

1-1 By: Deshotel (Senate Sponsor - Janek) H.B. No. 3694
1-2 (In the Senate - Received from the House April 27, 2007;
1-3 May 1, 2007, read first time and referred to Subcommittee on
1-4 Emerging Technologies and Economic Development; May 21, 2007,
1-5 reported adversely, with favorable Committee Substitute from
1-6 Committee on Business and Commerce by the following vote: Yeas 5,
1-7 Nays 0; May 21, 2007, sent to printer.)

1-8 COMMITTEE SUBSTITUTE FOR H.B. No. 3694 By: Estes

1-9 A BILL TO BE ENTITLED
1-10 AN ACT

1-11 relating to the enterprise zone program.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Sections 2303.003(5-a), (7), and (8), Government
1-14 Code, are amended to read as follows:

1-15 (5-a) "Office" means the Texas Economic Development
1-16 and Tourism Office within the office of the governor.

1-17 (7) "Qualified employee" means a person who:

1-18 (A) works for a qualified business; and

1-19 (B) performs at least 50 percent of the person's
1-20 service for the business at the qualified business site [~~in the~~
1-21 ~~enterprise zone~~].

1-22 (8) "Qualified hotel project" means a hotel proposed
1-23 to be constructed by a municipality on land owned by a municipality,
1-24 a county, or a nonprofit municipally sponsored or county-sponsored
1-25 local government corporation created under the Texas
1-26 Transportation Corporation Act, Chapter 431, Transportation Code,
1-27 that is within 1,000 feet of a convention center owned by a
1-28 municipality or county having a population of 1,100,000 [~~1,500,000~~]
1-29 or more, including shops, parking facilities, and any other
1-30 facilities ancillary to the hotel.

1-31 SECTION 2. Section 2303.004, Government Code, is amended to
1-32 read as follows:

1-33 Sec. 2303.004. JURISDICTION OF MUNICIPALITY. (a) For the
1-34 purposes of this chapter, territory in the municipal boundaries and
1-35 in the extraterritorial jurisdiction of a municipality is
1-36 considered to be in the jurisdiction of the municipality.

1-37 (b) Notwithstanding Subsection (a), the governing body of a
1-38 county with a population of 750,000 or more may nominate for
1-39 designation as an enterprise project a project or activity of a
1-40 qualified business that is located within the jurisdiction of a
1-41 municipality located in the county. For purposes of this
1-42 subsection, a county during any biennium may not use in any one
1-43 municipality more than three of the maximum number of designations
1-44 the county is permitted under Section 2303.406(d)(2).

1-45 SECTION 3. Section 2303.052, Government Code, is amended to
1-46 read as follows:

1-47 Sec. 2303.052. BANK [~~EVALUATION,~~] REPORT REGARDING
1-48 PROGRAM. [~~(a)~~] The bank must include the following information
1-49 regarding the enterprise zone program in the report required by
1-50 Section 489.107 [~~shall conduct a continuing evaluation of the~~
1-51 ~~enterprise zone program.~~

1-52 [~~(b) The bank shall develop data from available information~~
1-53 ~~demonstrating the relationship between the incentives provided~~
1-54 ~~under this chapter and the economy.~~

1-55 [~~(c) The bank biennially shall review local incentives.~~

1-56 [~~(d) On or before January 1 of each year the bank shall~~
1-57 ~~submit to the governor, the legislature, and the Legislative Budget~~
1-58 ~~Board a report that]:~~

1-59 (1) an evaluation of [~~evaluates~~] the effectiveness of
1-60 the [~~enterprise zone~~] program;

1-61 (2) a description of [~~describes~~] the use of state and
1-62 local incentives under this chapter and their effect on revenue;
1-63 and

2-1 (3) suggestions for ~~[suggests]~~ legislation with
2-2 regard to the program.

2-3 SECTION 4. Section 2303.401, Government Code, is amended to
2-4 read as follows:

2-5 Sec. 2303.401. DEFINITIONS. In this subchapter:

2-6 (1) "New permanent job" means a new employment
2-7 position that:

2-8 (A) is created by a qualified business as
2-9 described by Section 2303.402 at the qualified business site not
2-10 earlier than the 90th day before the date the business's project or
2-11 activity is designated as an enterprise project under this chapter;

2-12 (B) will provide or has provided for the duration
2-13 of the project's designation period ~~[that:~~

2-14 ~~[(A) has provided]~~ at least 1,820 hours of
2-15 employment a year to a qualified employee; and

2-16 (C) will ~~[(B) is intended to]~~ exist or has
2-17 existed at the qualified business site for the longer of:

2-18 (i) the duration of the project's
2-19 designation period; or

2-20 (ii) ~~[at least]~~ three years after the date
2-21 on which a state benefit is received as authorized by this chapter.

