

SENATE AMENDMENTS

2nd Printing

By: Deshotel

H.B. No. 3694

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

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

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

(A) works for a qualified business; and

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

SECTION 2. Section 2303.004, Government Code, is amended to read as follows:

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

(b) Notwithstanding Subsection (a), 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 within the jurisdiction of a municipality located in the county. For purposes of this subsection, a county during any biennium may not use in any one

1 municipality more than three of the maximum number of designations
2 the county is permitted under Section 2303.406(d)(2).

3 SECTION 3. Section 2303.052, Government Code, is amended to
4 read as follows:

5 Sec. 2303.052. BANK [EVALUATION,] REPORT REGARDING
6 PROGRAM. [(a)] The bank must include the following information
7 regarding the enterprise zone program in the report required by
8 Section 489.107 [shall conduct a continuing evaluation of the
9 enterprise zone program.

10 ~~[(b) The bank shall develop data from available information~~
11 ~~demonstrating the relationship between the incentives provided~~
12 ~~under this chapter and the economy.~~

13 ~~[(c) The bank biennially shall review local incentives.~~

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

17 (1) an evaluation of [evaluates] the effectiveness of
18 the [enterprise zone] program;

19 (2) a description of [describes] the use of state and
20 local incentives under this chapter and their effect on revenue;
21 and

22 (3) suggestions for [suggests] legislation with
23 regard to the program.

24 SECTION 4. Subchapter D, Chapter 2303, Government Code, is
25 amended by adding Section 2303.203 to read as follows:

26 Sec. 2303.203. PARTICIPATION BY NEIGHBORHOOD ENTERPRISE
27 ASSOCIATIONS. Each neighborhood enterprise association organized

1 under Subchapter E should be encouraged to participate in planning
2 and carrying out activities in the enterprise zone.

3 SECTION 5. Chapter 2303, Government Code, is amended by
4 adding Subchapter E to read as follows:

5 SUBCHAPTER E. NEIGHBORHOOD ENTERPRISE ASSOCIATIONS

6 Sec. 2303.301. ORGANIZATION OF NEIGHBORHOOD ENTERPRISE
7 ASSOCIATION. (a) Individuals residing in an enterprise zone may
8 organize a neighborhood enterprise association.

9 (b) Only one association may exist for a geographic
10 neighborhood area.

11 (c) The association must:

12 (1) be a nonprofit corporation formed under the Texas
13 Nonprofit Corporation Law, as described by Section 1.008, Business
14 Organizations Code; and

15 (2) be eligible for federal tax exemption under
16 Section 501(c) of the Internal Revenue Code of 1986.

17 (d) The certificate of formation must:

18 (1) describe the geographic neighborhood area of the
19 association; and

20 (2) authorize the association to engage in business
21 only in the enterprise zone in which the neighborhood area is
22 located.

23 (e) The organizers shall publish in a newspaper of general
24 circulation in the area designated as an enterprise zone an
25 explanation of the proposed association and the organizers' rights
26 in the association.

27 (f) A copy of the association's certificate of formation and

1 its bylaws shall be available for public inspection at the office.

2 Sec. 2303.302. CERTIFICATION OF ASSOCIATION. (a) After a
3 neighborhood enterprise association is formed, the association's
4 board of directors must apply to the bank for certification as a
5 neighborhood enterprise association.

6 (b) The bank may not grant certification unless the
7 association has hired or appointed a suitable chief executive
8 officer.

9 Sec. 2303.303. MEMBERSHIP; VOTING. (a) The membership of a
10 neighborhood enterprise association may be composed only of
11 residents of the enterprise zone.

12 (b) An individual is entitled to be a member of a
13 neighborhood enterprise association if the individual is:

14 (1) a resident of the association's geographic
15 neighborhood area; and

16 (2) of voting age.

17 (c) To be entitled to vote, a member of the association must
18 have been a resident of the association's neighborhood area for at
19 least one year.

20 Sec. 2303.304. POWERS OF NEIGHBORHOOD ENTERPRISE
21 ASSOCIATIONS. (a) A neighborhood enterprise association may
22 purchase or lease publicly or privately owned real property.

