

By: Ritter

H.B. No. 3249

A BILL TO BE ENTITLED

AN ACT

relating to the enterprise zone program.

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

SECTION 1. Section 2303.003(7), Government Code, is amended to read as follows:

(7) "Qualified employee" means a person who:

(A) works for a qualified business; and

(B) performs services that directly benefit the qualified business [~~at least 50 percent of the person's service for the business in the enterprise zone~~].

SECTION 2. Section 2303.403, Government Code, is amended to read as follows:

Sec. 2303.403. PROHIBITION ON QUALIFIED BUSINESS CERTIFICATION; LIMIT ON ENTERPRISE PROJECT DESIGNATIONS. If the bank determines that the governing body eligible to nominate an enterprise project is not complying with this chapter, the bank shall prohibit the certification of a qualified business until the bank determines that the governing body is complying with this chapter. The bank may not designate more than 100 [~~85~~] enterprise projects during any biennium.

SECTION 3. Section 2303.407(b), Government Code, as amended by Section 3.16, Chapter 814, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

(b) A capital investment in a project of:

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

4 (2) \$400,000 to \$999,999 will result in a refund of up
5 to \$2,500 per job with a maximum refund of \$62,500 for the creation
6 or retention of 25 jobs;

7 (3) \$1,000,000 to \$4,999,999 will result in a refund
8 of up to \$2,500 per job with a maximum refund of \$312,500 for the
9 creation or retention of 125 jobs;

10 (4) \$5,000,000 to \$19,999,999 [~~\$149,999,999~~] will
11 result in a refund of up to \$2,500 per job with a maximum refund of
12 \$1,250,000 for the creation or retention of 500 jobs;

13 (5) \$20,000,000 [~~\$150,000,000~~] to \$39,999,999
14 [~~\$249,999,999~~] will result in a refund of up to \$5,000 per job with
15 a maximum refund of \$2,500,000 for the creation or retention of 500
16 jobs; or

17 (6) \$40,000,000 [~~\$250,000,000~~] or more will result in
18 a refund of up to \$7,500 per job with a maximum refund of \$3,750,000
19 for the creation or retention of 500 jobs.

20 SECTION 4. The heading to Section 2303.504, Government
21 Code, as amended by Section 2.02, Chapter 1134, Acts of the 77th
22 Legislature, Regular Session, 2001, is amended to read as follows:

23 Sec. 2303.504. STATE TAX REFUNDS AND CREDITS; REPORT.

24 SECTION 5. Section 2303.504(a), Government Code, as amended
25 by Section 2.02, Chapter 1134, Acts of the 77th Legislature,
26 Regular Session, 2001, is amended to read as follows:

27 (a) Subject to Section 2303.516, an enterprise project is

1 entitled to:

2 (1) a refund of state taxes under Section 151.429, Tax
3 Code; and

4 (2) a franchise tax credit under Subchapter P or Q,
5 Chapter 171, Tax Code.

6 SECTION 6. Sections 151.429(a) and (b), Tax Code, as
7 amended by Section 3.52, Chapter 814, Acts of the 78th Legislature,
8 Regular Session, 2003, are amended to read as follows:

9 (a) An enterprise project is eligible for a refund in the
10 amount provided by this section of the taxes imposed by this chapter
11 on purchases of:

12 (1) equipment or machinery sold to an enterprise
13 project that directly benefits [for use at] the qualified business
14 and is substantially used for the operation of the qualified
15 business [site];

16 (2) building materials sold to an enterprise project
17 for use in remodeling, rehabilitating, or constructing a structure
18 at the qualified business site;

19 (3) labor for remodeling, rehabilitating, or
20 constructing a structure by an enterprise project at the qualified
21 business site; ~~and~~

22 (4) electricity and natural gas purchased and consumed
23 in the normal course of business at the qualified business site;

24 (5) tangible personal property purchased and consumed
25 in the normal course of business at the qualified business site;
26 and

27 (6) taxable services.