2-22 (2) "Retained job" means a job that:

2-23 (A) existed with a qualified business on the 91st
2-24 day before the date ~~[designation of]~~ the business's project or
2-25 activity is designated as an enterprise project;

2-26 (B) ~~[that:~~
2-27 ~~[(A)]~~ has provided and will continue to provide
2-28 employment to a qualified employee of at least 1,820 hours
2-29 annually; and

2-30 (C) will ~~[(B) is intended to]~~ be or has been an
2-31 employment position for the longer of:

2-32 (i) the duration of the project's
2-33 designation period; or

2-34 (ii) ~~[at least]~~ three years after the
2-35 expiration date of the claim period for receipt of ~~[date on which]~~
2-36 state benefit ~~[is received as]~~ authorized by this chapter.

2-37 SECTION 5. Section 2303.402(c), Government Code, is amended
2-38 to read as follows:

2-39 (c) For the purposes of this section, an economically
2-40 disadvantaged individual is an individual who:

2-41 (1) was unemployed for at least three months before
2-42 obtaining employment with the qualified business;

2-43 (2) receives public assistance benefits, including
2-44 welfare payments or food stamps, based on need and intended to
2-45 alleviate poverty;

2-46 (3) is a low-income ~~[an economically disadvantaged]~~
2-47 individual, as defined by Section 101, Workforce Investment Act of
2-48 1998 (29 U.S.C. Section 2801(25)) ~~[4(8), Job Training Partnership~~
2-49 Act (29 U.S.C. Section 1503(8))];

2-50 (4) is an individual with a disability ~~[handicaps]~~, as
2-51 defined by 29 U.S.C. Section 705(20)(A) ~~[706(8)];~~

2-52 (5) is an inmate, as defined by Section 498.001;

2-53 (6) is entering the workplace after being confined in
2-54 a facility operated by the institutional division of the Texas
2-55 Department of Criminal Justice or under contract with the Texas
2-56 Department of Criminal Justice;

2-57 (7) has been released by the Texas Youth Commission
2-58 and is on parole, if state law provides for such a person to be on
2-59 parole; or

2-60 (8) meets the current low income or moderate income
2-61 limits developed under Section 8, United States Housing Act of 1937
2-62 (42 U.S.C. Section 1437f et seq.).

2-63 SECTION 6. Section 2303.403, Government Code, is amended to
2-64 read as follows:

2-65 Sec. 2303.403. PROHIBITION ON QUALIFIED BUSINESS
2-66 CERTIFICATION; LIMIT ON ENTERPRISE PROJECT DESIGNATIONS. If the
2-67 bank determines that the governing body eligible to nominate an
2-68 enterprise project is not complying with this chapter, the bank
2-69 shall prohibit the certification of a qualified business until the

3-1 bank determines that the governing body is complying with this
3-2 chapter. The bank may not designate more than 105 [~~85~~] enterprise
3-3 projects during any biennium. Any designations remaining at the
3-4 end of a biennium may be carried forward to the next biennium.

3-5 SECTION 7. Section 2303.404(c), Government Code, is amended
3-6 to read as follows:

3-7 (c) The designation period for an enterprise project may not
3-8 be for less than one year or more than [~~exceed~~] five years from the
3-9 date on which the designation is made.

3-10 SECTION 8. Sections 2303.405(a) and (b), Government Code,
3-11 are amended to read as follows:

3-12 (a) If the governing body approves a request made under
3-13 Section 2303.404, the governing body may apply to the bank for the
3-14 designation of the project or activity of a qualified business as an
3-15 enterprise project only after it submits to the bank the order or
3-16 ordinance and other information that complies with the requirements
3-17 of Sections 2303.4051 and 2303.4052.

3-18 (b) An application must contain an economic analysis of the
3-19 plans of the qualified business for expansion, revitalization, or
3-20 other activity with regard to the enterprise project, including:

3-21 (1) the number of employment positions in existence at
3-22 the qualified business site on the 91st day before the application
3-23 deadline;

3-24 (1-a) the number of [~~anticipated~~] new permanent jobs
3-25 the enterprise project commits to [~~will~~] create during the
3-26 designation period presented in the form of a tabular listing of:

3-27 (A) the classification titles of those jobs; and
3-28 (B) the number of jobs and salary range for each
3-29 classification title;

3-30 (2) the [~~anticipated~~] number of permanent jobs the
3-31 enterprise project commits to [~~will~~] retain during the designation
3-32 period presented in the form of a tabular listing of:

3-33 (A) the classification titles of the retained
3-34 jobs; and
3-35 (B) the number of retained jobs and salary range
3-36 for each classification title;

3-37 (3) the amount of investment to be made by the
3-38 enterprise project;

3-39 (4) a complete description of the projected schedule
3-40 for completion of the specific activity described by Section
3-41 2303.404(b) to be undertaken by the enterprise project;

3-42 (5) other information the bank requires;

3-43 (6) a description of the local effort made by the
3-44 nominating body, the qualified business, and other affected
3-45 entities to develop and revitalize the jurisdiction of the
3-46 governmental entity nominating the project or activity; and

3-47 (7) if the nominating body is applying for a double or
3-48 triple jumbo enterprise project, as defined by Section 2303.407, an
3-49 indication of which level [~~of those types~~] of designation
3-50 [~~designations~~] is being sought.

3-51 SECTION 9. Sections 2303.4051(a), (b), (e), (f), and (g),
3-52 Government Code, are amended to read as follows:

3-53 (a) In this section, "local incentive" means each tax
3-54 incentive, grant, other financial incentive or benefit, or program
3-55 to be provided by the governing body to qualified businesses
3-56 participating in the enterprise zone program [~~business enterprises~~
3-57 ~~in the block group~~] and any other local incentive listed in Section
3-58 2303.511.

3-59 (b) Before nominating the project or activity of a qualified
3-60 business for designation as an enterprise project, the governing
3-61 body of the municipality or county in which the business is located,
3-62 by ordinance or order, as appropriate, must identify and summarize
3-63 briefly any local incentives available[+]

3-64 [~~(1) in each of the block groups or other areas within~~
3-65 ~~its jurisdiction that qualify as an enterprise zone under Section~~
3-66 ~~2303.101, if any, and~~

3-67 [~~(2) in any area within its jurisdiction that does not~~
3-68 ~~qualify as an enterprise zone].~~

3-69 (e) An [~~Unless the nominating body holds a public hearing~~

4-1 ~~before adopting an ordinance or order under this section, the~~
4-2 ordinance or order adopted under this section is not valid unless
4-3 the nominating body holds a public hearing before adopting the
4-4 ordinance or order. Notice of the hearing must be published in a
4-5 newspaper having general circulation in the municipality not later
4-6 than the seventh calendar day before the date of the hearing. The
4-7 notice must contain:

- 4-8 (1) the date, time, and location of the hearing;
- 4-9 (2) the provisions for any tax or other incentives
4-10 applicable to the enterprise zone program;
- 4-11 (3) the name of the qualified business whose project
4-12 or activity is being nominated for enterprise project designation;
4-13 and
- 4-14 (4) the location of the qualified business site.

4-15 (f) If the nominating body has previously nominated a
4-16 project or activity for designation as an enterprise project, the
4-17 nominating body, instead of issuing a new ordinance or order under
4-18 this section for a nominated project or activity, may by resolution
4-19 make a reference to a previously issued ordinance or order that met
4-20 the requirements of this section if:

- 4-21 (1) the resolution nominates the project or activity
4-22 for designation as an enterprise project and states:
4-23 (A) whether the nominated project or activity is
4-24 located in an area designated as an enterprise zone;
4-25 (B) the level of enterprise project designation
4-26 being sought; and
4-27 (C) the ending date of the project's designation
4-28 period;

4-29 (2) the local incentives described in the previously
4-30 issued ordinance or order [~~for the areas described by Subsections~~
4-31 ~~(b)(1) and (2)] are [~~substantially~~] the same on the date the
4-32 resolution is issued; and~~

4-33 (3) the local incentives to be made available to the
4-34 nominated project or activity are the same as those made available
4-35 to the project or activity that are the subject of the previously
4-36 issued ordinance or order.

4-37 (g) This section does not prohibit a municipality or county
4-38 from extending additional incentives, including tax incentives,
4-39 for qualified businesses [~~business enterprises~~] in an enterprise
4-40 zone by a separate order or ordinance.

4-41 SECTION 10. Section 2303.4052, Government Code, is amended
4-42 to read as follows:

4-43 Sec. 2303.4052. REQUIRED INFORMATION FROM NOMINATING BODY.
4-44 Before nominating the project or activity of a qualified business
4-45 for designation as an enterprise project, the nominating body must
4-46 submit to the bank:

4-47 (1) a certified copy of the ordinance or order, as
4-48 appropriate, or reference to an ordinance or order as required by
4-49 Section 2303.4051;

4-50 (2) a transcript of all public hearings conducted with
4-51 respect to local incentives available to qualified businesses
4-52 [~~business enterprises~~] within the jurisdiction of the governmental
4-53 entity nominating the project or activity, regardless of whether
4-54 those businesses [~~business enterprises~~] are located in an
4-55 enterprise zone;

4-56 (3) the name, title, address, telephone number, and
4-57 electronic mail address of the nominating body's liaison designated
4-58 under Section 2303.204; [~~and~~]

4-59 (4) if the business is seeking job retention benefits,
4-60 documentation showing the number of employment positions at the
4-61 qualified business site; and

4-62 (5) any additional information the bank may require.

