

BILL ANALYSIS

Senate Research Center

H.B. 3452
By: Gallego (Sibley)
Business & Commerce
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Engrossed

DIGEST AND PURPOSE

In 1997, the Texas Department of Commerce was abolished and its functions were transferred to the Texas Department of Economic Development (TDED). TDED helps develop and promote the Texas economy by funding job training for Texas businesses, promoting Texas as a tourist destination, providing assistance to Texas businesses and communities, and serving as a central source of economic development information. TDED is subject to the Texas Sunset Act and will be abolished on September 1, 2001, unless continued by the legislature. As a result of its review of TDED, the Sunset Advisory Commission has recommended a two-year continuation of TDED along with several modifications in TDED's practices and procedures. H.B. 3452 continues TDED until September 1, 2003, modifies TDED's enabling statutes, and transfers funds used to administer the smart jobs fund program to the unemployment insurance trust fund administered by the Texas Workforce Commission.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Department of Economic Development in SECTION 1.14 (Section 481.021, Government Code) and SECTION 3.02 (Section 481.415, Government Code) of this bill.

Rulemaking authority is expressly granted to the secretary of state in SECTION 2.02 (Section 405.045, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. CONTINUATION AND FUNCTIONS OF TEXAS DEPARTMENT OF ECONOMIC DEVELOPMENT

SECTION 1.01. Amends Section 481.001, Government Code, by adding Subdivision (5) to define "council."

SECTION 1.02. Amends Section 481.003, Government Code, to provide that the Texas Department of Economic Development (department) is subject to Chapter 325 (Texas Sunset Act) and, unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2003.

SECTION 1.03. Amends Chapter 481A, Government Code, by adding Section 481.0031, as follows:

Sec. 481.0031. OVERSIGHT OF DEPARTMENT. Requires certain criteria to be used to determine if the department has successfully implemented the proper management and oversight controls of the state's economic development efforts Requires the department to report to the Sunset Advisory Commission by September 1, 2002, on the status of the criteria set out in this section as part of the reevaluation of the department. Provides that this section expires September 1, 2003.

SECTION 1.04. Amends Section 481.004, Government Code, to provide that the department's governing board is composed of five (rather than nine) public members appointed by the governor with the advice and consent of the senate. Provides that members of the governing board serve for staggered six-year terms with the terms of either one or two (rather than three) members expiring February 1 of each odd-numbered year in accordance with Section 30a, Article XVI, Texas Constitution. Deletes existing Subsection (c).

SECTION 1.05. Amends Section 481.024, Government Code, by adding new Subsections (c) and (d) and relettering current Subsections (c), (d), (e), and (f) as Subsections (e), (f), (g), and (h), respectively, as follows:

(c) Authorizes the corporation to engage in fund-raising activities for the market Texas program only and to raise no more than \$2 million per biennium in those fund-raising activities.

(d) Authorizes the office of the governor to use all money raised by the corporation as discretionary funds only for the purposes stated in the rules of the market Texas program to promote exceptional economic development projects in the state. Prohibits the office of the governor from using general revenue funds appropriated by the legislature for the market Texas program to promote exceptional economic development projects under this subsection.

SECTION 1.06. Amends Section 481.0041(c), Government Code, to require the executive director, if a potential ground for removal involves the presiding officer, to notify the next highest ranking officer of the governing board, who is then required to notify the governor and the attorney general that a potential ground for removal exists.

SECTION 1.07. Amends Section 481.0044, Government Code, by adding Subsection (e) to require the governing board to develop and implement policies that clearly separate the policy-making responsibilities of the governing board and the management responsibilities of the executive director and staff of the department.

SECTION 1.08. Amends Chapter 481A, Government Code, by adding Section 481.0045, as follows:

Sec. 481.0045. TRAINING. Prohibits a person who is appointed to and qualifies for office as a member of the governing board from voting, deliberating, or being counted as a member in attendance at a meeting of the governing board until the person completes a training program that complies with this section. Sets forth requirements for the training program. Provides that a person appointed to the governing board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

SECTION 1.09. Amends Section 481.0065, Government Code, to require the Office of Defense Affairs to perform certain functions. Deletes existing Subsection (f) and makes a nonsubstantive change.

SECTION 1.10. Amends Section 481.0066, Government Code, by adding Subsection (i) to prohibit the Texas Strategic Military Planning Commission (commission), in carrying out its duties, from deliberating the purchase, exchange, lease, or value of real property, deliberating the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of an officer or employee of the department, or hearing a complaint or charge against an officer or employee of the department.

SECTION 1.11. Amends Section 481.007, Government Code, to set forth guidelines regarding advisory committees.

SECTION 1.12. Amends Section 481.010, Government Code, by adding Subsection (i) to require the executive director or the executive director's designee to provide to department employees information and training on the benefits and methods of participation in the state employee incentive program.

SECTION 1.13. Amends Section 481.012, Government Code, by amending Subsection (b), adding a new Subsection (c), and redesignating current Subsections (c) and (d) as Subsections (d) and (e), respectively, as follows:

(b) Requires a complaint file to include certain information.

