302.115. EXPIRATION. Provides that this subchapter expires December 31, 2009.

SECTION 2. Amends Subchapter A, Chapter 204, Labor Code, by adding Section 204.0065, as follows:

Sec. 204.0065. TEMPORARY INITIAL CONTRIBUTION RATE. Requires a person's contribution rate, notwithstanding Section 204.006, on and after January 1, 2006, to be two and six-tenths percent until the date the experience rate computed under Section 204.041 takes effect for the employer. Provides that this section expires December 31, 2009.

SECTION 3. Amends Subchapter D, Chapter 204, Labor Code, by adding Section 204.0625, as follows:

Sec. 204.0625. TEMPORARY ADJUSTMENT TO REPLENISHMENT TAX RATE. Requires the replenishment tax rate computed under Section 204.062, on and after January 1, 2006, to be adjusted to a rate computed by subtracting 0.1 from the quotient computed under Section 204.062(a). Provides that this section expires December 31, 2009.

SECTION 4. Amends Chapter 204, Labor Code, by adding Subchapter G, as follows:

#### SUBCHAPTER G. EMPLOYMENT TRAINING INVESTMENT ASSESSMENT; FUNDS

Sec. 204.121. EMPLOYMENT TRAINING INVESTMENT ASSESSMENT. (a) Provides that in addition to any other taxes imposed under this subtitle, an employment

training investment assessment is imposed on each employer paying contributions under this subtitle as a separate assessment of 0.1 percent of wages paid by the employer.

(b) Requires the commission to deposit the revenue from the employment training investment assessment to the credit of the holding fund created under Section 204.122.

(c) Provides that the employment investment training assessment is due at the same time, collected in the same manner, and subject to the same penalties and interest as other contributions assessed under this subtitle.

Sec. 204.122. HOLDING FUND. (a) Provides that the holding fund is a special trust fund in the custody of the comptroller separate and apart from all public money or funds of this state.

(b) Requires the comptroller to administer the holding fund in accordance with the directions of the commission. Requires interest accruing on amounts in the holding fund to be deposited quarterly to the credit of the compensation fund.

Sec. 204.123. TRANSFER TO SMART JOBS FUNDS, SKILLS DEVELOPMENT FUND, AND COMPENSATION FUND. (a) Requires the commission, if, on September 1 of a year, 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 make transfers from the holding fund created under Section 204.122 to certain other funds.

(b) Requires the commission, if, on September 1 of a year, the commission determines that the amount in the compensation fund will be at or below 100 percent of its floor as computed under Section 204.061 on the next October 1 computation date, to transfer to the compensation fund as much of the amount in the holding fund as is necessary to raise the amount in the compensation fund to 100 percent of its floor, up to and including the entire amount in the holding fund. 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).

Sec. 204.124. EXPIRATION. Provides that this subchapter expires December 31, 2009.

SECTION 5. Amends Section 19.011(a), Education Code, to include information on the smart jobs program under Subchapter F, Chapter 302, Labor Code, as being required to be provided to persons confined or imprisoned in the department by the district with the cooperation of the commission and the Texas Economic Development and Tourism Office.

SECTION 6. Amends Section 2308.308, Government Code, to make a conforming change.

SECTION 7. Amends Section 303.005, Labor Code, to make conforming changes.

SECTION 8. Amends Section 306.007(a), Labor Code, to amend the information that the commission is required to provide to assist in the reintegration into the labor force of persons formerly sentenced to the institutional division or the state jail division. Makes a conforming change.

SECTION 9. Requires the commission to adopt rules to implement Subchapter F, Chapter 302, Labor Code, as added by this Act, not later than December 31, 2005.

SECTION 10. Effective date: September 1, 2005.