4-63 SECTION 11. Section 2303.406, Government Code, is amended
4-64 by amending Subsection (a) and adding Subsections (g) and (h) to
4-65 read as follows:

4-66 (a) The bank may designate a project or activity of a
4-67 business as an enterprise project only if the bank receives all of
4-68 the information required by Section 2303.4052 and determines that:

4-69 (1) the business is a qualified business under Section

2303.402 that is located in or has made a substantial commitment to locate in an enterprise zone or at a qualified business site;

(2) the nominating body making the application has demonstrated that a high level of cooperation exists among public, private, and neighborhood entities within the jurisdiction of the governmental entity nominating the project or activity;

(3) the designation will contribute significantly to the achievement of the plans of the nominating body making the application for development and revitalization of the area in which the enterprise project will be located; and

(4) if the business is seeking job retention benefits, the business has clearly demonstrated that:

(A) the permanent employees of the business will be permanently laid off;

(B) the business will close down permanently;

(C) the business will relocate out-of-state;

(D) the business is able to employ individuals in accordance with Section 2303.402 [a 10 percent increase in the production capacity of the business will occur]; or

(E) [a 10 percent decrease in overall cost per unit produced will occur;

~~[(F)]~~ the business facility has been legitimately destroyed or substantially impaired because of fire, flood, tornado, hurricane, or any other natural disaster and that at least 60 percent of the capital investment is being spent to repair damages resulting from the disaster~~;~~ or

~~[(C) the business facility is both adding a new business line or product and deleting or decreasing an existing business line or product, and the designation will prevent the facility's net production capacity from decreasing].~~

(g) The bank may lower the designation level of a proposed project or activity nominated for enterprise project designation:

(1) if there are fewer designations available than applications received; or

(2) to further the economic interests of the state.

(h) A state benefit may not be obtained under this chapter or Chapter 151, Tax Code, for jobs moved from one jurisdiction in this state to another jurisdiction in this state.

SECTION 12. Section 2303.406(e), Government Code, as added by Chapter 814, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

(e) The office may, during any biennium, designate multiple concurrent enterprise projects to a qualified business located in an enterprise zone ~~[during any biennium]~~.

SECTION 13. Section 2303.407, Government Code, is amended to read as follows:

Sec. 2303.407. ALLOCATION OF JOBS ELIGIBLE FOR TAX REFUND.

(a) The bank shall allocate to an enterprise project the maximum number of new permanent jobs or retained jobs eligible based on the amount of capital investment made in the project, the project's designation level, and the refund per job with a maximum refund to be included in a computation of a tax refund for the project.

(b) A capital investment in a project of:

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

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

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

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

(5) \$150,000,000 to \$249,999,999 will result in a refund of up to \$5,000 per job with a maximum refund of \$2,500,000 for the creation or retention of 500 jobs if the bank designates the project as a double jumbo enterprise project; or

6-1 (6) \$250,000,000 or more will result in a refund of up
6-2 to \$7,500 per job with a maximum refund of \$3,750,000 for the
6-3 creation or retention of at least 500 jobs if the bank designates
6-4 the project as a triple jumbo enterprise project.

6-5 (c) An enterprise project for which a commitment for a [A]
6-6 capital investment in the range amount and the creation or
6-7 retention of the number of jobs specified [described] by Subsection
6-8 (b)(5) is made is considered a double jumbo enterprise project if
6-9 the project is so designated by the bank.

6-10 (d) An enterprise project for which a commitment for a [A]
6-11 capital investment in the range amount and the creation or
6-12 retention of the number of jobs specified [described] by Subsection
6-13 (b)(6) is made is considered a triple jumbo enterprise project if
6-14 the project is so designated by the bank.

6-15 SECTION 14. Section 2303.4072, Government Code, is amended
6-16 to read as follows:

6-17 Sec. 2303.4072. ENTERPRISE PROJECT CLAIM FOR STATE BENEFIT.
6-18 A person must make a claim to the comptroller for a state benefit as
6-19 prescribed under this chapter and Chapter [Chapters] 151 [and 171],
6-20 Tax Code, not later than 18 months after the date on which the term
6-21 of the enterprise project designation expires as provided by
6-22 Section 2303.404.

