

By: Jones of Dallas

H.B. No. 1380

Substitute the following for H.B. No. 1380:

By: Vo

C.S.H.B. No. 1380

A BILL TO BE ENTITLED

AN ACT

relating to the creation of renaissance zones to promote the relocation of businesses to certain areas of this state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle G, Title 10, Government Code, is amended by adding Chapter 2312 to read as follows:

CHAPTER 2312. RENAISSANCE ZONES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2312.001. DEFINITIONS. In this chapter:

(1) "Business" includes a part of the operations of a business entity.

(2) "Eligible business" means a business designated as an eligible business under Section 2312.102.

(3) "Office" means the Texas Economic Development and Tourism Office.

(4) "Relocate" means to establish a physical presence at a new location, including:

(A) the transfer of an existing business operation to a facility at a different location;

(B) the expansion of an existing business operation to an additional location; or

(C) the establishment of an office or plant at a different location.

(5) "Taxing unit" has the meaning assigned by Section

1 1.04, Tax Code.

2 (6) "Zone" means an area designated as a renaissance
3 zone under this chapter.

4 Sec. 2312.002. REINVESTMENT ZONE. A zone is a reinvestment
5 zone within the meaning of Section 1-g(a), Article VIII, Texas
6 Constitution.

7 [Sections 2312.003-2312.050 reserved for expansion]

8 SUBCHAPTER B. CREATION OF ZONE

9 Sec. 2312.051. NOMINATION OF AREA. (a) The governing body
10 of a taxing unit, singly or jointly with another taxing unit, may by
11 order or ordinance nominate an area located within the boundaries
12 of the taxing unit for designation as a zone by submitting an
13 application to the office.

14 (b) An application for designation as a zone shall contain:

15 (1) a copy of the order or ordinance nominating the
16 area as a zone;

17 (2) a map of the area showing existing streets and
18 highways and the boundaries of the area;

19 (3) an analysis and appropriate supporting documents
20 and statistics demonstrating that the area qualifies for
21 designation as a zone;

22 (4) information demonstrating that an eligible
23 business is likely to relocate to the area if the area is designated
24 as a zone; and

25 (5) any other information required by the office.

26 Sec. 2312.052. DESIGNATION BY OFFICE. (a) The office shall
27 review each application submitted by a taxing unit seeking

1 designation as a zone.

2 (b) The office must decide whether to designate an area as a
3 zone before the 90th day after the date on which the application is
4 submitted.

5 (c) The office shall decide whether to designate an area as
6 a zone based on:

7 (1) whether the criteria for designation as a zone
8 prescribed by Section 2312.053 are met; and

9 (2) the likelihood that an eligible business will
10 relocate to the area.

11 Sec. 2312.053. CRITERIA FOR DESIGNATION. (a) To be
12 designated as a zone an area must:

13 (1) have a continuous boundary;

14 (2) be at least one square mile but not larger than the
15 greater of:

16 (A) 10 square miles, excluding lakes, waterways,
17 and transportation arteries; or

18 (B) an area, not to exceed 20 square miles, that
19 is equal to five percent of the area, excluding lakes, waterways,
20 and transportation arteries, of the county in which the area is
21 located; and

22 (3) be an area classified as an area of pervasive
23 poverty, unemployment, and economic distress under Subsection (b).

24 (b) An area is an area of pervasive poverty, unemployment,
25 and economic distress if:

26 (1) the average rate of unemployment in the area
27 during the most recent 12-month period for which data is available

1 was at least 1-1/2 times the state average for that period; or

2 (2) the area had a population loss of at least 12
3 percent during the most recent six-year period or at least four
4 percent during the most recent three-year period, and:

5 (A) the area is a low-income poverty area;

6 (B) the area is in a jurisdiction or pocket of
7 poverty eligible for urban development action grants under federal
8 law, according to the most recent certification available from the
9 United States Department of Housing and Urban Development;

10 (C) at least 70 percent of the residents or
11 households of the area have an income that is less than 80 percent
12 of the median income of the residents or households of the locality
13 or state, whichever is less; or