23 (b) A neighborhood enterprise association with the approval
24 of the bank may:

25 (1) establish crime watch patrols in the association's
26 geographic neighborhood area;

27 (2) establish volunteer day-care centers;

1 (3) organize recreational activities for the
2 association's geographic neighborhood area youth;

3 (4) provide garbage collection;

4 (5) maintain and improve streets, bridges, and water
5 and sewer lines;

6 (6) provide energy or water conservation projects;

7 (7) provide health and clinic services;

8 (8) provide drug abuse programs;

9 (9) provide senior citizen assistance programs;

10 (10) maintain parks;

11 (11) rehabilitate, renovate, operate, or maintain low
12 or moderate income housing; and

13 (12) provide other types of public services as
14 authorized by law or rule.

15 (c) A service may be provided under Subsection (b) by the
16 association or, if feasible and prudent and after agreement with
17 the bank, by a private firm or organization.

18 (d) The governmental entity responsible for providing a
19 service in the enterprise zone may contract with a neighborhood
20 enterprise association to provide services in an amount equal to
21 the amount saved by the entity by the provision of the service under
22 the contract.

23 (e) A neighborhood enterprise association has powers
24 established by other law or rule, including powers available to
25 similar corporations under state law.

26 (f) A neighborhood enterprise association may enter into a
27 contract and participate in a joint venture with the state or a

1 state agency or institution.

2 (g) A neighborhood enterprise association may receive money
3 without approval of the bank.

4 Sec. 2303.305. APPROVED PROJECTS. (a) On approval of the
5 bank, a neighborhood enterprise association may carry out projects
6 other than those under Section 2303.304(b). The association must
7 submit to the bank an application that describes the nature and
8 benefit of the project and that specifically states:

9 (1) how the project will contribute to the self-help
10 efforts of the residents of the association's geographic
11 neighborhood area;

12 (2) how the residents of the geographic neighborhood
13 area will be involved in the planning and implementation of the
14 project;

15 (3) whether there are sufficient resources to complete
16 the project and whether the association will be fiscally
17 responsible for the project; and

18 (4) whether the project will enhance the enterprise
19 zone by:

20 (A) creating permanent jobs;

21 (B) physically improving the housing stock;

22 (C) stimulating neighborhood business activity;

23 or

24 (D) preventing crime.

25 (b) If the bank does not disapprove an application submitted
26 under Subsection (a) before the 45th day after the day of receipt of
27 the application, the application is considered to be approved.

1 (c) If the bank disapproves an application submitted under
2 Subsection (a), the bank shall notify the association of the
3 specific reasons for the decision and shall allow the association
4 to amend the application on or before the 60th day after the date of
5 the notification.

6 (d) The association shall furnish to the bank:

7 (1) an annual statement of the programmatic and
8 financial status of each approved project; and

9 (2) an audited financial statement of the project.

10 SECTION 6. Section 2303.401, Government Code, is amended to
11 read as follows:

12 Sec. 2303.401. DEFINITIONS. In this subchapter:

13 (1) "New permanent job" means a new employment
14 position that:

15 (A) is created by a qualified business as
16 described by Section 2303.402 at the qualified business site not
17 earlier than the 90th day before the date the business's project or
18 activity is designated as an enterprise project under this chapter;

19 (B) will provide or has provided for the duration
20 of the project's designation period [~~that:~~

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

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

25 (i) the duration of the project's
26 designation period; or

27 (ii) [~~at least~~] three years after the date

1 on which a state benefit is received as authorized by this chapter.

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

3 (A) existed with a qualified business on the 91st
4 day before the date [~~designation of~~] the business's project or
5 activity is designated as an enterprise project;

6 (B) [~~that~~]

7 [~~(A)~~] has provided and will continue to provide
8 employment to a qualified employee of at least 1,820 hours
9 annually; and

10 (C) will [~~(B) is intended to~~] be or has been an
11 employment position for the longer of:

12 (i) the duration of the project's
13 designation period; or

14 (ii) [~~at least~~] three years after the
15 expiration date of the claim period for receipt of [~~date on which~~]
16 state benefit [~~is received as~~] authorized by this chapter.

