

BILL ANALYSIS

C.S.H.B. 1233
By: Solomons
Economic Development
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Department of Economic Development (department) was created in 1997 by the 75th Legislature by abolishing the Texas Department of Commerce, transferring its functions, and establishing a governing board to oversee the new agency. The department has three primary missions: marketing Texas as a business location and tourist destination; providing financial, location, and export assistance to Texas businesses and communities; and serving as a central source of economic development information.

The department is subject to the Sunset Act and will be abolished on September 1, 2003, unless continued by the legislature. CSHB 1233 abolishes the department and transfers its primary economic development functions to an economic development and tourism office within the office of the governor and other statutory modifications that are contained in this legislation. The bill also creates the Texas Economic Development Bank, under the direction of the Texas Economic Development and Tourism Office, and restructures the state Enterprise Zone Program to enhance existing incentive programs to help encourage job creation and retention opportunities.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the governing board or the policy board of the Texas Department of Economic Development is transferred to the executive director of the Texas Economic Development and Tourism Office in SECTION 1.08 (Section 481.005, Government Code), SECTION 1.15 (Section 481.012, Government Code), SECTION 1.30 (Section 481.075, Government Code), SECTION 1.42 (Section 481.174, Government Code), SECTION 1.44 (Section 481.193, Government Code), and SECTION 1.55 (Section 481.406, Government Code) of this bill.

Rulemaking authority previously granted to the Texas Department of Economic Development is transferred to the executive director of the Texas Economic Development and Tourism Office in SECTION 1.30 (Section 481.075, Government Code) of this bill.

Rulemaking authority previously granted to the Texas Department of Economic Development is transferred to the Texas Economic Development and Tourism Office in SECTION 1.17 (Section 481.021, Government Code), SECTION 1.64, and SECTION 3.02 (Section 2303.051, Government Code), of this bill.

Rulemaking authority previously granted to the Texas Department of Economic Development is transferred to the permit office of the Texas Economic Development and Tourism Office in SECTION 1.33 (Section 481.123, Government Code) and SECTION 1.34 (Section 481.124, Government Code) of this bill.

Rulemaking authority previously granted to the Product Development and Small Business Incubator Board under Subchapter P, Chapter 403, Government Code, is transferred to the Product Development and Small Business Incubator Board established under Subchapter D, Chapter 489, Government Code in SECTION 2.02 (Section 489.210 and 489.213, Government Code) of this bill.

Rulemaking authority is expressly granted to the Texas Economic Development Office in SECTION 2.01 (Section 489.002, Government Code) of this bill.

ANALYSIS

CSHB 1233 amends the Government Code to abolish the Texas Department of Economic Development and transfer its functions to the newly-created Texas Economic Development and Tourism Office in the office of the governor. It also amends the Government Code to restructure the state Enterprise Zone Program, and adds new sections to create the aerospace and aviation office and the Texas economic development bank within the office of the governor.

CSHB 1233 amends the Government Code to change the name of the Texas Department of Economic Development to the Texas Economic Development and Tourism Office (office).

CSHB 1233 amends the Government Code, to add definitions of “Bank” to mean the Texas Economic Development Bank, “Industry cluster” to mean a concentration of businesses and industries in a geographic region, and “Office” to mean the Texas Economic Development and Tourism Office.

CSHB 1233 amends the Government Code to replace the Texas Department of Economic Development with the Texas Economic Development and Tourism Office. Establishes the Texas Economic Development and Tourism Office as an office within the office of the governor.

CSHB 1233 amends the Government Code to make the Texas Economic Development and Tourism Office subject to Chapter 325 (Texas Sunset Act), and abolishes the office, unless continued by the legislature, in 2015.

CSHB 1233 amends the Government Code to update standard language developed by the Sunset Commission prohibiting the executive director, high-level employees, and spouses from serving as an officer or employee of a related Texas trade association.

CSHB 1233 amends the Government Code to add standard language developed by the Sunset Commission requiring the office to develop a policy that encourages the use of negotiated rulemaking and alternative dispute resolution.

CSHB 1233 amends the Government Code to make a conforming change to refer to the executive director, rather than the governing board, which is being abolished in this bill.

CSHB 1233 amends the Government Code to require the governor to appoint the executive director of the office, who serves at the pleasure and under the direction of the governor and requires the executive director to direct the activities of the office.

CSHB 1233 amends the Government Code to make conforming changes to clarify the Office of Defense Affairs is an office within the Texas Economic Development and Tourism Office.

CSHB 1233 amends the Government Code to require the office to establish and maintain an aerospace and aviation office to encourage economic development by fostering the growth and development of aerospace and aviation industries in Texas, to hire a director for the aerospace office, and to set forth the requirements of the aerospace office.

CSHB 1233 amends the Government Code to require the executive director to designate an individual as the small business advocate. Sets eligibility requirements for designation. Requires the small business advocate to serve as the focal point for assisting small and historically underutilized businesses by performing certain functions; provide assistance to these businesses; and perform research, studies, and analyses of matters affecting these businesses.

CSHB 1233 amends the Government Code to make conforming changes to clarify the financial transactions of the office are subject to audit by the state auditor or a private auditing firm. Requires the state auditor to inform the executive director when a financial audit of the office is not included in the audit plan for the state for a fiscal year and requires the executive director to ensure that the department is audited during

those fiscal years.

CSHB 1233 amends the Government Code to make conforming changes that require the executive director of the office, rather than the department, to employ personnel necessary for the performance of office functions. Specifies that the equal employment opportunity officer and the internal auditor of the office of the governor shall serve the same functions for the office. Requires the internal auditor to report directly to the governor, rather than the governing board. Updates standard language developed by the Sunset Commission requiring the executive director to provide information to employees relating to the qualifications and responsibilities of employment and to the State Employee Incentive Program.

CSHB 1233 amends the Government Code to make conforming changes to require an annual fiscal report for all funds received and disbursed by the office, rather than the department.

CSHB 1233 amends the Government Code to add standard language developed by the Sunset Commission to require the office to maintain information on written complaints and notify the parties about policies for and the status of complaints.