6-23 SECTION 15. Section 2303.502(c), Government Code, is
6-24 amended to read as follows:

6-25 (c) The bank shall disseminate the reports to the governing
6-26 bodies of the entities that nominated the enterprise projects
6-27 [enterprise zones] and others as necessary to advance the purposes
6-28 of this chapter.

6-29 SECTION 16. (a) Section 2303.504, Government Code, is
6-30 amended to read as follows:

6-31 Sec. 2303.504. STATE TAX REFUNDS AND CREDITS; REPORT. (a)
6-32 Subject to Section 2303.516, an enterprise project is entitled to:

- 6-33 (1) a refund of state taxes under Section 151.429, Tax
6-34 Code; and
- 6-35 (2) a franchise tax credit under Subchapter Q-1,
6-36 Chapter 171, Tax Code.

6-37 (b) At the time of receipt of any tax benefit available as a
6-38 result of participating in the enterprise zone program, including a
6-39 state sales and use tax refund or franchise tax credit, three
6-40 percent of the amount of the tax benefit shall be transferred to the
6-41 Texas economic development bank fund under Subchapter B, Chapter
6-42 489, to defray the cost of administering this chapter.

6-43 (c) Not later than the 60th day after the last day of each
6-44 fiscal year, the comptroller shall report to the bank the statewide
6-45 total of actual jobs created, actual jobs retained, and the tax
6-46 refunds and credits made under this section during that fiscal
6-47 year.

6-48 (b) Chapter 171, Tax Code, is amended by adding Subchapter
6-49 Q-1 to read as follows:

6-50 SUBCHAPTER Q-1. TAX CREDITS FOR ENTERPRISE PROJECTS FOR CERTAIN
6-51 CAPITAL INVESTMENTS

6-52 Sec. 171.815. DEFINITIONS. In this subchapter:

6-53 (1) "Enterprise project" means:

6-54 (A) a person designated by the Texas Department
6-55 of Economic Development as an enterprise project under Chapter
6-56 2303, Government Code, on or after September 1, 2001, but before
6-57 September 1, 2003; and

6-58 (B) a person designated by the Texas Economic
6-59 Development Bank as an enterprise project under Chapter 2303,
6-60 Government Code, on or after September 1, 2003, but before January
6-61 1, 2005.

6-62 (2) "Enterprise zone" has the meaning assigned by
6-63 Section 2303.003, Government Code.

6-64 (3) "Qualified business" means a person certified as a
6-65 qualified business under Section 2303.402, Government Code.

6-66 (4) "Qualified capital investment" means tangible
6-67 personal property that is first placed in service in an enterprise
6-68 zone by a qualified business that has been designated as an
6-69 enterprise project and that is described in Section 1245(a),

7-1 Internal Revenue Code, such as engines, machinery, tools, and
 7-2 implements used in a trade or business or held for investment and
 7-3 subject to an allowance for depreciation, cost recovery under the
 7-4 accelerated cost recovery system, or amortization. The term does
 7-5 not include real property or buildings and their structural
 7-6 components. Property that is leased under a capitalized lease is
 7-7 considered a qualified capital investment, but property that is
 7-8 leased under an operating lease is not considered a qualified
 7-9 capital investment. Property expensed under Section 179, Internal
 7-10 Revenue Code, is not considered a qualified capital investment.

7-11 Sec. 171.816. TANGIBLE PERSONAL PROPERTY FIRST PLACED IN
 7-12 SERVICE IN AN ENTERPRISE ZONE. For purposes of determining whether
 7-13 an investment is a qualified capital investment under Section
 7-14 171.815, "tangible personal property first placed in service in an
 7-15 enterprise zone" includes tangible personal property:

7-16 (1) purchased by an enterprise project for placement
 7-17 in an improvement that was under active construction or other
 7-18 physical preparation;

7-19 (2) identified by a purchase order, invoice, billing,
 7-20 sales slip, or contract; and

7-21 (3) physically present at the enterprise project's
 7-22 qualified business site, as defined by Section 2303.003, Government
 7-23 Code, and in use by the enterprise project on the original due date
 7-24 of the report on which the credit is taken.

7-25 Sec. 171.817. ELIGIBILITY. (a) Subject to Subsection (b),
 7-26 an enterprise project is eligible for a credit against the tax
 7-27 imposed under this chapter in the amount and under the conditions
 7-28 and limitations provided by this subchapter if the enterprise
 7-29 project is a qualified business.