1 (b) Subject to the limitations provided by Subsection (c) of
2 this section, an enterprise project qualifies for a refund of taxes
3 under this section based on the amount of capital investment made in
4 the project that directly benefits ~~[at]~~ the qualified business and
5 is substantially used for the operation of the qualified business
6 ~~[site]~~ and the refund per job with a maximum refund to be included
7 in a computation of a tax refund for the project. A capital
8 investment made under this subsection ~~[at the qualified business~~
9 ~~site]~~ of:

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

13 (2) \$400,000 to \$999,999 will result in a refund of up
14 to \$2,500 per job with a maximum refund of \$62,500 for the creation
15 or retention of 25 jobs;

16 (3) \$1,000,000 to \$4,999,999 will result in a refund
17 of up to \$2,500 per job with a maximum refund of \$312,500 for the
18 creation or retention of 125 jobs;

19 (4) \$5,000,000 to \$19,999,999 ~~[\$149,999,999]~~ will
20 result in a refund of up to \$2,500 per job with a maximum refund of
21 \$1,250,000 for the creation or retention of 500 jobs;

22 (5) \$20,000,000 ~~[\$150,000,000]~~ to \$39,999,999
23 ~~[\$249,999,999]~~ will result in a refund of up to \$5,000 per job with
24 a maximum refund of \$2,500,000 for the creation or retention of 500
25 jobs; or

26 (6) \$40,000,000 ~~[\$250,000,000]~~ or more will result in
27 a refund of up to \$7,500 per job with a maximum refund of \$3,750,000

1 for the creation or retention of 500 jobs.

2 SECTION 7. Section 171.751(9), Tax Code, is amended to read
3 as follows:

4 (9) "Qualifying job" means a new permanent full-time
5 job that:

6 (A) is located in:

7 (i) a strategic investment area; ~~or~~

8 (ii) a county within this state with a
9 population of less than 50,000, if the job is created by a business
10 primarily engaged in agricultural processing; or

11 (iii) an enterprise zone, regardless of
12 whether the job meets the qualifications prescribed by Paragraphs
13 (B)-(F), if the job is created by a qualified business that has been
14 designated as an enterprise project;

15 (B) requires at least 1,600 hours of work a year;

16 (C) pays at least 110 percent of the county
17 average weekly wage for the county where the job is located;

18 (D) is covered by a group health benefit plan for
19 which the business pays at least 80 percent of the premiums or other
20 charges assessed under the plan for the employee;

21 (E) is not transferred from one area in this
22 state to another area in this state; and

23 (F) is not created to replace a previous
24 employee.

25 SECTION 8. Subchapter P, Chapter 171, Tax Code, is amended
26 by adding Section 171.7515 to read as follows:

27 Sec. 171.7515. "QUALIFIED BUSINESS." In addition to the

1 meaning assigned by Section 171.751(8), "qualified business" also
2 means a corporation that has been designated as an enterprise
3 project and is certified by the Texas Economic Development Bank as a
4 qualified business under Section 2303.402, Government Code.

5 SECTION 9. Section 171.752, Tax Code, is amended to read as
6 follows:

7 Sec. 171.752. ELIGIBILITY. (a) A corporation is eligible
8 for a credit against the tax imposed under this chapter if the
9 corporation:

10 (1) is a qualified business as defined in Section
11 171.751 or 171.7515;

12 (2) creates a minimum of 10 qualifying jobs; and

13 (3) pays an average weekly wage, for the year in which
14 credits are claimed, of at least 110 percent of the county average
15 weekly wage for the county where the qualifying jobs are located.

16 (b) A corporation may claim a credit or take a carryforward
17 credit without regard to whether the strategic investment area or
18 enterprise zone in which it created the qualifying jobs
19 subsequently loses its designation as a strategic investment area
20 or enterprise zone, if applicable.