14 (D) the governing body of the taxing unit
15 nominating the area establishes to the satisfaction of the office
16 that:

17 (i) chronic abandonment or demolition of
18 commercial or residential structures exists in the area;

19 (ii) substantial tax arrearages for
20 commercial or residential structures exist in the area;

21 (iii) substantial losses of businesses or
22 jobs have occurred in the area;

23 (iv) the area is part of a disaster area
24 declared by the state or federal government during the preceding 18
25 months; or

26 (v) the area has had a substantial increase
27 in the number of individuals younger than 18 years of age arrested

1 due to criminal activity.

2 (c) Labor force and population data under Subsection (b) are
3 considered current if:

4 (1) they are the most recently published estimates; or

5 (2) the renaissance zone application containing the
6 data is received by the office before the 61st day after the date
7 revised estimates of that data are published.

8 (d) For purposes of determining the average rate of
9 unemployment in the area under Subsection (b)(1), individuals who
10 are employed by a business and whose principal place of employment
11 is on property for which the business has received a certificate of
12 completion under Section 361.609, Health and Safety Code, are not
13 considered.

14 [Sections 2312.054-2312.100 reserved for expansion]

15 SUBCHAPTER C. BOARD OF DIRECTORS; POWERS AND DUTIES OF BOARD

16 Sec. 2312.101. BOARD OF DIRECTORS. (a) A zone is governed
17 by a board of directors.

18 (b) The executive director of the office shall by rule
19 determine the number of directors, the qualifications of directors,
20 and the method of apportioning the appointment of directors among
21 the taxing units that nominated the area for designation as a zone.
22 The executive director of the office shall provide that each taxing
23 unit may appoint at least one director.

24 (c) A taxing unit must make its appointments to the board of
25 directors before the 30th day after the date on which the office
26 designates an area as a zone.

27 Sec. 2312.102. DESIGNATION OF ELIGIBLE BUSINESSES. (a)

1 The board of directors shall determine whether a business is an
2 eligible business.

3 (b) If the board of directors determines that a business
4 meets the requirements prescribed by Section 2312.151(b), the board
5 by order shall designate the business as an eligible business.

6 Sec. 2312.103. ADVERTISEMENT OF ZONE. The board of
7 directors shall advertise the existence of a zone and the benefits
8 of relocating to a zone to attract businesses to the zone and
9 encourage new business growth in the zone.

10 Sec. 2312.104. APPLICATION FOR AUTHORITY TO EXEMPT ELIGIBLE
11 BUSINESSES FROM FRANCHISE TAX. (a) The board of directors may
12 apply to the comptroller for authorization to grant a franchise tax
13 exemption to eligible businesses within the zone.

14 (b) If the comptroller determines that there is sufficient
15 money in the renaissance zone franchise tax exemption account
16 established under Subchapter E to offset an exemption from the
17 franchise tax for eligible businesses within the zone, the
18 comptroller shall approve the exemption.

19 (c) The comptroller may restrict the number of businesses in
20 a single zone or in all zones that may be granted franchise tax
21 exemptions if the comptroller determines that the money in the
22 account will support franchise tax exemptions for only that number
23 of businesses.

24 (d) The comptroller may adopt rules to implement this
25 section.

26 [Sections 2312.105-2312.150 reserved for expansion]

1 SUBCHAPTER D. INCENTIVES FOR BUSINESS RECRUITMENT

2 Sec. 2312.151. ELIGIBLE BUSINESS. (a) In this section,
3 "new job" means a new employment position that is intended to
4 provide at least 1,820 hours of employment a year.

5 (b) A business is an eligible business if:

6 (1) the business relocates from another state to or is
7 a new business created in a zone after the date on which the zone is
8 designated; and

9 (2) the business delivers a written statement to the
10 board of directors that guarantees that:

11 (A) the relocation of the business to or creation
12 of the business in the zone will create 50 or more new jobs in the
13 zone; and

14 (B) the business will invest a minimum of \$1
15 million in real property improvements in the zone.