7-30 (b) An enterprise project is not eligible for a credit under
 7-31 this subchapter if the enterprise project claimed a credit under
 7-32 Subchapter Q before the repeal of that subchapter on January 1,
 7-33 2008.

7-34 (c) An enterprise project that is eligible for a credit
 7-35 under this subchapter may claim a credit or take a carryforward
 7-36 credit without regard to whether the enterprise zone in which it
 7-37 made the qualified capital investment subsequently loses its
 7-38 designation as an enterprise zone.

7-39 (d) A taxable entity, other than a combined group, may not
 7-40 claim the credit under this subchapter unless the taxable entity
 7-41 was, on May 1, 2006, subject to the tax imposed by this chapter as
 7-42 this chapter existed on that date. A taxable entity that is a
 7-43 combined group may claim the credit for each member entity that was,
 7-44 on May 1, 2006, subject to the tax imposed by this chapter as this
 7-45 chapter existed on that date and shall compute the amount of the
 7-46 credit for that member as provided by this subchapter.

7-47 Sec. 171.818. CALCULATION OF CREDIT. (a) An enterprise
 7-48 project that is eligible for a credit under this subchapter may, on
 7-49 or after the later of January 1, 2008, or the date the project was
 7-50 designated, establish a credit equal to 7.5 percent of the
 7-51 qualified capital investment made on or after January 1, 2005, and
 7-52 before January 1, 2007.

7-53 (b) The enterprise project may claim the entire credit
 7-54 earned on a report originally due on or after January 1, 2008, and
 7-55 before January 1, 2009, subject to Section 171.819.

7-56 Sec. 171.819. LIMITATIONS. The total credit claimed under
 7-57 this subchapter for a report, including the amount of any
 7-58 carryforward credit under Section 171.820, may not exceed 50
 7-59 percent of the amount of franchise tax due for the report before any
 7-60 other applicable tax credits.

7-61 Sec. 171.820. CARRYFORWARD. If an enterprise project is
 7-62 eligible for a credit that exceeds the limitation under Section
 7-63 171.819, the enterprise project may carry the unused credit forward
 7-64 for not more than five consecutive reports.

7-65 Sec. 171.821. CERTIFICATION OF ELIGIBILITY. (a) For the
 7-66 initial and each succeeding report in which a credit is claimed
 7-67 under this subchapter, the enterprise project shall file with its
 7-68 report, on a form provided by the comptroller, information that
 7-69 sufficiently demonstrates that the enterprise project is eligible

8-1 for the credit.

8-2 (b) The burden of establishing entitlement to and the value
8-3 of the credit is on the enterprise project.

8-4 Sec. 171.822. ASSIGNMENT PROHIBITED. An enterprise project
8-5 may not convey, assign, or transfer the credit allowed under this
8-6 subchapter to another entity unless all of the assets of the
8-7 enterprise project are conveyed, assigned, or transferred in the
8-8 same transaction.

8-9 Sec. 171.823. BIENNIAL REPORT BY COMPTROLLER. (a) Before
8-10 the beginning of each regular session of the legislature, the
8-11 comptroller shall submit to the governor, the lieutenant governor,
8-12 and the speaker of the house of representatives a report that
8-13 states:

8-14 (1) the total amount of qualified capital investments
8-15 made by enterprise projects that claim a credit under this
8-16 subchapter and the average and median wages paid by those
8-17 enterprise projects;

8-18 (2) the total amount of credits applied against the
8-19 tax under this chapter and the amount of unused credits, including:

8-20 (A) the total amount of franchise tax due by
8-21 enterprise projects claiming a credit under this subchapter before
8-22 and after the application of the credit;

8-23 (B) the average percentage reduction in
8-24 franchise tax due by enterprise projects claiming a credit under
8-25 this subchapter;

8-26 (C) the percentage of tax credits that were
8-27 awarded to enterprise projects with fewer than 100 employees; and

8-28 (D) the two-digit standard industrial
8-29 classification of enterprise projects claiming a credit under this
8-30 subchapter;

8-31 (3) the geographical distribution of the qualified
8-32 capital investments on which tax credit claims are made under this
8-33 subchapter; and

8-34 (4) the impact of the credit provided under this
8-35 subchapter on employment, capital investment, personal income, and
8-36 state tax revenues.

8-37 (b) The final report issued before the expiration of this
8-38 subchapter must include historical information on the credit
8-39 authorized under this subchapter.

8-40 (c) The comptroller may not include in the report
8-41 information that is confidential by law.

8-42 (d) For purposes of this section, the comptroller may
8-43 require an enterprise project that claims a credit under this
8-44 subchapter to submit information, on a form provided by the
8-45 comptroller, on the location of the enterprise project's capital
8-46 investment in this state and any other information necessary to
8-47 complete the report required under this section.

