

## **BILL ANALYSIS**

Senate Research Center  
83R21413 ATP-F

C.S.S.B. 1084  
By: Hinojosa  
Economic Development  
4/11/2013  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

C.S.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.

C.S.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 2303.004, Government Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Authorizes the governing body of a county, rather than the governing body of a county with a population of one million or more, notwithstanding Subsection (a) (relating to what territory is considered to be in the jurisdiction of a municipality), to nominate for designation as an enterprise project a project or activity of a qualified business that is located within the jurisdiction of a municipality located in the county. Deletes existing text authorizing a county during any biennium, for purposes of this subsection, from using in any one municipality more than three of the maximum number of designations the county is permitted under Section 2303.406(d)(2) (relating to providing that the maximum number of enterprise projects that the bank may designate is nine, if the nominating body is the governing body of a municipality or county with a population of 250,000 or more).

(c) Requires the nominating county, before a county makes a nomination under Subsection (b), to enter into an interlocal agreement with the municipality that has jurisdiction of the territory in which the nominated project or activity will be located. Requires that the interlocal agreement specify that either the nominating county or the municipality that has jurisdiction of the territory in which the nominated project or activity will be located is the governmental body having administration authority under Section 2303.201 and that both the nominating county and municipality approve the nomination. Authorizes a county during any biennium, for purposes of this subsection, to use the maximum number of designations the county is permitted under Section 2303.406(d) (relating to providing the maximum number of enterprise projects that the bank may designate for each nominating body during any biennium) within the territory described by this subsection.

SECTION 3. Amends Section 2303.201, Government Code, as follows:

Sec. 2303.201. ADMINISTRATION BY GOVERNING BODY. (a) Creates this subsection from existing text. Provides that the governing body of an enterprise zone is the governing body of the municipality or county with jurisdiction over the area designated as an enterprise zone, except as provided by Subsection (b).

(b) Provides that the governing body with administration authority over an enterprise project nominated under Section 2303.004(c) is determined under the terms of an interlocal agreement required by that subsection.

SECTION 4. 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, rather than the person's new employees, in the enterprise zone 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, rather than the person's new employees, at the qualified business site are held by, among other certain individuals, veterans.

SECTION 5. Amends Section 2303.4052, Government Code, as follows:

Sec. 2303.4052. REQUIRED INFORMATION FROM NOMINATING BODY. Requires the nominating body, before nominating the project or activity of a qualified business for designation as an enterprise project, to submit to the bank:

(1) Makes no change to this subdivision;

(2) 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;

(3) Makes no change to this subdivision;

(4) documentation showing the number of employment positions at the qualified business site if the business is seeking job retention benefits;

(5) any interlocal agreement required under Section 2303.004(c) that states which governing body has the administration authority under Section 2303.201 and that both the county in which the project or activity is located and the municipality in whose jurisdiction the project or activity is located approve the nomination of the project or activity; and

(6) Creates this subdivision from existing text and makes no further change to this subdivision.

SECTION 6. Amends Section 2303.406, Government Code, by amending Subsections (b) and (e) and adding Subsection (d-1), 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.

(d-1) Authorizes an enterprise project designation to be split into two half designations. Provides that a half designation uses one-half of one of the enterprise project designations allowed to a nominating body under Subsection (d) and to the bank under Section 2303.403 (Prohibition on Qualified Business Certification; Limit on Enterprise Project Designations).

(e) Prohibits the Texas Economic Development and Tourism Office (office), rather than prohibits the office during any biennium, from designating multiple concurrent enterprise projects to a qualified business located at a qualified business site.

SECTION 7. Amends Section 2303.407, Government Code, by amending Subsections (b), (c), and (d) and adding Subsections (e) and (f), as follows:

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

(1) \$40,000 to \$399,999 will result in a refund of up to \$2,500 per job with a maximum refund of \$25,000 for the creation or retention of 10 jobs;

(2) \$400,000 to \$999,999 will result in a refund of up to \$2,500 per job with a maximum refund of \$62,500 for the creation or retention of 25 jobs;

(3) \$1,000,000 to \$4,999,999 will result in a refund of up to \$2,500 per job with a maximum refund of \$312,500 for the creation or retention of 125 jobs;

(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 new permanent 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 new permanent 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 a state-mandated or federally mandated capital investment, including an investment in pollution abatement equipment, does not qualify as committed capital investment in an enterprise project under this chapter.

(f) Provides that the maximum number of jobs that the bank may allocate to an enterprise project split into two half designations as provided by Section 2303.406(d-1) is 250.

SECTION 8. Amends Section 2303.4071, Government Code, by amending Subsection (a) and adding Subsection (e), as follows:

(a) Defines "half enterprise project" in this section. Makes nonsubstantive changes.

(e) Provides that a half enterprise project is eligible for a maximum refund not to exceed \$125,000 in each state fiscal year and is subject to the capital investment and job allocation requirements under Section 2303.407(b)(1), (2), or (3).

SECTION 9. 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 10. 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 the comptroller finds certain business or project disqualifications.

SECTION 11. Amends Section 151.429, Tax Code, by amending Subsections (b) and (c) and adding Subsection (k), as follows:

(b) Provides that subject to the limitations provided by Subsection (c) of this section, an enterprise project qualifies for a refund of taxes under this section based on the amount of capital investment made at the qualified business site, the project's designation level, and the refund per job with a maximum refund to be included in a computation of a tax refund for the project. Provides that a capital investment at the qualified business site of:

(1) \$40,000 to \$399,999 will result in a refund of up to \$2,500 per job with a maximum refund of \$25,000 for the creation or retention of 10 jobs;

(2) \$400,000 to \$999,999 will result in a refund of up to \$2,500 per job with a maximum refund of \$62,500 for the creation or retention of 25 jobs;

(3) \$1,000,000 to \$4,999,999 will result in a refund of up to \$2,500 per job with a maximum refund of \$312,500 for the creation or retention of 125 jobs;

(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 new permanent 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 new permanent 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.

(k) Provides that a half enterprise project is eligible for a maximum refund not to exceed \$125,000 in each state fiscal year and is subject to the capital investment and job allocation requirements under Subsection (b)(1), (2), or (3).

SECTION 12. Amends Section 151.429(e), Tax Code, by adding Subdivision (6) to define "half enterprise project."

SECTION 13. Repealer: Section 2303.109(b) (relating to authorizing that a certain area be designated as an enterprise zone without further qualification for not longer than a certain period), Government Code.

SECTION 14. (a) Provides that the changes in law made by this Act to Section 2303.402(a), 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, 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 15. Effective date: September 1, 2013.