16 (c) An eligible business that has not created 50 or more new
17 jobs in the zone before the first anniversary of the date on which
18 the business is designated as an eligible business or that has not
19 invested \$1 million or more in real property improvements before
20 the fifth anniversary of the date on which the business is
21 designated as an eligible business may not receive further tax
22 abatements or exemptions under this chapter.

23 (d) Only the property and operations of an eligible business
24 that are physically located in the zone are eligible for an
25 incentive under this chapter.

26 Sec. 2312.152. EXPIRATION. The designation of a business
27 as an eligible business expires on the 10th anniversary of the date

1 on which a business is designated as an eligible business.

2 Sec. 2312.153. SALES AND USE TAX EXEMPTIONS. An eligible
3 business is exempt from sales and use taxes as provided by Section
4 151.356, Tax Code.

5 Sec. 2312.154. FRANCHISE TAX EXEMPTION. An eligible
6 business is exempt from franchise taxes as provided by Section
7 171.088, Tax Code, only if:

8 (1) the eligible business is located in a zone for
9 which the comptroller has approved franchise tax exemptions under
10 Section 2312.104;

11 (2) the number of businesses previously granted
12 exemptions does not equal or exceed the maximum number of
13 businesses that may be granted exemptions in the zone or in all
14 zones, as determined by the comptroller under Section 2312.104(c);
15 and

16 (3) the board of directors grants the business an
17 exemption from the franchise tax.

18 Sec. 2312.155. LOCAL AD VALOREM TAX ABATEMENT. The
19 governing body of a taxing unit located wholly or partly in a zone
20 may enter into a tax abatement agreement as provided by Chapter 314,
21 Tax Code, with an eligible business operating in the zone if the
22 taxing unit may issue bonds payable from ad valorem taxes under
23 Section 1-g(b), Article VIII, Texas Constitution, or other law, for
24 the purpose of offsetting tax proceeds that would not be collected
25 as a result of a tax abatement agreement.

26 [Sections 2312.156-2312.200 reserved for expansion]

1 SUBCHAPTER E. RENAISSANCE ZONE FRANCHISE TAX EXEMPTION ACCOUNT

2 Sec. 2312.201. RENAISSANCE ZONE FRANCHISE TAX EXEMPTION
3 ACCOUNT. (a) The renaissance zone franchise tax exemption account
4 is a separate account in the general revenue fund.

5 (b) The account is composed of:

6 (1) money from the Texas Enterprise Fund awarded to
7 the account;

8 (2) gifts, grants, and donations; and

9 (3) legislative appropriations.

10 (c) Money in the account may be used only to offset the
11 exemptions from the franchise tax granted to eligible businesses
12 within renaissance zones.

13 SECTION 2. Subchapter H, Chapter 151, Tax Code, is amended
14 by adding Section 151.356 to read as follows:

15 Sec. 151.356. ITEMS SOLD TO OR USED BY CERTAIN BUSINESSES
16 LOCATED IN RENAISSANCE ZONES. (a) A taxable item sold, leased, or
17 rented to or stored, used, or consumed by a business designated as
18 an eligible business under Section 2312.102, Government Code, is
19 exempted from the taxes imposed by this chapter if the item is for
20 the exclusive use and benefit of the eligible business's operations
21 within the renaissance zone.

22 (b) The exemption provided by this section does not apply to
23 an item that is to be leased, sold, or lent by the eligible
24 business.

25 SECTION 3. Subchapter B, Chapter 171, Tax Code, is amended
26 by adding Section 171.088 to read as follows:

27 Sec. 171.088. EXEMPTION--CERTAIN CORPORATIONS LOCATED IN

1 RENAISSANCE ZONES. (a) To the extent that the corporation's
2 taxable activities occur within a renaissance zone, a corporation
3 designated as an eligible business under Section 2312.102,
4 Government Code, is exempted from the franchise tax before the
5 fifth anniversary of the date on which the corporation is
6 designated as an eligible business.

