

By: Brimer

S.B. No. 1262

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 2303.004, Government Code, is amended to read as follows:

Sec. 2303.004. JURISDICTION OF MUNICIPALITY OR COUNTY. (a) For the purposes of this chapter, territory in the extraterritorial jurisdiction of a municipality is considered to be in the jurisdiction of the municipality.

(b) The governing body of a county with a population of 750,000 or more may nominate for designation as an enterprise project a project or activity of a qualified business that is located in a municipality of the county or in the municipality's extraterritorial jurisdiction. This subsection may not be construed to prohibit the municipality from also being considered as a nominating entity for the enterprise project designation.

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

Sec. 2303.401. DEFINITIONS. In this subchapter:

(1) "Certified job" means a new or retained job that:
(A) has provided at least 1,820 hours of employment a year to a qualified employee of a qualified business as described by Section 2303.402;

(B) is intended to exist for at least three years

1 after the date on which the comptroller makes the initial
2 certification of hiring commitments for the qualified business
3 under Section 2303.516(d); and

4 (C) has been certified by the comptroller as
5 eligible for receipt of a state benefit under this chapter.

6 (2) "Hours of employment" means regular hours worked,
7 overtime hours worked, paid vacation leave, additional paid
8 holidays, and paid sick leave.

9 (3) "New [permanent] job" means any [a] new job
10 [employment position] created by a qualified business as described
11 by Section 2303.402 at the qualified business site or in an
12 enterprise zone after the business's project or activity has been
13 designated as an enterprise project [that:

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

16 [(B) is intended to exist at the qualified
17 business site for at least three years after the date on which a
18 state benefit is received as authorized by this chapter].

19 (4) [(2)] "Retained job" means any [a] job that
20 existed with a qualified business before designation of the
21 business's project or activity as an enterprise project [that:

22 [(A) has provided employment to a qualified
23 employee of at least 1,820 hours annually; and

24 [(B) is intended to be an employment position for
25 at least three years after the date on which a state benefit is
26 received as authorized by this chapter].

27 SECTION 3. Section 2303.405(b), Government Code, is amended

1 to read as follows:

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

5 (1) the number of anticipated certified [~~new~~
6 ~~permanent~~] jobs the enterprise project will create during the
7 designation period;

8 (2) the anticipated number of certified [~~permanent~~]
9 jobs the enterprise project will retain during the designation
10 period;

11 (3) the amount of investment to be made by the
12 enterprise project;

13 (4) a complete description of the projected schedule
14 for completion of the specific activity described by Section
15 2303.404(b) to be undertaken by the enterprise project;

16 (5) other information the bank requires;

17 (6) a description of the local effort made by the
18 nominating body, the qualified business, and other affected
19 entities to develop and revitalize the jurisdiction of the
20 governmental entity nominating the project or activity; and

21 (7) if the nominating body is applying for a double or
22 triple jumbo enterprise project, as defined by Section 2303.407, an
23 indication of which of those types of designations is being sought.

24 SECTION 4. Section 2303.407, Government Code, is amended to
25 read as follows:

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

27 (a) The bank shall allocate to an enterprise project the maximum

1 number of certified [~~new permanent jobs or retained~~] jobs eligible
2 based on the amount of capital investment made in the project and
3 the refund per job with a maximum refund to be included in a
4 computation of a tax refund for the project.