CSHB 1233 amends the Government Code to make conforming changes to apply the general powers and duties to the office, rather than the department.

CSHB 1233 amends the Government Code to make conforming changes to authorize the office, rather than the department, to carry out general powers and duties. Removes the provision that authorizes the office to sue and be sued.

CSHB 1233 amends the Government Code to require the office to market and promote the state as a premier business location and tourist destination; facilitate the location, expansion, and retention of domestic and international business investment to the state; promote and administer business and community economic development programs and services in the state, including business incentives programs; provide to businesses and communities in the state assistance with exporting products and services to international markets; serve as a central source of economic research and information; and establish a statewide strategy for industry clusters.

CSHB 1233 amends the Government Code to make conforming changes to require the office, rather than the department, to perform administrative duties.

CSHB 1233 amends the Government Code to require the governor to appoint the board of directors of the Texas Economic Development Corporation. Authorizes the governor, or the governor's designee, and the executive director of the office, to serve as nonvoting, ex officio members of the board.

CSHB 1233 amends the Government Code to make conforming changes to establish the office, rather than the department, as the agency of this state responsible for administering the Empowerment Zone and Enterprise Community grant program in this state. Requires the bank to cooperate with federal and local agencies to administer the grant program.

CSHB 1233 amends the Government Code to add standard Sunset language requiring the office to make effective use of technology in its delivery of services and provision of information to the public.

CSHB 1233 amends the Government Code to make conforming changes that require the office, rather than the department, to maintain offices in foreign countries.

CSHB 1233 amends the Government Code to make conforming changes that require the office, rather than the department, to recover the cost of providing technical assistance, management training services, and other services, to businesses and communities.

CSHB 1233 amends the Government Code to require the office to work with industry associations and

organizations to identify regional and statewide industry clusters; authorize activities of the office in identifying industry clusters; require the office to identify targeted sectors within industry clusters; require the office to work with targeted sectors and other organizations and institutions to strengthen the competitiveness of industry clusters; authorize activities of the office to assist in the development of targeted sectors; require the office to evaluate certain factors on a continuing basis; and require the office to use information gathered in each region to meet certain goals. Requires the office to coordinate state efforts to attract, develop, or retain technology industries in this state in certain specified sectors. Requires the office to recommend actions to the governor to promote economic development in advanced technology; identify and assess specific economic development opportunities; and engage in outreach to advanced technology industries.

CSHB 1233 amends the Government Code to make conforming changes that require the office, rather than the department, to carry out powers and duties related to international trade.

CSHB 1233 amends the Government Code to make conforming changes that ensure certain information collected by the office, rather than the department, is confidential unless the parties consent to disclosure of the information.

CSHB 1233 amends the Government Code to make conforming changes that require the office, rather than the department, to carry out business recruitment functions. Removes the requirement to focus business recruitment, expansion, and retention efforts on industry sectors with the highest potential for creating high-wage, high-skill jobs.

CSHB 1233 amends the Government Code to make conforming changes to allow the office, rather than the department, to carry out the powers and duties relating to financing.

CSHB 1233 amends the Government Code to make conforming changes to require the executive director, rather than the department, to adopt rules to determine which users may participate in the office's business incentives programs.

CSHB 1233 amends the Government Code to make conforming changes to define the permit office as the office's business permit office, rather than the department's business permit office.

CSHB 1233 amends the Government Code to make conforming changes to establish the business permit office as an office within the Texas Economic Development and Tourism Office, rather than the department.

CSHB 1233 amends the Government Code to make conforming changes to clarify references to the office to mean the permit office within the Texas Economic Development and Tourism Office.

CSHB 1233 amends the Government Code to make conforming changes to require the office, rather than the department, to establish the Texas Business and Community Economic Development Clearinghouse.

CSHB 1233 amends the Government Code to make conforming changes to require the office, rather than the department, to conduct state tourism activities and to designate the office as the sole state governmental entity responsible for out-of-state tourism marketing and promotion efforts. Requires the office to enter into a memorandum of understanding with the Parks and Wildlife Department, the Texas Department of Transportation, the Texas Historical Commission, and the Texas Commission on the Arts to direct the efforts of these agencies in all matters relating to tourism and sets forth the items required to be included in the memorandum of understanding.

CSHB 1233 amends the Government Code to make conforming changes to require the executive director, rather than the governing board, to adopt rules to implement the sale of tourism advertisements.

CSHB 1233 amends the Government Code to add the definition of "medium-sized business" to mean a corporation, partnership, sole proprietorship, or other legal entity that is domiciled in Texas or has at least

51 percent of its employees in Texas; is formed to make a profit; and employs 100 or more but fewer than 500 full-time employees.

CSHB 1233 amends the Government Code to make conforming changes to require the bank, rather than the department, to establish a linked deposit program and to require the executive director, rather than the policy board, to adopt rules for the program. Authorizes the bank, through the linked deposit program to encourage commercial lending for the development of medium-sized businesses. Requires the executive director to approve or deny each linked deposit loan application instead of making a recommendation to the comptroller. Requires the comptroller to place the linked deposit no later than the 10th business day after the date on which the agreement between the lending institution and the bank is executed. Requires the lending institution to notify the bank, rather than the comptroller, if the borrower defaults on the loan and authorizes the comptroller, at the direction of the bank, to then withdraw the linked deposit. Requires the comptroller, at the direction of the bank, to withdraw the linked deposits from a lending institution that ceases to be a state depository.

CSHB 1233 amends the Government Code to require the bank to authorize the comptroller to place a linked deposit, after the executive director's approval, rather than the comptroller's acceptance of the application, and after the lending institution originates a loan to an eligible borrower. Specifies the bank, rather than the comptroller, is not required to maintain the deposit unless the bank approves a new loan application, rather than the comptroller accepting it. Requires, rather than authorizes, the comptroller to place a time deposit and requires the comptroller to do so at the direction of the bank.

CSHB 1233 amends the Government Code to make conforming changes to require the office, rather than the department, to receive compliance reports and to monitor compliance with the linked deposit program.