8-48 (e) The comptroller shall provide notice to the members of
8-49 the legislature that the report required under this section is
8-50 available on request.

8-51 Sec. 171.824. COMPTROLLER POWERS AND DUTIES. The
8-52 comptroller shall adopt rules and forms necessary to implement this
8-53 subchapter.

8-54 Sec. 171.825. EXPIRATION. (a) This subchapter expires
8-55 December 31, 2009.

8-56 (b) The expiration of this subchapter does not affect the
8-57 carryforward of a credit under Section 171.820 or those credits for
8-58 which an enterprise project is eligible before the date this
8-59 subchapter expires.

8-60 (c) A taxable entity may claim a credit under Subchapter
8-61 Q-1, Chapter 171, Tax Code, as added by this section, only:

8-62 (1) on a franchise tax report originally due on or
8-63 after January 1, 2008; and

8-64 (2) notwithstanding any other law, for qualified
8-65 capital investments made on or after January 1, 2005, and before
8-66 January 1, 2007.

8-67 (d) The comptroller by rule shall prescribe the manner in
8-68 which a taxable entity may claim a credit for qualified capital
8-69 investments made on or after January 1, 2005, and before January 1,

2007.

(e) Subchapter Q-1, Chapter 171, Tax Code, as added by this section, and Section 2303.504, Government Code, as amended by this section, do not affect taxes imposed before January 1, 2008, and the law in effect before that date is continued in effect for purposes of the liability for and collection of those taxes.

(f) Notwithstanding any other provision of this Act, this section takes effect January 1, 2008.

SECTION 17. Section 2303.505(a), Government Code, is amended to read as follows:

(a) To encourage the development of areas designated as enterprise zones, the governing body of a municipality through a program may refund its local sales and use taxes paid by a qualified business on all taxable items purchased for use at the qualified business site related to the project or activity[-

~~(1) the purchase, lease, or rental of equipment or machinery for use in an enterprise zone;~~

~~(2) the purchase of material for use in remodeling, rehabilitating, or constructing a structure in an enterprise zone;~~

~~(3) labor for remodeling, rehabilitating, or constructing a structure in an enterprise zone; and~~

~~(4) electricity and natural gas purchased and consumed in the normal course of business in the enterprise zone].~~

SECTION 18. Section 2303.516, Government Code, is amended to read as follows:

Sec. 2303.516. MONITORING QUALIFIED BUSINESS OR ENTERPRISE PROJECT COMMITMENTS. (a) The comptroller [~~bank~~] may monitor a qualified business or enterprise project to determine whether and to what extent the business or project has followed through on any commitments made by it or on its behalf under this chapter.

(b) The comptroller [~~bank~~] may determine that the business or project is not entitled to a refund or credit of state taxes under Section 2303.504 if the comptroller [~~bank~~] finds that:

(1) the business or project is not willing to cooperate with the comptroller [~~bank~~] in providing the comptroller [~~bank~~] with the information the comptroller [~~bank~~] needs to determine the state benefits [~~make the determination under Subsection (a)~~]; or

(2) the business or project has substantially failed to follow through on any commitments made by it or on its behalf under this chapter.

(c) [~~On the date on which a certificate of occupancy is issued with respect to an enterprise project or at the completion of the enterprise project designation period as indicated by the approved application, the nominating body shall monitor the qualified business to determine whether the business or project has followed through on any commitments or goals made by it or on its behalf in the designation application. On completion, the nominating body shall submit a report of its findings to the bank and comptroller.~~

~~(d)~~ A qualified business may obtain a state benefit, earned through a specific enterprise project designation, on completion of an audit performed by the comptroller that will certify hiring commitments and eligible purchases made by or on behalf of a qualified business under this chapter.

SECTION 19. Section 2303.517, Government Code, is amended to read as follows:

Sec. 2303.517. REPORT. (a) Before obtaining a state benefit, the qualified business must submit to the comptroller [~~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.

(b) Not later than the 30th day after the date the comptroller completes an enterprise project's close-out, the comptroller shall submit to the bank a report stating the actual amount of capital investment made and the actual number of jobs created or retained as a result of the enterprise project designation.