5 (b) A capital investment in a project of:

6 (1) \$40,000 to \$399,999 will result in a refund of up
7 to \$2,500 per job with a maximum refund of \$25,000 for the creation
8 or retention of 10 certified jobs;

9 (2) \$400,000 to \$999,999 will result in a refund of up
10 to \$2,500 per job with a maximum refund of \$62,500 for the creation
11 or retention of 25 certified jobs;

12 (3) \$1,000,000 to \$4,999,999 will result in a refund
13 of up to \$2,500 per job with a maximum refund of \$312,500 for the
14 creation or retention of 125 certified jobs;

15 (4) \$5,000,000 to \$149,999,999 will result in a refund
16 of up to \$2,500 per job with a maximum refund of \$1,250,000 for the
17 creation or retention of 500 certified jobs;

18 (5) \$150,000,000 to \$249,999,999 will result in a
19 refund of up to \$5,000 per job with a maximum refund of \$2,500,000
20 for the creation or retention of 500 certified jobs; or

21 (6) \$250,000,000 or more will result in a refund of up
22 to \$7,500 per job with a maximum refund of \$3,750,000 for the
23 creation or retention of 500 certified jobs.

24 (c) A capital investment in the range amount and the
25 creation or retention of the number of certified jobs described by
26 Subsection (b)(5) is considered a double jumbo enterprise project.

27 (d) A capital investment in the range amount and the

1 creation or retention of the number of certified jobs described by
2 Subsection (b)(6) is considered a triple jumbo enterprise project.

3 SECTION 5. Sections 2303.504(b) and (c), Government Code,
4 are amended to read as follows:

5 (b) At the time of receipt of any tax benefit available as a
6 result of participating in the enterprise zone program, including a
7 state sales and use tax refund [~~or franchise tax credit~~], a fee in
8 an amount equal to three percent of the amount of the tax benefit
9 shall be transferred to the Texas economic development bank fund
10 under Subchapter B, Chapter 489, to defray the cost of
11 administering this chapter. The fee does not reduce the amount of
12 the refund to which the enterprise project is entitled under
13 Section 2303.4071.

14 (c) Not later than the 60th day after the last day of each
15 fiscal year, the comptroller shall report to the bank the statewide
16 total of actual certified jobs created, actual certified jobs
17 retained, and the tax refunds made under this section during that
18 fiscal year.

19 SECTION 6. Section 2303.517, Government Code, is amended to
20 read as follows:

21 Sec. 2303.517. REPORT. Before obtaining a state benefit,
22 the qualified business must submit to the bank a certified report of
23 the actual number of certified jobs created or retained and the
24 capital investment made at or committed to the qualified business
25 site.

26 SECTION 7. Section 151.429, Tax Code, is amended by
27 amending Subsections (a), (b), (c), (e), and (g) and adding

1 Subsections (c-1) and (c-2) to read as follows:

2 (a) An enterprise project is eligible for a refund in the
3 amount provided by this section of the taxes imposed by this chapter
4 on purchases of taxable items for use at the qualified business site

5 [~~+~~

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

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

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

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

17 (b) Subject to the limitations provided by Subsection (c) or
18 (c-1) of this section, an enterprise project qualifies for a refund
19 of taxes under this section based on the amount of capital
20 investment made at the qualified business site and refund per job
21 with a maximum refund to be included in a computation of a tax
22 refund for the project. A capital investment at the qualified
23 business site of:

24 (1) \$40,000 to \$399,999 will result in a refund of up
25 to \$2,500 per job with a maximum refund of \$25,000 for the creation
26 or retention of 10 certified jobs;

27 (2) \$400,000 to \$999,999 will result in a refund of up

1 to \$2,500 per job with a maximum refund of \$62,500 for the creation
2 or retention of 25 certified jobs;

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

6 (4) \$5,000,000 to \$149,999,999 will result in a refund
7 of up to \$2,500 per job with a maximum refund of \$1,250,000 for the
8 creation or retention of 500 certified jobs;

9 (5) \$150,000,000 to \$249,999,999 will result in a
10 refund of up to \$5,000 per job with a maximum refund of \$2,500,000
11 for the creation or retention of 500 certified jobs; or

12 (6) \$250,000,000 or more will result in a refund of up
13 to \$7,500 per job with a maximum refund of \$3,750,000 for the
14 creation or retention of 500 certified jobs.