CSHB 1233 amends the Government Code to make conforming changes to require the bank, rather than the department, to promote the linked deposit program, and to require the office, rather than the department, to prepare a marketing report each odd-numbered year on the bank's efforts in promoting the program.

CSHB 1233 amends the Government Code to require the office to submit to the comptroller a quarterly report regarding the linked deposit program. Specifies that the financial transaction of a linked deposit are subject to audit by the state auditor.

CSHB 1233 amends the Government Code to make conforming changes to require the office, rather than the department, to carry out research and data services.

CSHB 1233 amends the Government Code to make conforming changes to have the office, rather than the department, serve as a one-stop center for business-related information, obtain information from other state agencies and organizations, create a web site to publish the information, and charge an access fee for the information.

CSHB 1233 amends the Government Code to make conforming changes to establish a reserve account for the capital access program on the approval of the bank, rather than the department.

CSHB 1233 amends the Government Code to remove the provision that requires investment earnings and fees charged under this subchapter to be deposited in the fund. Also makes conforming changes to require money may be appropriated only to the bank, rather than the department, for the capital access program.

CSHB 1233 amends the Government Code to make conforming changes to give the bank, rather than the department, the powers necessary to carry out the capital access program.

CSHB 1233 amends the Government Code to make conforming changes to require the bank, rather than the department, to establish and administer the capital access program.

CSHB 1233 amends the Government Code to make conforming changes to require the executive director, rather than the policy board, to adopt rules related to the implementation of the capital access program.

CSHB 1233 amends the Government Code to make conforming changes to prohibit the bank, rather than the department, from determining the recipient, amount, or interest rate of a capital access loan. Removes the provision that prohibits loans under this Subchapter from being eligible to be enrolled, if the loan is for refinancing existing loans not originally under this subchapter. Authorizes the bank, rather than the department, with no recourse to the bank or to the loan loss reserve correspondent to the loan, to determine the conditions under which a loan may be sold on the secondary market.

CSHB 1233 amends the Government Code, to make conforming changes requiring the bank, rather than the department, to approve reserve accounts and oversee loans made through the capital access program. Adds a requirement that the institution certify that the borrower is financing an enterprise project, if applicable. If the borrower is financing an enterprise project, or is a medium-sized business, authorizes the bank to deposit 200 percent of the total amount into the reserve account . Requires a participating financial institution to obtain approval from the bank to withdraw funds from the reserve account.

CSHB 1233 amends the Government Code to make conforming changes to set limitations on the amounts the bank, rather than the department, deposits in the reserve account. If the borrower is financing an enterprise project or a small or medium-sized business or non-profit organization, limits the amount to eight percent of the loan amount.

CSHB 1233 amends the Government Code to make conforming changes to establish the state's rights with respect to the reserve account administered by the bank, rather than the department. Authorizes the bank to withdraw the total amount of an institution's reserve account, if the financial institution fails to submit a report or document requested by the bank within the time or manner prescribed.

CSHB 1233 amends the Government Code to make conforming changes to have the bank, rather than the department, receive annual reports from financial institutions participating in the capital access program.

CSHB 1233 amends the Government Code to make conforming changes to require the office, rather than the department, to submit an annual status report on the capital access program to the legislature.

CSHB 1233 amends the Government Code to make conforming changes to authorize the bank, rather than the department, to accept gifts, grants, and donations for the capital access program.

CSHB 1233 abolishes the Texas Department of Economic Development and the offices of the members of the governing board of the department serving on the effective date of this bill. Actions taken by the department or its governing board before the effective date are not affected by the abolishment.

CSHB 1233 provides that on the effective date of the bill, the department's rules, standards, or forms; proceedings; money, contracts, lease rights, and obligations; property; and funds transfer to the Texas Economic Development and Tourism Office. Provides that any reference to the Texas Department of Economic Development or its governing board means the Texas Economic Development and Tourism Office.

CSHB 1233 provides that on the effective date the bill, the executive director of the Texas Department of Economic Development does not automatically become the executive director of the office and requires a person, to become the executive director of the office, to apply for the position and be approved by the governor. Provides that an employee of the Texas Department of Economic Development does not automatically become an employee of the office and requires the person, to become an employee of the office, to apply for a position and be approved by the governor or the executive director of the office.

CSHB 1233 provides that a function or activity performed by the department is transferred to the office.

CSHB 1233 requires the department and the office to establish a transition plan for the transfer described in SECTION 1.64. Requires the plan to include a reasonable timetable for the effective reconstruction of the department's mission, strategies, performance measures, functions, and staff, as they relate to key economic development clusters in this state.

CSHB 1233 transfers the functions performed by the Texas Aerospace Commission to the aerospace and aviation office within the Texas Economic Development and Tourism Office; provides that the executive director of the Texas Aerospace Commission becomes the director of the aerospace and aviation office; and authorizes the governor to determine the manner in which employees of the Texas Aerospace Commission, if any, are transferred to the aerospace and aviation office.

CSHB 1233 amends the Government Code to add Chapter 489, relating to the establishment, operation, and funding of the Texas Economic Development Bank. The bill defines "Bank" as the Texas Economic Development Bank, "Fund" as the Texas Economic Development Bank Fund, and "Office" as the Texas Economic Development and Tourism Office.

CSHB 1233 requires the office to adopt rules to carry out the purposes of the chapter.

CSHB 1233 requires the office to establish the Economic Development Bank for the purpose of providing globally competitive, cost effective state incentives to expanding businesses operating in this state, and ensuring that communities and businesses in this state have access to capital for economic development purposes. Requires that the bank's effectiveness be measured in terms of jobs created and retained, and the total amount of non-state funds leveraged as a result of the bank's efforts.

CSHB 1233 requires the bank to offer a variety of financial and tax incentives to expanding or relocating businesses, and serve as a single source of information regarding those incentives for businesses and communities in the state.

CSHB 1233 requires the bank to charge fees to the beneficiaries of its services as the bank determines necessary. Allows the bank to use fees to fund the administration of the bank's programs.