SECTION 20. Sections 151.429(a), (b), (c), and (e), Tax

Code, are amended to read as follows:

(a) An enterprise project is eligible for a refund in the amount provided by this section of the taxes imposed by this chapter on purchases of all taxable items purchased for use at the qualified business site related to the project or activity [+

~~[(1) equipment or machinery sold to an enterprise project for use at the qualified business site;~~

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

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

~~[(4) electricity and natural gas purchased and consumed in the normal course of business at the qualified business site].~~

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

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

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

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

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

(5) \$150,000,000 to \$249,999,999 will result in a refund of up to \$5,000 per job with a maximum refund of \$2,500,000 for the creation or retention of 500 jobs if the Texas Economic Development Bank designates the project as a double jumbo enterprise project; or

(6) \$250,000,000 or more will result in a refund of up to \$7,500 per job with a maximum refund of \$3,750,000 for the creation or retention of at least 500 jobs if the Texas Economic Development Bank designates the project as a triple jumbo enterprise project.

(c) The total amount of tax refund that an enterprise project may apply for in a state fiscal year may not exceed \$250,000, at not more than \$2,500 per job. The total amount of tax refund that a double jumbo enterprise project may apply for in a state fiscal year may not exceed \$500,000, at not more than \$5,000 per job. The total amount of tax refund that a triple jumbo enterprise project may apply for in a state fiscal year may not exceed \$750,000, at not more than \$7,500 per job. If an enterprise project, double jumbo enterprise project, or triple jumbo enterprise project qualifies in a state fiscal year for a refund of taxes in an amount in excess of the applicable limitation provided by this subsection, it may apply for a refund of those taxes in a subsequent year, subject to the applicable [~~\$250,000~~] limitation for each year. The total amount that may be refunded to:

(1) an enterprise project under this section may not exceed the amount determined by multiplying \$250,000 by the number of state fiscal years during which the enterprise project created or retained one or more jobs for qualified employees;

(2) a double jumbo enterprise project under this section may not exceed the amount determined by multiplying \$500,000 by the number of state fiscal years during which the double jumbo enterprise project created or retained one or more jobs for qualified employees; or

(3) a triple jumbo enterprise project under this

11-1 section may not exceed the amount determined by multiplying
11-2 \$750,000 by the number of state fiscal years during which the triple
11-3 jumbo enterprise project created or retained one or more jobs for
11-4 qualified employees.

11-5 (e) In this section:

11-6 (1) "Enterprise project" means a project or activity
11-7 [~~person~~] designated by the Texas Economic Development Bank as an
11-8 enterprise project under Chapter 2303, Government Code.

11-9 (2) "Qualified employee" [~~"Enterprise zone,"~~
11-10 ~~"qualified employee,"~~] and "qualified hotel project" have the
11-11 meanings assigned to those terms by Section 2303.003, Government
11-12 Code.

11-13 (3) "New permanent job" has the meaning assigned by
11-14 [~~means a new employment position created by a qualified business as~~
11-15 ~~described by~~] Section 2303.401 [~~2303.402~~], Government Code[~~, that:~~

11-16 [~~(A) has provided at least 1,820 hours of~~
11-17 ~~employment a year to a qualified employee; and~~

11-18 [~~(B) is intended to exist for at least three~~
11-19 ~~years after a state benefit is received under Chapter 2303,~~
11-20 ~~Government Code].~~

11-21 (4) "Retained job" has the meaning assigned by Section
11-22 2303.401, Government Code.

11-23 (5) "Double jumbo enterprise project" and "triple
11-24 jumbo enterprise project" have the meanings assigned by Section
11-25 2303.407, Government Code.

11-26 SECTION 21. The following provisions are repealed:

11-27 (1) Section 2303.4051(d), Government Code; and

11-28 (2) Section 2303.406(e), Government Code, as added by
11-29 Chapter 209, Acts of the 78th Legislature, Regular Session, 2003.

11-30 SECTION 22. The changes in law made by this Act to Chapter
11-31 2303, Government Code, apply only to an application for a
11-32 designation under the enterprise zone program under Chapter 2303,
11-33 Government Code, as amended by this Act, that is filed on or after
11-34 the effective date of this Act. An application for designation
11-35 under the enterprise zone program that is filed before the
11-36 effective date of this Act is governed by the law in effect on the
11-37 date the application was filed, and the former law is continued in
11-38 effect for that purpose.

11-39 SECTION 23. The changes in law made by this Act to Section
11-40 151.429, Tax Code, apply only to an application for a tax refund
11-41 made on or after the effective date of this Act. An application for
11-42 a tax refund made before the effective date of this Act is governed
11-43 by the law in effect on the date the application was made, and the
11-44 former law is continued in effect for that purpose.

11-45 SECTION 24. This Act takes effect immediately if it
11-46 receives a vote of two-thirds of all the members elected to each
11-47 house, as provided by Section 39, Article III, Texas Constitution.
11-48 If this Act does not receive the vote necessary for immediate
11-49 effect, this Act takes effect September 1, 2007.

11-50 * * * * *