(c) Requires the department to provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the department's policies and procedures relating to complaint investigation and resolution.

SECTION 1.14. Amends Section 481.021(c), Government Code, to require the department to adopt certain rules.

SECTION 1.15. Amends Section 481.154, Government Code, regarding department funding.

SECTION 1.16. Amends Section 481.161, Government Code, to provide that Sections 481.151, 481.152, 481.153, 481.155, 481.156, 481.1565, 481.157, 481.158, 481.159, and 481.160, and this section expire December 31, 2001.

SECTION 1.17. Amends Chapter 481L, Government Code, by adding Sections 481.175, 481.176, 481.177, and 481.178, regarding the Texas Tourism Coordinating Council and tourism performance measures.

SECTION 1.18. (a) Provides that this section governs the transition from a nine-member governing board of the Texas Department of Economic Development to a governing board composed of five members in accordance with the changes in law made by this Act.

(b) Provides that the nine members of the governing board of the Texas Department of Economic Development who are serving immediately before September 1, 2001, continue to serve as the governing board of the department on and after that date. Provides, however, that the positions of those nine members are abolished on the date on which a majority of the five board membership positions that are created under Section 481.004, Government Code, as amended by this Act, are filled by appointment by the governor and the appointees qualify for office.

(c) Requires the governor to make the five appointments to the board under Section 481.004, Government Code, as amended by this Act, as soon as possible on or after September 1, 2001. Requires the governor, in making the initial appointments, to designate two members for terms expiring February 1, 2003, one member for a term expiring February 1, 2005, and two members for terms expiring February 1, 2007.

SECTION 1.19. (a) Provides that the changes in law made by this Act in the prohibitions and qualifications applying to members of the governing board of the Texas Department of Economic Development apply only to a member appointed on or after September 1, 2001.

(b) Requires the Texas Department of Economic Development to adopt the rules required by Section 481.021(c), Government Code, as amended by this Act, on or before December 1,

2001.

SECTION 1.20. Prohibits the Texas Department of Economic Development from awarding a grant under the smart jobs fund program on or after the effective date of this Act. Requires the Texas Department of Economic Development to perform its duties under all smart jobs fund program contracts in existence on the effective date of this Act.

SECTION 1.21. Requires the Texas Workforce Commission, on the effective date of this Act, to transfer any money remaining in the holding fund created under Section 204.122, Labor Code, to the unemployment compensation fund. Requires the Texas Workforce Commission to deposit any money collected by the employment training investment assessment after the effective date of this Act directly into the unemployment compensation fund.

ARTICLE 2. ADMINISTRATION OF FOREIGN OFFICES, INTERNATIONAL TRADE, AND TEXAS EXPORTERS LOAN FUND

SECTION 2.01. Transfers Section 481.027, Government Code, to Subchapter B, Chapter 405, Government Code, redesignates it Section 405.020, and amends the provisions relating to the department's foreign offices.

SECTION 2.02. Transfers Subchapter D, Chapter 481, Government Code, to Chapter 405, Government Code, redesignates it as Subchapter D, Chapter 405, and amends the provisions relating to international trade.

SECTION 2.03. Amends Section 481.087(c), Government Code, to make a conforming change.

SECTION 2.04. Amends Section 481.403, Government Code.

SECTION 2.05. (a) Provides that, on the effective date of this Act, all powers, duties, obligations, rights, contracts, records, employees, property, and unspent and unobligated appropriations and other funds of the Texas Department of Economic Development that were used by that agency immediately before the effective date of this Act to administer foreign offices, the international trade program, and the border affairs program are transferred to the secretary of state.

(b) Provides that all rules, policies, procedures, and decisions that affect the foreign offices, the international trade program, and the border affairs program are continued in effect until superseded by a rule or other appropriate action of the secretary of state.

ARTICLE 3. ADMINISTRATION OF THE TEXAS BUSINESS AND COMMUNITY ECONOMIC DEVELOPMENT CLEARINGHOUSE AND THE COMMUNITY INVESTMENT PROGRAM

SECTION 3.01. Transfers Subchapter K, Chapter 481, Government Code, to Chapter 403, Government Code, designates it as Subchapter O, and amends it.

SECTION 3.02. Amends Subchapter BB, Chapter 481, Government Code, by adding Section 481.415, relating to a community investment program.

SECTION 3.03. Provides that, on the effective date of this Act, all powers, duties, obligations, rights, contracts, records, employees, property, and unspent and unobligated appropriations and other funds of the Texas Department of Economic Development that were used by that agency immediately before the effective date of this Act to administer the Texas Business and Community Economic Development Clearinghouse are transferred to the comptroller of public accounts.

ARTICLE 4. EFFECTIVE DATE

SECTION 4.01. Provides that this Act takes effect September 1, 2001, except that SECTION 1.20 of this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution, and for the purposes of application of SECTION 1.20 of this Act only, the effective date of this Act is considered to be the date that SECTION 1.20 of this Act takes effect. Provides that, if SECTION 1.20 of this Act does not receive the vote necessary for immediate effect, SECTION 1.20 of this Act takes effect September 1, 2001.