CSHB 1233 allows the bank to allocate its resources as necessary to meet the level of demand experienced by each program or service.

CSHB 1233 provides that the economic development bank fund is a dedicated account in the general revenue fund that includes any amount appropriated for the bank, Capital Access Fund No. 5035, Texas Leverage Fund No. 851, other investment earnings, and fees charged under this chapter.

CSHB 1233 requires the Texas Economic Development Office (office) to make, execute and deliver contracts, invest money; impose and collect fees; and issue bonds for economic development projects.

CSHB 1233 requires the office to report annually to the legislature on the activities of the bank.

CSHB 1233 provides that the bank shall perform, but is not limited to the duties and functions of the following programs: the Texas Small Business Industrial Development Corporation, the capital access program, the Texas leverage fund program, the linked deposit program, the enterprise zone program, the industrial revenue bond program, the defense economic readjustment zone program, the federal Empowerment Zone and Enterprise Community grant program, and the renewal community program.

CSHB 1233 provides that the state and state officers or employees are not liable for grants, loans or other transactions under the direction of the bank, except as specifically provided by law.

CSHB 1233 allows the office to accept gifts, grants, and donations for the bank.

CSHB 1233 defines "Board" as the Product Development and Small Business Incubator Board";

“Financing” as a loan, loan guarantee, or other equity investment from the product fund to a person for use in the development and production of a product in this state or from the small business fund for developing small business in this state; “Office” to include the designee of the office; “Product” includes an invention, device, technique, or process; “Product Fund” as the Texas product development fund; “program” as the product development program or small business incubator program; and “small business fund” as the Texas small business incubator fund program.

CSHB 1233 transfers the Product Development and Small Business Incubator Board to the office. Provides that the bank administers the programs, the product fund, and the small business fund rather than the Product Development and Small Business Incubator Board.

CSHB 1233 changes the composition of the Product Development and Small Business Incubator Board by removing the comptroller and adding one member who has significant business leadership experience in technology, particularly experience with the transfer of research results into commercial applications. Provides requirements for board composition and terms, training, grounds for removal, open meetings, staffing, and compliance with federal program and facility accessibility requirements.

CSHB 1233 transfers rule making authority and the authority to issue general obligation bonds from the comptroller to the bank.

CSHB 1233 transfers the Texas product development fund and small business incubator fund from the comptroller to the bank. Provides these funds are revolving funds composed of bonds issued under this subchapter, financing applications fees, loan repayments, guarantee fees, royalty receipts, dividend income, money appropriated by the legislature, and amounts received by the state from federal grants or other sources. Provides that financing may be made only for a product or small business approved by the bank. Provides preferences for certain products and small businesses. Requires the board to adopt rules governing the financing. Authorizes the board to appoint an advisory committee. Limits the amount of financing for a single recipient to 10 percent or less of the total amount of the bonds issued. Provides for an application process for financing and confidentiality requirements. Requires operation and administration expenses of the program to be paid out of fees collected or revenue generated.

CSHB 1233 provides that on the effective date of the bill, the comptroller’s rules, standards, or forms; proceedings; money, contracts, lease rights, and obligations; property; and funds relating to the small business incubator program, Texas Small Business Incubator Fund, and the Texas Product Development Fund transfer to the Texas Economic Development and Tourism Office or the Texas Economic Development Bank.

CSHB 1233 requires the governor to appoint new members to the Product Development and Small Business Incubator Board as soon as possible on or after the effective date of the bill and provides a timetable for the staggered appointment of Board members. Allows the current members to serve until replaced.

CSHB 1233 provides that on the effective date of the bill, unobligated or unexpended funds in the Capital Access Fund and the Texas Leverage Fund transfer to the Economic Development Bank Fund.

CSHB 1233 amends the Government Code to add the definitions “Bank” to mean the Texas Economic Development Bank; “Block Group” to have the meaning assigned by the Bureau of the Census of the U.S. Department of Commerce; “governing body of an enterprise zone” to mean the governing body of a municipality or county in which an enterprise zone is located; “Office” to mean the Texas Economic Development and Tourism Office; and “qualified business site” to mean the specific business site of an enterprise project. Also amends the definition of “nominating body” to mean the governing body that nominates an enterprise project.

CSHB 1233 amends the Government Code, to require the bank to compile data identifying the Block Groups in this state that qualify for enterprise zone designation, and to update the information as soon as

practicable following the release of the latest federal census. Requires the bank to establish criteria and procedures for designating an project or activity of a qualified business as an enterprise project, and makes a conforming change to require the office rather than the department to adopt rules to carry the purposes of this chapter.

CSHB 1233 makes a conforming change to require the bank rather than the department to conduct a continuing evaluation of the enterprise zone program and a biennial review of local incentives, and to submit a report to the governor, legislature and legislative budget board on the effectiveness of the program and the use of state and local incentives and their effect on revenue. Changes the date on which the bank shall submit this report from December 15 to January 1 of each year.

CSHB 1233 requires the bank to assist a unit of local government in obtaining status as a federal zone designation that furthers the purpose of this chapter, a nominating body in obtaining assistance from other state agencies, and in developing small business incubators. Makes conforming changes to require the bank rather than the department to provide other assistance to businesses and communities as required by the chapter. Makes conforming changes to require the bank rather than the department to coordinate with other state agencies.

CSHB 1233 amends the Government Code to remove the current criteria for designation as an enterprise zone and establish new criteria to qualify for enterprise zone designation. Requires that in order to qualify for enterprise zone designation that an area must be a Block Group in which at least 20 percent of the residents have incomes at or below 100 percent of the federal poverty level; or be an area designated as a renewal community, federal empowerment zone, or federal enterprise community.

CSHB 1233 amends the Government Code to specify that an enterprise zone designation shall remain in effect as long as the area continues to meet the requirements for designation. Adds renewal communities to the federal programs whose period of designation is limited by federal law.

CSHB 1233 amends the Government Code to eliminate the provision that a combination of municipal and county governing bodies may administer an enterprise zone. Grants administrative authority to the municipality or county that has jurisdiction over the area designated as an enterprise zone.

