

SUBJECT: Redefining small business in various statutes

COMMITTEE: Business and Industry — favorable, with amendment

VOTE: 7 ayes — Brimer, Crabb, Eiland, Giddings, Janek, Rhodes, Solomons
0 nays
1 present, not voting — Brady
1 absent — Corte

WITNESSES: For — Robert Howden, National Federation of Independent Business/Texas
Against — None

DIGEST: HB 1292, as amended, would redefine "small business" as a for-profit independently owned and operated business that has fewer than 50 employees or less than \$3 million in annual gross receipts. The definition would used to amend six sections of the Government Code and the Workforce and Economic Competitiveness Act in the Labor Code. The bill would take effect September 1, 1995.

SUPPORTERS SAY: HB 1292 would alleviate confusion caused by having varied definitions of "small business" in the law. Many Texas businesses would like to apply to the state for small business assistance, but they have difficulty determining whether or not they meet the definition of a small business in a particular program. For example, under various current laws small businesses may have a maximum workforce of anywhere from 25 employees to 500. In addition, several of the definitions limit small businesses to those with receipts of \$1 million or more, a cap that excludes too many small businesses. Most other states have a uniform definition of small business, and Texas should too.

The changes in definition were recommended after thorough study by the Special House Committee on Small Business Access to Capital. One area where the change would be especially beneficial would be in data collection about small businesses. Data concerning lending by financial institutions to

small businesses must be collected by federal agencies for the Federal Deposit Insurance Corporation, but because the classifications used for this purpose often relate to the size of the loan rather than the size of the business, the data is not a good indicator of small business lending practices. If banks had a uniform definition of small business, the information reported on small businesses would be more useful.

OPPONENTS
SAY:

The definition changes proposed by HB 1292 might negatively affect some of the programs they govern. The definitions of small business may vary depending on the particular program for good reason. For example, the business incubator program that subsidizes small businesses in localities by allowing them to share space, equipment and support personnel in a facility partially funded by the state now appropriately applies only to businesses with 25 or fewer employees. Raising the employee threshold to take in businesses with up to 50 employees would let in businesses that have passed the start-up stage and no longer need a helping hand from the state.

The Small Business Innovation Research Program (SBIR), on the other hand, now applies to businesses with up to 500 employees, which is the corresponding number in the equivalent federal program. Changing the limit to 50 employees would force businesses that now can apply through the state to apply instead through the federal government. This might discourage technology and research-oriented companies from locating operations in Texas because they might get an SBIR grant more easily in another state.

Another potential problem is the bill's failure to define "employee," not specifying whether a part-time, temporary or seasonal worker would be counted.

NOTES:

The committee amendment would eliminate a proposed change in the Insurance Code definition of small employer, retaining the current definition's threshold of three to 50 employees in provisions related to small employer health insurance availability.