21 SECTION 10. Subchapter P, Chapter 171, Tax Code, is amended
22 by adding Section 171.7541 to read as follows:

23 Sec. 171.7541. LENGTH OF CREDIT. Notwithstanding Section
24 171.753, a corporation that has been designated as an enterprise
25 project on or after September 1, 2001, may, beginning on the date
26 the project is designated, establish a credit equal to 25 percent of
27 the total wages and salaries paid by the corporation for qualifying

1 jobs. Subject to Section 171.755, the corporation may claim the
2 entire credit earned on a report originally due on or after
3 September 1, 2003, and before January 1, 2010.

4 SECTION 11. Section 171.801(2), Tax Code, is amended to
5 read as follows:

6 (2) "Qualified capital investment" means tangible
7 personal property first placed in service in a strategic investment
8 area, ~~or~~ first placed in service in a county with a population of
9 less than 50,000 by a corporation primarily engaged in agricultural
10 processing, or first placed in service in an enterprise zone by a
11 qualified business that has been designated as an enterprise
12 project, and that is described in Section 1245(a), Internal Revenue
13 Code, such as engines, machinery, tools, and implements used in a
14 trade or business or held for investment and subject to an allowance
15 for depreciation, cost recovery under the accelerated cost recovery
16 system, or amortization. The term does not include real property or
17 buildings and their structural components. Property that is leased
18 under a capitalized lease is considered a "qualified capital
19 investment," but property that is leased under an operating lease
20 is not considered a "qualified capital investment." Property
21 expensed under Section 179, Internal Revenue Code, is not
22 considered a "qualified capital investment."

23 SECTION 12. Section 171.8015, Tax Code, is amended to read
24 as follows:

25 Sec. 171.8015. TANGIBLE PERSONAL PROPERTY FIRST PLACED IN
26 SERVICE IN AN ENTERPRISE ZONE. For purposes of determining whether
27 an investment is a "qualified capital investment" under Section

1 171.801, "tangible personal property first placed in service in an
2 enterprise zone" includes tangible personal property:

3 (1) purchased by a qualified business for placement in
4 an incomplete improvement that is under active construction or
5 other physical preparation;

6 (2) identified by a purchase order, invoice, billing,
7 sales slip, or contract; and

8 (3) physically present at the enterprise zone and in
9 use by the qualified business not later than December 31, 2009
10 [~~September 30, 2005~~].

11 SECTION 13. Section 171.802, Tax Code, is amended by
12 amending Subsection (c) and adding Subsection (d) to read as
13 follows:

14 (c) A corporation may claim a credit or take a carryforward
15 credit without regard to whether the strategic investment area or
16 enterprise zone in which it made the qualified capital investment
17 subsequently loses its designation as a strategic investment area
18 or enterprise zone, if applicable.

19 (d) A corporation that has been designated as an enterprise
20 project and is certified by the Texas Economic Development Bank as a
21 qualified business under Section 2303.402, Government Code, may
22 qualify for the credit provided by this subchapter, regardless of
23 whether the corporation meets the qualifications prescribed by
24 Subsection (b).

25 SECTION 14. Section 171.803, Tax Code, is amended by adding
26 Subsection (b) to read as follows:

27 (b) A corporation that has been designated as an enterprise

1 project on or after September 1, 2001, may, beginning on the date
2 the project is designated, establish a credit equal to 7.5 percent
3 of the qualified capital investment.

4 SECTION 15. Section 171.804, Tax Code, is amended to read as
5 follows:

6 Sec. 171.804. LENGTH OF CREDIT. (a) Except as provided by
7 Subsection (b), the [~~The~~] credit established shall be claimed in
8 five equal installments of one-fifth the credit amount over the
9 five consecutive reports beginning with the report based upon the
10 period during which the qualified capital investment was made.

11 (b) Subject to Section 171.805, a corporation that has been
12 designated as an enterprise project may claim the entire credit
13 earned on a report originally due on or after September 1, 2003, and
14 before December 31, 2009.

15 SECTION 16. This Act takes effect September 1, 2005.