CSHB 1233 amends the Government Code to require that the nominating body designate a liaison to oversee enterprise projects it has nominated, and to communicate and negotiate with the bank or office and other entities in an enterprise zone or affected by an enterprise zone project, including a qualified business, within the jurisdiction of the nominating governmental entity.

CSHB 1233 amends the Government Code to require that the nominating body report to the bank no later than October 1 of each year on the enterprise projects in its jurisdiction, rather than on the enterprise zone, and that the report shall include a list of local incentives, the number of businesses assisted, and a summary of all industrial revenue bonds issued to finance enterprise projects in the jurisdiction of the nominating governmental entity.

CSHB 1233 amends the Government Code to add to the definitions of “new permanent job” and “retained job” the provision that the position be intended to exist at the qualified business for at least three years after the date on which a state benefit is received and authorized by this chapter, rather than during the period that the business is designated as an enterprise project. Clarifies that a retained job is one that existed before designation of the business’s project or activity.

CSHB 1233 amends the Government Code to make conforming changes to refer to the bank rather than the department, and nominating body of a project rather than governing body of a zone, in certifying a qualified business for the purpose of receiving local incentives. Expands eligibility for certification to businesses that are located in the state if 35 percent of the business’s new employees are residents of an enterprise zone or are economically disadvantaged, in addition to the current eligibility for businesses located in an enterprise zone if 25 percent of the business’s new employees are residents of an enterprise zone or are

economically disadvantaged.

CSHB 1233 amends the Government Code to require the bank to prohibit certification of a qualified business if the nominating body is not complying with this chapter. Allows a qualified business to request that the governing body of a municipality or county in which the business is located apply to the bank for designation of a project or activity of the business as an enterprise project. Adds provisions that an enterprise project must be for an expansion or relocation from out-of-state, an expansion, renovation or new construction, or other property to be undertaken by a qualified business; and a predetermined designation period approved by the bank, with beginning and end dates for each proposed project or activity. Eliminates current language referring to enterprise zone criteria. Limits the designation period for an enterprise project to five years. Requires that if the enterprise project designation is for a franchise, separate books and records be kept.

CSHB 1233 amends the Government Code to allow the governing body to apply to the bank for designation of the qualified business as an enterprise project only after it has submitted to the bank the order or ordinance and other information that complies with the requirements of Sections 2303.4051 and 2303.4052.

CSHB 1233 requires an application to contain an economic analysis of the plans of the qualified business with regard to the enterprise project; the number of permanent jobs the project will create and retain during the designation period; the amount of investment to be made by the project; and a complete description of the local effort made by the nominating body, the qualified business, and other affected entities to develop and revitalize the jurisdiction of the governmental entity nominating the project; and if the nominating body is applying for a double or triple jumbo enterprise project, as defined by Section 2303.407, an indication of which of those types of designation is being sought.

CSHB 1233 makes conforming changes to refer to the municipality or county rather than the enterprise zone with regards to local efforts to revitalize the jurisdiction of nominating body.

CSHB 1233 allows a nominating body to submit an application for a project or activity that during the application process loses its eligibility for designation as an enterprise project solely because the project or activity is no longer located in an enterprise zone if the bank receives the application no later than the 30th day after the date on which the bank makes the updated Block Group data used to make the eligibility determination available.

CSHB 1233 amends the Government Code to establish the information that a governing body must include in an order or ordinance that enables the governing body to nominate a qualified business for designation as an enterprise project and the information that the nominating body must submit to the bank.

CSHB 1233 amends the Government Code to allow the bank to designate a project or activity of a business as an enterprise project only if the bank receives all of the information required by Section 2303.4052 and determines that the business is a qualified business in an enterprise zone or at a qualified business site; the nominating body demonstrates a high level of cooperation among public, private, and neighborhood entities within the jurisdiction of the governmental entity nominating the project or activity; the designation will contribute significantly to the plans of the nominating body for development and revitalization of the area in which the project will be located; and if the business is seeking job retention benefits that in addition to current requirements the business facility is both adding a new business line or products and deleting or decreasing an existing line or product, and the designation will prevent the facility's net production capacity from decreasing.

CSHB 1233 specifies that Section 2303.406 (b) does not apply to qualified businesses located in a federally designated zone, which will receive priority designation in allocating the number of enterprise projects allowed statewide per biennium as provided by Section 2303.403.

CSHB 1233 makes conforming changes to require the bank rather than the department to designate

enterprise projects on a competitive basis. Eliminates the requirement that the bank establish a minimum scoring threshold that must be met by the qualified business. Maintains the requirement that the bank make its designation on a weighted scale.

CSHB 1233 amends the Government Code to amend the weighted scale by reducing from 50 to 40 percent of the evaluation based on the economic distress of the Block Group rather than the enterprise zone and the area within the enterprise zone where the project is located; makes a conforming change to refer to the block group in which the a proposed project is located rather than the enterprise zone; and increases from 25 to 35 percent of the evaluation based on the evaluation criteria as determined by the bank. The evaluation criteria must include the level of cooperation and support of the project applicant commits to the revitalization goals of all of the enterprise zone block groups within the jurisdiction of the nominating body; and other existing criteria.

CSHB 1233 amends the Government Code to add provisions that allow the office to designate multiple concurrent enterprise projects to a qualified business during any biennium; that an approved designation as double jumbo project, as defined by Section 2303.407, counts as two project designations against both the nominating body in terms of the maximum number of projects that municipality or county may have based on population and the number of enterprise projects allowed statewide during the biennium; that a triple jumbo project, as defined by Section 2303.407, counts as three project designations against both the nominating body in terms of the maximum number of projects that municipality or county may have based on population and the number of enterprise projects allowed statewide during the biennium.