7 (b) To the extent that the corporation's taxable activities
8 occur within a renaissance zone, a corporation designated as an
9 eligible business under Section 2312.102, Government Code, is
10 exempted from:

11 (1) 80 percent of the amount of franchise tax due for
12 the period beginning on the fifth anniversary and ending on the day
13 before the sixth anniversary of the date on which the corporation is
14 designated as an eligible business;

15 (2) 60 percent of the amount of franchise tax due for
16 the period beginning on the sixth anniversary and ending on the day
17 before the seventh anniversary of the date on which the corporation
18 is designated as an eligible business;

19 (3) 40 percent of the amount of franchise tax due for
20 the period beginning on the seventh anniversary and ending on the
21 day before the eighth anniversary of the date on which the
22 corporation is designated as an eligible business;

23 (4) 20 percent of the amount of franchise tax due for
24 the period beginning on the eighth anniversary and ending on the day
25 before the ninth anniversary of the date on which the corporation is
26 designated as an eligible business; and

27 (5) 10 percent of the amount of franchise tax due for

1 the period beginning on the ninth anniversary and ending on the day
2 before the 10th anniversary of the date on which the corporation is
3 designated as an eligible business.

4 SECTION 4. Subtitle B, Title 3, Tax Code, is amended by
5 adding Chapter 314 to read as follows:

6 CHAPTER 314. TAX ABATEMENT IN RENAISSANCE ZONES

7 SUBCHAPTER A. GENERAL PROVISIONS

8 Sec. 314.001. DEFINITIONS. In this chapter:

9 (1) "Eligible business" means a business designated as
10 an eligible business under Section 2312.102, Government Code.

11 (2) "Taxing unit" has the meaning assigned by Section
12 1.04.

13 Sec. 314.002. TAXING UNIT WITH TAX RATE SET BY
14 COMMISSIONERS COURT. (a) The commissioners court of a county that
15 enters into a tax abatement agreement for the county may enter into
16 a tax abatement agreement applicable to the same property on behalf
17 of a taxing unit other than the county if by statute the ad valorem
18 tax rate of the other taxing unit is approved by the commissioners
19 court or the commissioners court is expressly required by statute
20 to impose the ad valorem taxes of the other taxing unit. The tax
21 abatement agreement entered into on behalf of the other taxing unit
22 is not required to contain the same terms as the tax abatement
23 agreement entered into on behalf of the county.

24 (b) This section does not apply to a taxing unit because the
25 county tax assessor-collector is required by law to assess or
26 collect the taxing unit's ad valorem taxes.

27 Sec. 314.003. STATE ADMINISTRATION. (a) The comptroller

1 shall maintain a central registry of ad valorem tax abatement
2 agreements executed under this chapter. The chief appraiser of
3 each appraisal district that appraises property for a taxing unit
4 that is located wholly or partly in a reinvestment zone and has
5 executed a tax abatement agreement under this chapter shall deliver
6 to the comptroller before July 1 of the year following the year in
7 which the zone is designated or the agreement is executed a report
8 providing the following information:

9 (1) a general description of the reinvestment zone,
10 including its boundaries and the taxing units that are located
11 wholly or partly in the zone;

12 (2) a copy of each tax abatement agreement to which a
13 taxing unit that participates in the appraisal district is a party;
14 and

15 (3) any other information required by the comptroller
16 to administer this section.

17 (b) The comptroller may provide assistance to a taxing unit
18 on request of its governing body or the presiding officer of its
19 governing body relating to the administration of this chapter. The
20 Texas Economic Development and Tourism Office and the comptroller
21 may provide technical assistance to a local governing body
22 regarding the execution of tax abatement agreements.

23 (c) Only the property of an eligible business that is
24 physically located in a renaissance zone is eligible for an
25 abatement under this chapter.