15 (c) The total amount of tax refund that an enterprise
16 project may apply for in a state fiscal year may not exceed
17 \$250,000. If an enterprise project qualifies in a state fiscal year
18 for a refund of taxes in an amount in excess of the limitation
19 provided by this subsection, it may apply for a refund of those
20 taxes in a subsequent year, subject to the \$250,000 limitation for
21 each year. The total amount that may be refunded to an enterprise
22 project under this section may not exceed the amount determined by
23 multiplying \$250,000 by the number of state fiscal years during
24 which the enterprise project created or retained one or more
25 certified jobs for qualified employees.

26 (c-1) To the same extent and in the same manner as provided
27 by Subsection (c) for an enterprise project, a double jumbo

1 enterprise project is eligible for a maximum refund of \$500,000 and
2 a triple jumbo enterprise project is eligible for a maximum refund
3 of \$750,000 in each state fiscal year.

4 (c-2) Cumulative tax refunds based on two or more prior
5 years may be applied for and refunded in any one year, subject to
6 the limitation for that year provided by Subsection (c) for an
7 enterprise project or by Subsection (c-1) for a double jumbo
8 enterprise project or triple jumbo enterprise project.

9 (e) In this section:

10 (1) "Enterprise project" means a person designated by
11 the Texas Economic Development Bank as an enterprise project under
12 Chapter 2303, Government Code.

13 (2) "Enterprise zone," "qualified employee," and
14 "qualified hotel project" have the meanings assigned to those terms
15 by Section 2303.003, Government Code.

16 (3) "New ~~permanent~~ job" has the meaning assigned by
17 Section 2303.401, Government Code ~~[means a new employment position~~
18 ~~created by a qualified business as described by Section 2303.402,~~
19 ~~Government Code, that:~~

20 ~~[(A) has provided at least 1,820 hours of~~
21 ~~employment a year to a qualified employee, and~~

22 ~~[(B) is intended to exist for at least three~~
23 ~~years after a state benefit is received under Chapter 2303,~~
24 ~~Government Code].~~

25 (4) "Retained job" has the meaning assigned by
26 Section 2303.401, Government Code.

27 (4-a) "Certified job" has the meaning assigned by

1 Section 2303.401, Government Code.

2 (5) "Double jumbo enterprise project" and "triple
3 jumbo enterprise project" have the meanings assigned by Section
4 2303.407, Government Code.

5 (g) The refund provided by this section is conditioned on
6 the enterprise project maintaining for a three-year period at least
7 the same number [~~level~~] of certified jobs [~~employment of qualified~~
8 ~~employees~~] as existed on the date the comptroller initially
9 certified the hiring commitments for the project under Section
10 2303.516(d)(1), Government Code [~~at the time it qualified for a~~
11 ~~refund for a period of three years from that date~~]. The comptroller
12 shall annually certify whether that number [~~level~~] of certified
13 jobs [~~employment of qualified employees~~] has been maintained. On
14 certifying that such a number [~~level~~] has not been maintained, the
15 comptroller shall assess that portion of the refund attributable to
16 any such decrease in certified jobs [~~employment~~], including penalty
17 and interest from the date of the refund.

18 SECTION 8. Section 151.429(i), Tax Code, is repealed.

19 SECTION 9. The changes in law made by this Act to Chapter
20 2303, Government Code, apply only to an application for a
21 designation under the enterprise zone program under Chapter 2303,
22 Government Code, as amended by this Act, that is filed on or after
23 the effective date of this Act. An application for designation
24 under the enterprise zone program that is filed before the
25 effective date of this Act is governed by the law in effect on the
26 date the application was filed, and the former law is continued in
27 effect for that purpose.

1 SECTION 10. The changes in law made by this Act to Section
2 151.429, Tax Code, apply only to an application for a tax refund
3 made on or after the effective date of this Act. An application for
4 a tax refund made before the effective date of this Act is governed
5 by the law in effect on the date the application was made, and the
6 former law is continued in effect for that purpose.

7 SECTION 11. This Act takes effect September 1, 2007.