CSHB 1233 amends the Government Code as amended by Article 1, Chapter 1134, Acts of the 77th Legislature, Regular Session, 2001, to require the bank to allocate to an enterprise project the maximum number of new permanent jobs or retained jobs based on the amount of capital investment made in the project and the refund per job with a maximum refund to be included in a computation of a tax refund for the project. Eliminates the provision that the number may not exceed 250 or a number equal to 110 percent of the number of anticipated new permanent jobs or retained jobs specified in the application for designation of the business as an enterprise project, whichever is less, and adds provisions that specify the amount of refund based on a combination capital investment and jobs created or retained.

CSHB 1233 amends the Government Code as amended by Article 2, Chapter 1134, Acts of the 77th Legislature, Regular Session, 2001, to require the bank to allocate to an enterprise project for the maximum number of new permanent jobs or retained jobs based on the amount of capital investment made in the project and the refund per job with a maximum refund to be included in a computation of a tax refund for the project. Eliminates the provision that the number may not exceed 625 or a number equal to 110 percent of the number of anticipated new permanent jobs or retained jobs specified in the application for designation of the business as an enterprise project, whichever is less, and adds provisions that specify the amount of refund based on a combination capital investment and jobs created or retained.

CSHB 1233 amends the Government Code to establish the maximum tax benefits for double jumbo and triple jumbo enterprise projects, and to establish requirements for an enterprise project to claim state benefits. Limits the benefits that a double jumbo enterprise project is eligible for to \$500,000 per fiscal year and benefits that a triple jumbo enterprise project is eligible for to \$750,000 per fiscal year. Requires a person to submit a claim to the comptroller for a state benefit as prescribed under this chapter and Chapters 151 and 171, Tax Code, not later than 18 months after the date on which the term of the enterprise project designation expires.

CSHB 1233 amends the Government Code to specify that the bank's designation of the project or activity of a qualified business as an enterprise project is effective until the period approved by the bank under Section 2303.404 regardless of whether the enterprise zone in which the project is located, if any, fails to qualify as an enterprise zone before the expiration of the project.

CSHB 1233 amends the Government Code to delete reference to neighborhood enterprise associations with regards to state agency exemptions from regulation.

CSHB 1233 amends the Government Code to make conforming changes to refer to the bank rather than the department with regards to review of program rules and dissemination of reports, and preference given to enterprise zones in granting economic development money or other benefits.

CSHB 1233 amends the Government Code to make conforming changes to refer to the office instead of the department.

CSHB 1233 amends the Government Code, as amended by Article 1, Chapter 1134, Acts of the 77th Legislature, Regular Session, 2001, to require that at the time of receipt of any tax benefit available as result of participating in the enterprise zone program, including sales tax and franchise tax benefits, three percent of the amount of the tax benefit shall be transferred to the Bank Fund to defray the cost of administering this chapter; and the comptroller to report to the bank the statewide total of actual jobs created and retained, and the tax refunds and credits made under this section during that fiscal year.

CSHB 1233 amends the Government Code to require that at the time of receipt of any tax benefit available as result of participating in the enterprise zone program, including sales tax and franchise tax benefits, three percent of the amount of the tax benefit shall be transferred to the Bank Fund to defray the cost of administering this chapter; and requires the comptroller to report to the bank the statewide total of actual jobs created and retained, and the tax refunds and credits made under this section during that fiscal year.

CSHB 1233 amends the Government Code to eliminate the allowance that a government entity that owns property in an enterprise zone may dispose of the property by selling it to a neighborhood enterprise association; and makes a conforming change to refer to the bank rather than the department with regards to filing requirements related to the sale of government property in an enterprise zone for less than market value.

CSHB 1233 amends the Government Code to make conforming changes to refer to the bank rather than the department with regards to the monitoring of qualified business or enterprise project commitments. Adds requirements that the nominating body conduct an audit of the qualified business to determine whether the business or project has followed through on its commitments and submit the results of the audit to the comptroller. Allows a qualified business to obtain a state benefit upon completion of an audit performed by the comptroller that certifies hiring commitments and eligible purchases made on behalf of a qualified business.

CSHB 1233 amends the Government Code is amended by adding Section 2303.517, to require that a qualified business submit to the bank a certified report of the actual number of jobs created or retained and the capital investment made at or committed to the qualified business site before it can receive a state benefit.

CSHB 1233 amends the Government Code to add definitions of “Bank” to mean the Texas Economic Development Bank and “Office” to mean the Texas Economic Development and Tourism Office to the Defense Economic Readjustment Zone (DERZ) program.

CSHB 1233 amends the Government Code to make conforming changes to refer to the bank and office rather than the department with regards to the general powers and duties of the DERZ program.

CSHB 1233 amends the Government Code to make conforming changes to refer to the bank and office with regards to evaluating the DERZ program and reporting to the governor, legislature and legislative budget board.

CSHB 1233 amends the Government Code to make conforming changes to refer to the bank and rather than the department with regards to providing assistance to businesses located in a defense-dependent community.

CSHB 1233 amends the Government Code to make conforming changes to refer to the bank rather than

the department with regards to coordinating with other state entities.

CSHB 1233 amends the Government Code to make conforming changes to refer to the bank rather than the department with regards to adversely affected defense-dependent communities.

CSHB 1233 amends the Government Code to make conforming changes to refer to the bank rather than the department with regards to application for designation as a DERZ.

CSHB 1233 amends the Government Code to make conforming changes to refer to the bank rather than the department with regards to the review of applications for designation as a DERZ.

CSHB 1233 amends the Government Code to make conforming changes to refer to the bank rather than the department with regards to negotiating an agreement with the nominating body for designation as a DERZ.

CSHB 1233 amends the Government Code to make conforming changes to refer to the bank rather than the department with regards to denial of application for designation as a DERZ.

CSHB 1233 amends the Government Code to make conforming changes to refer to the bank rather than the department with regards to amending the boundaries of a DERZ.

CSHB 1233 amends the Government Code to make conforming changes to refer to the bank rather than the department with regards to removing the designation of a DERZ.

CSHB 1233 amends the Government Code to make conforming changes to refer to the bank rather than the department with regards to the requirement that the governing body of a defense-dependent community designate a liaison.

CSHB 1233 amends the Government Code to make conforming changes to refer to the bank rather than the department with regards to reporting requirements by the governing body of a DERZ.