26 [Sections 314.004-314.050 reserved for expansion]

1 SUBCHAPTER B. TAX ABATEMENT

2 Sec. 314.051. REINVESTMENT ZONE. Designation of an area as
3 a renaissance zone under Chapter 2312, Government Code, constitutes
4 designation of the area as a reinvestment zone under this chapter
5 without procedural requirements other than those provided by
6 Chapter 2312, Government Code.

7 Sec. 314.052. TAX ABATEMENT AGREEMENT. (a) The governing
8 body of a taxing unit authorized to enter into tax abatement
9 agreements under Section 2312.155, Government Code, may agree in
10 writing with an eligible business to exempt from taxation a portion
11 of the value of the property owned by the eligible business as
12 provided by this section.

13 (b) A tax abatement agreement shall provide that:

14 (1) 100 percent of the value of the taxable property is
15 exempt from taxation before the seventh anniversary of the date on
16 which the business is designated as an eligible business;

17 (2) 75 percent of the value of the taxable property is
18 exempt from taxation for the period beginning on the seventh
19 anniversary and ending on the day before the eighth anniversary of
20 the date on which the business is designated as an eligible
21 business;

22 (3) 50 percent of the value of the taxable property is
23 exempt from taxation for the period beginning on the eighth
24 anniversary and ending on the day before the ninth anniversary of
25 the date on which the business is designated as an eligible
26 business; and

27 (4) 25 percent of the value of the taxable property is

1 exempt from taxation for the period beginning on the ninth
2 anniversary and ending on the day before the 10th anniversary of the
3 date on which the business is designated as an eligible business.

4 (c) A tax abatement agreement expires on the 10th
5 anniversary of the date on which the business is designated as an
6 eligible business.

7 Sec. 314.053. SPECIFIC TERMS OF TAX ABATEMENT AGREEMENT.

8 (a) An agreement made under this chapter must:

9 (1) provide for recapturing property tax revenue lost
10 as a result of the agreement if the property ceases to be owned by an
11 eligible business; and

12 (2) require the owner of the property to certify
13 annually to the governing body of the taxing unit that the owner is
14 an eligible business and is in compliance with each applicable term
15 of the agreement.

16 (b) An agreement made under this chapter may include any
17 term agreed on by the taxing unit and the eligible business that
18 does not alter the terms prescribed by this subchapter.

19 Sec. 314.054. APPROVAL BY GOVERNING BODY. (a) To be
20 effective, an agreement made under this chapter must be approved by
21 the affirmative vote of a majority of the members of the governing
22 body of the taxing unit at a regularly scheduled meeting of the
23 governing body.

24 (b) On approval by the governing body, an agreement may be
25 executed in the same manner as other contracts made by the taxing
26 unit.

27 Sec. 314.055. MODIFICATION OR TERMINATION OF AGREEMENT.

1 (a) At any time before the expiration of an agreement made under
2 this chapter, the agreement may be modified by the parties to the
3 agreement to include other provisions that could have been included
4 in the original agreement or to delete provisions that were not
5 necessary to the original agreement. The agreement may not be
6 modified to alter the terms expressly imposed by this subchapter.

7 (b) The modification must be made by the same procedure by
8 which the original agreement was approved and executed.

9 (c) The original agreement may not be modified to extend
10 beyond the 10th anniversary of the date on which the business is
11 designated as an eligible business.

12 Sec. 314.056. USE OF BOND PROCEEDS BY TAXING UNIT. A taxing
13 unit authorized to issue bonds payable from ad valorem taxes under
14 Section 1-g(b), Article VIII, Texas Constitution, or other law, may
15 use the proceeds of the bonds to offset the tax proceeds that would
16 not be collected by the taxing unit as a result of tax abatement
17 agreements entered into with eligible businesses under this chapter
18 if the use of proceeds in that manner is consistent with the purpose
19 for which the bonds were issued.

20 Sec. 314.057. ISSUANCE OF BONDS. (a) A municipality may
21 issue bonds, the proceeds of which may be used to pay the cost to the
22 municipality under tax abatement agreements entered into with
23 eligible businesses in the renaissance zone on behalf of which the
24 bonds were issued or to satisfy claims of holders of the bonds or
25 notes. The municipality may issue refunding bonds for the payment
26 or retirement of bonds previously issued by the municipality under
27 this section.

