

## **BILL ANALYSIS**

C.S.H.B. 3694  
By: Deshotel  
Economic Development  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The Texas Enterprise Zone program became available in 1987 for local jurisdictions and the state to partner together in offering local and state incentives to businesses expanding or locating within an enterprise zone. The concept was to bring capital investment and jobs to a distressed area that resulted with expanding the tax base and economic development.

An enterprise zone was a distressed area that the local jurisdictions determined based upon economic distressed criteria. Also, local jurisdictions could nominate qualified businesses as an enterprise project designation. These designations could receive state tax incentives under sales and use tax and franchise tax provided certain criterion was met by the qualified business. One criterion was for new jobs to be employed by economically disadvantaged individuals or enterprise zone residents.

During the 78<sup>th</sup> Regular Legislative Session, significant changes were made to Government Code 2303 to simplify and streamline the process. Some of the more substantial changes from the bill that relate to this bill are:

- An enterprise project located outside of a zone can now qualify for benefits. At least 35% of the business' employees must be residents of a zone or must be economically disadvantaged
- An enterprise zone resident could reside in a Texas enterprise zone instead of strictly from the jurisdiction's zone
- Projects may now qualify for "double" or "triple" project designation status, and a higher refund, based on the amount of capital invested and the number of jobs to be created or retained
- The comptroller's office, not the Office of Governor, Economic Development and Tourism, certifies job creation or retention for benefit purposes
- The Economic Development Bank is eligible to receive an administrative fee equal to 3% of a business' total refund
- Franchise tax credits expired

In the 79<sup>th</sup> Legislative Session, legislation was passed to establish that a distressed county is an enterprise zone.

C.S.H.B. 3694 enhances the economic development incentive program, Texas Enterprise Zone Program, to promote job creation and capital investment in local jurisdictions throughout the state. The legislation will also continue to streamline the program and correct previous language to concur with the concepts of the present statute and federal terminology.

### **RULEMAKING AUTHORITY**

It is the opinion of the committee that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

SECTION 1. Clarifies a definition of "office" and "qualified employee."

SECTION 2. Clarifies the jurisdiction of a municipality.

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SECTION 3. Establishes what program information must be included in the Bank report.

SECTION 4. Clarifies the definitions of "new permanent job" and "retained job," bringing in the 90-day window and stating that the jobs must be maintained during the designation period or for three years after the benefit is received, whichever is later.

SECTION 5. Provides language that brings the definition of economically disadvantaged in line with the federal terms.

SECTION 6. Increases the number of project designations allowed per state biennium from 85 to 120, and allows for any designations remaining to be carried forward one biennium.

SECTION 7. Adds language to state that a county may not nominate projects wholly or partly within a municipality's jurisdiction. The section is also amended to include a minimum period that a designation may encompass.

SECTION 8. Clarifies what is required in an application for enterprise project designation.

SECTION 9. Sets out the requirements for a nominating ordinance, order and resolution, as well as public hearing notices. Removes the differentiation of local incentives offered in an enterprise zone as opposed to local incentives offered outside of an enterprise zone. Local incentives must now be offered whether the project is located in a zone or outside of a zone.

SECTION 10. Clarifies what information is required from the nominating jurisdiction in the application.

SECTION 11. Removes three criteria for the retained jobs benefit, based on production, and adds a new criterion based on the ability to meet economically disadvantaged individuals or enterprise zone residents hiring requirements. Allows the Bank to lower the designation level of a proposed project or activity under certain circumstances, and disallows state benefit for jobs moved from one jurisdiction in Texas to another.

SECTION 12. Combines two allowances in statute for multiple concurrent designations in an enterprise zone during any biennium.

SECTION 13. Clarifies how refunds are paid out and allows triple enterprise project status for the creation and retention of no less than 500 jobs. Removes the limitation on triple enterprise projects for retained jobs from the introduced bill.

SECTION 14. Removes franchise tax language.

SECTION 15. States which communities must submit an annual report to the Bank.

SECTION 16. Expands the definition of qualifying items for state sales and tax refund to include all taxable items purchased for use at the qualified business site related to the project or activity and removes the previous list of qualifying items.

SECTION 17. Moves the remaining reporting requirements to the Comptroller's office to streamline the process. Eliminates the additional report to the Bank at the time a certificate of occupancy is issued, as this information is also reported to the Comptroller, and the Comptroller reports the information to the Bank.

SECTION 18. Makes conforming changes and requires the Comptroller's office to report to the Bank the final number of jobs created or retained and the actual amount of capital investment made by a project no later than 30 days after the project's close-out is completed.

SECTION 19. Follows through with the expanded definition of qualifying items for state sales and tax refund to include all taxable items purchased for use at the qualified business site related to the project or activity from SECTION 16 above in the Tax Code, and removes the previous list of qualifying items. It also incorporates language from SECTION 13 above into the Tax Code, and brings certain definitions from the Tax Code in line with the Government Code.

Ensures a reasonable process and time frame to determine and apply tax refunds to applicable enterprise projects.

SECTION 20. Repeals Chapter 2303.4051(d), Government Code, which is clarified and expanded in Section 9 of the bill. Chapter 2303.406(e), Government Code, is also repealed. The allowance of multiple concurrent designations was introduced and passed by two different bills during the 78th Legislative Session. SECTION 12 of the bill combines the two references, and this section then repeals the second reference to multiple concurrent designations.

SECTION 21. Keeps current law (Chapter 2303, Government Code) in effect for projects designated under current law.

SECTION 22. Keeps current law (Chapter 151.429, Tax Code) in effect for projects designated under current law.

SECTION 23. States the effective date for this Act.

### **EFFECTIVE DATE**

September 1, 2007.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.H.B. 3694 differs from the original in that it creates an additional job retention provision and does not eliminate triple enterprise projects.