CSHB 1233 amends the Government Code to make conforming changes to refer to the bank rather than the department with regards to the criteria for a qualified business to become eligible to receive state benefits under this chapter.

CSHB 1233 amends the Government Code to make conforming changes to refer to the bank rather than the department with regards to prohibiting a qualified business from receiving benefits and requests for application for defense readjustment project designation.

CSHB 1233 amends the Government Code to make conforming changes to refer to the bank rather than the department with regards to application process for designation as a defense readjustment project designation.

CSHB 1233 amends the Government Code to make conforming changes to refer to the bank rather than the department with regards to the criteria for defense readjustment project designation, the allocation of jobs eligible for tax refunds, and the duration of designation as a project.

CSHB 1233 amends the Government Code to make conforming changes to refer to the bank rather than the department with regards to dissemination of reports to the governing bodies of DERZ.

CSHB 1233 amends the Government Code to make conforming changes to refer to the office and the bank rather than the department with regards to giving preference to DERZ in granting economic development money or other benefits.

CSHB 1233 amends the Government Code to make conforming changes to refer to the bank rather than

the department with regards to requiring the comptroller to report on the total statewide tax refunds or credits made under this section during that fiscal year.

CSHB 1233 amends the Government Code to make conforming changes to refer to the bank rather than the department with regards to requiring the comptroller to report on the total statewide tax refunds or credits made under this section during that fiscal year.

CSHB 1233 amends the Government Code to make conforming changes to refer to the office and the bank rather than the department with regards to requiring the governing body of a DERZ to report on the sale of surplus property at less than fair market value.

CSHB 1233 amends the Government Code to allow the bank to monitor a defense readjustment project to determine whether and to what extent the project followed through on any commitments made by it or on its behalf under this chapter. Makes conforming changes to refer to the bank rather than the department with regards to the criteria for making this determination.

CSHB 1233 amends the Tax Code to provide a refund for the purchase of equipment, machinery, and building materials sold to, and labor for remodeling, rehabilitating, or constructing a structure by an enterprise project for use at the qualified business site rather than in an enterprise zone; that the refund shall be based on the amount of capital investment made at the qualified business site and refund per job with a maximum refund to be included in a computation of tax refund for the project. Establishes criteria for calculating the refund amount.

CSHB 1233 amends the Tax Code to provide a refund for the purchase of equipment, machinery, and building materials sold to, and labor for remodeling, rehabilitating, or constructing a structure by an enterprise project for use at the qualified business site rather than in an enterprise zone; that the refund shall be based on the amount of capital investment made at the qualified business site and refund per job with a maximum refund to be included in a computation of tax refund for the project. Establishes criteria for calculating the refund amount.

CSHB 1233 amends the Tax Code to eliminate the provision that an enterprise project may not apply for a refund under this section after the end of the state fiscal year immediately following the state fiscal year in which the enterprise project's designation expires or is removed.

CSHB 1233 amends the Tax Code to make a conforming change to require the bank rather than the department to provide the comptroller with assistance.

CSHB 1233 amends the Tax Code to make a conforming change to refer to the bank rather than the department in regards to designating an enterprise project; deletes reference to a "qualified hotel project."

CSHB 1233 amends the Tax Code to amend the requirement that a "new permanent job" be intended to exist for at least three years rather than during the period that the qualified business is designated as an enterprise project.

CSHB 1233 amends the Tax Code to add the definitions of "Double Jumbo Enterprise Project" and "Triple Jumbo Enterprise Project."

CSHB 1233 amends the Tax Code to transfer the requirement that the department certify whether the level of employment of qualified employees has been maintained to the comptroller.

CSHB 1233 amends the Tax Code to establish the maximum refunds for a double jumbo enterprise project as \$500,000 and for a triple jumbo projects as \$750,000 in each fiscal year.

CSHB 1233 amends the Tax Code to provide that an enterprise project approved by the Texas Economic

Development Bank after September 1, 2003, may not receive a refund before September 1, 2005.

CSHB 1233 amends the Tax Code to make a conforming changes to refer to the bank rather than the department with regards to defense readjustment projects and to require the comptroller rather than the department to annually certify to the legislative budget board whether the level of employment of qualified employees has been maintained.

CSHB 1233 amends the Tax Code to make a conforming change to refer to the bank rather than the department with regards to designation of a defense readjustment project.

CSHB 1233 amends the Tax Code to make a conforming change to refer to the jurisdiction of the nominating body rather than the enterprise zone with regards to applying for a one-time refund of sales and use tax paid by the qualified business; and require that the project certify to the comptroller rather than the department that the business is retaining 10 or more jobs held by qualified employees during the year. Removes the provision that the qualified businesses that have been certified as eligible under this section by the governing body or bodies to the department and retains the provision that they be certified as eligible to the comptroller.

CSHB 1233 amends the Tax Code to define “governing body” as meaning the governing body of a municipality or county that applied to have the project or activity of a qualified business designated as a project under Section 2303.405, Government Code.

CSHB 1233 amends the Tax Code to transfer the certification process for eligibility for franchise tax refunds under the enterprise zone program from the department to the comptroller.

CSHB 1233 amends the Tax Code to define “governing body” as the governing body of a municipality or county that applied to have the project or activity of a qualified business designated as a project under Section 2303.405, Government Code.

CSHB 1233 amends the Tax Code to define “Defense Readjustment Project” as a person designated by the department as a project on or after September 1, 2001, but before September 1, 2003, and a person designated as a project by the bank after September 1, 2003; and “Enterprise Project” as a person designated by the department as a project on or after September 1, 2001, but before September 1, 2003, and a person designated as a project by the bank after September 1, 2003.

CSHB 1233 amends the Insurance Code make a conforming change to refer to the bank rather than the department with regards the establishment of a task force to study the feasibility of instituting various property and casualty insurance initiatives in the state.