1 (b) Bonds issued under this section are payable, as to both
2 principal and interest, from ad valorem taxes.

3 (c) Bonds are issued under this section by ordinance of the
4 municipality without any additional approval other than that of the
5 attorney general.

6 (d) Bonds issued under this section, together with the
7 interest on and income from those bonds, are exempt from all taxes.

8 (e) The bonds may be issued in one or more series. The
9 ordinance approving a bond, or the trust indenture or mortgage
10 issued in connection with the bond, shall provide:

11 (1) the date that the bond bears;

12 (2) that the bond is payable on demand or at a
13 specified time;

14 (3) the interest rate that the bond bears;

15 (4) the denomination of the bond;

16 (5) whether the bond is in coupon or registered form;

17 (6) the conversion or registration privileges of the
18 bond;

19 (7) the rank or priority of the bond;

20 (8) the manner of execution of the bond;

21 (9) the medium of payment in which and the place or
22 places at which the bond is payable;

23 (10) the terms of redemption, with or without premium,
24 to which the bond is subject;

25 (11) the manner in which the bond is secured; and

26 (12) any other characteristic of the bond.

27 (f) A bond issued under this section is fully negotiable.

1 In a suit, action, or other proceeding involving the validity or
2 enforceability of a bond issued under this section or the security
3 of a bond issued under this section, if the bond recites in
4 substance that it was issued by the municipality for a renaissance
5 zone, the bond or note is conclusively considered to have been
6 issued for that purpose, and the development or redevelopment of
7 the zone is conclusively considered to have been planned, located,
8 and carried out as provided by this chapter.

9 (g) A bank, trust company, savings bank or institution,
10 savings and loan association, investment company or other person
11 carrying on a banking or investment business, an insurance company,
12 insurance association, or other person carrying on an insurance
13 business, or an executor, administrator, curator, trustee, or other
14 fiduciary may invest any sinking funds, money, or other funds
15 belonging to it or in its control in bonds issued under this
16 section. The bonds are authorized security for all public
17 deposits. A person, political subdivision, or public or private
18 officer may use funds owned or controlled by the person, political
19 subdivision, or officer to purchase bonds issued under this
20 section. This subsection does not relieve any person of the duty to
21 exercise reasonable care in selecting securities.

22 (h) A bond issued under this section is not a general
23 obligation of the issuing municipality. A bond issued under this
24 section does not give rise to a charge against the general credit or
25 taxing powers of the municipality and is not payable except as
26 provided by this section. A bond issued under this section must
27 state the restrictions of this subsection on its face.

1 (i) A bond issued under this section may not be included in
2 any computation of the debt of the issuing municipality.

3 (j) A municipality may not issue bonds in an amount that
4 exceeds the total cost to the municipality under tax abatement
5 agreements entered into with eligible businesses in the renaissance
6 zone for which the bonds are issued.

7 (k) A bond issued under this section must mature within 20
8 years of the date of issue.

9 SECTION 5. Subchapter C, Chapter 321, Tax Code, is amended
10 by adding Section 321.2081 to read as follows:

11 Sec. 321.2081. REALLOCATION OF PROCEEDS FOR CERTAIN
12 EXEMPTIONS. Notwithstanding any other law, a municipality may
13 reallocate sales and use tax proceeds to offset revenue not
14 received as a result of the operation of Sections 151.356 and
15 321.208.

16 SECTION 6. Subchapter C, Chapter 323, Tax Code, is amended
17 by adding Section 323.2071 to read as follows:

18 Sec. 323.2071. REALLOCATION OF PROCEEDS FOR CERTAIN
19 EXEMPTIONS. Notwithstanding any other law, a county may reallocate
20 sales and use tax proceeds to offset revenue not received as a
21 result of the operation of Sections 151.356 and 323.207.

22 SECTION 7. This Act takes effect September 1, 2005.