CSHB 1233 amends the Development Corporation Act of 1979 (Article 5190.6, Vernon’s Texas Civil Statutes), to require that the governor appoint the board of directors of the Texas Small Business Industrial Development Corporation and that the governor or the governor’s designee and the executive director of the office shall serve as nonvoting ex officio members of the Board. Makes conforming changes to refer to the bank rather than the department with regards to prohibiting the use of Texas Small Business Development funds except to reimburse expenses incurred in its official capacity on behalf of the Texas Small Business Industrial Development Corporation.

CSHB 1233 specifies that the changes in made by this Act to Chapter 2303, Government Code, and Chapters 151 and 171, Tax Code, apply only to an application for a designation under the enterprise zone program that is filed on or after the effective date of this Act; and that an application that is filed prior to the effective date of this Act is governed by the law in effect on the date the application was filed.

CSHB 1233 repeals several sections that have expired, including the Texas Exporters Loan Fund, Statewide Certified Development Corporation, Rural Economic Development loans, bonds and authority for the Economic Development Act, and Texas Manufacturing Institute. Repeals several sections that do

not directly relate to the office's new structure. Repeals sections relating to the governing board and establishing divisions within the department. Also repeals sections that authorize the appointment of advisory committees, require establishing memorandums of understanding with 12 other entities, and require an agreement with the Historical Commission. Repeals sections that do not directly relate to the office's new focus and primary functions, including the Office of Small Business Assistance, development corporation training, annual tax incentive and economic development law report, Statewide Economic Development Plan, Texas-Mexico Commerce and International Relations Coordinated Plan, and Texas-Mexico Development Fund. Repeals sections that relate to creating the Texas Economic Development Bank and consolidating existing programs under the bank, including the subchapter that references the Product Development and Small Business Incubators program in the enabling statute for the Office of the Comptroller. Repeals a limitation on the amount that can be deposited in linked deposits. Repeals provisions from the Tax Code and the enabling statutes for the enterprise zone program and defense economic readjustment zone program that do not relate to the newly-designed enterprise zone program and defense economic readjustment zone program.

EFFECTIVE DATE

September 1, 2003

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute modifies the original to change the name of the Texas Economic Development Office to the Texas Economic Development and Tourism Office; transfers the functions of the Texas Aerospace Commission to the aerospace and aviation office within the Office; makes changes to the administration and operation of certain economic development programs, including the enterprise zone and linked deposit programs; and establishes the Texas Economic Development Bank.

The substitute changes the name of the Office to the Texas Economic Development and Tourism Office.

The substitute adds a definition of "industry cluster."

The substitute changes the sunset date from September 1, 2012 to September 1, 2015.

The substitute prohibits the executive director, high-level employees, and spouses from serving as an officer or employee of a tourism trade association.

The substitute requires the office to establish and maintain an aerospace and aviation office to encourage economic development by fostering the growth and development of aerospace and aviation industries in Texas, to hire a director for the aerospace and aviation office, and to set forth the requirements of the aerospace and aviation office. Transfers the functions of the Texas Aerospace Office to the aerospace and aviation office.

The substitute requires the executive director to designate an individual as the small business advocate. Sets eligibility requirements for designation. Requires the small business advocate to serve as the focal point for assisting small and historically underutilized businesses by performing certain functions; provide assistance to these businesses; and perform research, studies, and analyses of matters affecting these businesses.

The substitute provides that the equal employment opportunity officer and the internal auditor of the office of the governor shall serve the same functions for the office.

The substitute removes the provision that authorizes the office to sue and be sued.

The substitute requires the office to work with industry associations and organizations to identify regional and statewide industry clusters; authorizes activities of the office in identifying industry clusters; requires the office to identify targeted sectors within industry clusters; requires the office to work with targeted sectors

and other organizations and institutions to strengthen the competitiveness of industry clusters; authorizes activities of the office to assist in the development of targeted sectors; requires the office to evaluate certain factors on a continuing basis; and requires the office to use information gathered in each region to meet certain goals. Requires the office to coordinate state efforts to attract, develop, or retain technology industries in this state in certain specified sectors. Requires the office to recommend actions to the governor to promote economic development in advanced technology; identify and assess specific economic development opportunities; and engage in outreach to advanced technology industries.

The substitute adds definition of “medium-sized business” and authorizes these businesses as eligible borrowers of the linked deposit program.

The substitute changes the language regarding the transfer of the executive director and employees of the Texas Department of Economic Development to the Texas Economic Development and Tourism Office. Requires the executive director to apply for that position and be approved by the governor, and requires the employees to apply for a position and be approved by the governor and executive director.

The substitute removes the provision that exempted out-of-state tourism advertising from the state’s historically underutilized business requirements.

The substitute removes language requiring the consolidation of tourism activities, and adds language to require the office, as the sole state governmental entity responsible for out-of-state tourism marketing and promotion efforts, to perform certain acts, including entering into a memorandum of understanding with certain state agencies to direct the efforts of these agencies in all matters relating to promotion of tourism.

The substitute deletes ARTICLE 2 (CONSOLIDATION OF TOURISM FUNCTIONS) in its entirety and replaces it with ARTICLE 2 (CREATION OF TEXAS ECONOMIC DEVELOPMENT BANK.)

The substitute adds language to create the Texas Economic Development Bank within the office, and consolidates several existing business incentive and finance programs, including the product development and small business incubator programs, into the bank. The substitute establishes the operation and funding for the bank, and authorizes the bank to transfer funds between the existing programs to meet changes in demand and to charge fees to support the administration of the programs.

The substitute deletes ARTICLE 3 (EFFECTIVE DATE), which is now contained in ARTICLE 5 of the committee substitute, and replaces it with ARTICLE 3 (ENTERPRISE ZONES; CERTAIN OTHER ECONOMIC DEVELOPMENT PROGRAMS ADMINISTERED BY TEXAS ECONOMIC DEVELOPMENT BANK).

The substitute adds language to re-design the enterprise zone program by eliminating the application process and authorizing the bank to designate the enterprise zones based on areas with a poverty rate of 20 percent or higher. The substitute strengthens incentives for larger investments and new job creation, and requires administrative costs of the program to be fully cost-recovered.