17 SECTION 7. Section 2303.402(c), Government Code, is amended
18 to read as follows:

19 (c) For the purposes of this section, an economically
20 disadvantaged individual is an individual who:

21 (1) was unemployed for at least three months before
22 obtaining employment with the qualified business;

23 (2) receives public assistance benefits, including
24 welfare payments or food stamps, based on need and intended to
25 alleviate poverty;

26 (3) is a low-income [~~an economically disadvantaged~~]
27 individual, as defined by Section 101, Workforce Investment Act of

1 1998 (29 U.S.C. Section 2801(25)) [~~4(8), Job Training Partnership~~
2 ~~Act (29 U.S.C. Section 1503(8))~~];

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

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

6 (6) is entering the workplace after being confined in
7 a facility operated by the institutional division of the Texas
8 Department of Criminal Justice or under contract with the Texas
9 Department of Criminal Justice;

10 (7) has been released by the Texas Youth Commission
11 and is on parole, if state law provides for such a person to be on
12 parole; or

13 (8) meets the current low income or moderate income
14 limits developed under Section 8, United States Housing Act of 1937
15 (42 U.S.C. Section 1437f et seq.).

16 SECTION 8. Section 2303.403, Government Code, is amended to
17 read as follows:

18 Sec. 2303.403. PROHIBITION ON QUALIFIED BUSINESS
19 CERTIFICATION; LIMIT ON ENTERPRISE PROJECT DESIGNATIONS. If the
20 bank determines that the governing body eligible to nominate an
21 enterprise project is not complying with this chapter, the bank
22 shall prohibit the certification of a qualified business until the
23 bank determines that the governing body is complying with this
24 chapter. The bank may not designate more than 120 [~~85~~] enterprise
25 projects during any biennium. Any designations remaining at the
26 end of a biennium may be carried forward to the next biennium.

27 SECTION 9. Section 2303.404(c), Government Code, is amended

1 to read as follows:

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

5 SECTION 10. Sections 2303.405(a), (b), and (c), Government
6 Code, are amended to read as follows:

7 (a) If the governing body approves a request made under
8 Section 2303.404, the governing body may apply to the bank for the
9 designation of the project or activity of a qualified business as an
10 enterprise project only after it submits to the bank the order or
11 ordinance and other information that complies with the requirements
12 of Sections 2303.4051 and 2303.4052.

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

16 (1) the number of employment positions in existence at
17 the qualified business site on the 91st day before the application
18 deadline;

19 (1-a) the number of ~~anticipated~~ new permanent jobs
20 the enterprise project commits to ~~will~~ create during the
21 designation period presented in the form of a tabular listing of:

22 (A) the classification titles of those jobs; and

23 (B) the number of jobs and salary range for each
24 classification title;

25 (2) the ~~anticipated~~ number of permanent jobs the
26 enterprise project commits to ~~will~~ retain during the designation
27 period presented in the form of a tabular listing of:

1 (A) the classification titles of the retained
2 jobs; and

3 (B) the number of retained jobs and salary range
4 for each classification title;

5 (3) the amount of investment to be made by the
6 enterprise project;

7 (4) a complete description of the projected schedule
8 for completion of the specific activity described by Section
9 2303.404(b) to be undertaken by the enterprise project;

10 (5) other information the bank requires;

11 (6) a description of the local effort made by the
12 nominating body, the qualified business, and other affected
13 entities to develop and revitalize the jurisdiction of the
14 governmental entity nominating the project or activity; and

15 (7) if the nominating body is applying for a double or
16 triple jumbo enterprise project, as defined by Section 2303.407, an
17 indication of which level [~~of those types~~] of designation
18 [~~designations~~] is being sought.

19 (c) For the purposes of this section, local effort to
20 develop and revitalize a municipality or county is:

21 (1) the willingness of public entities in the
22 municipality or county to provide services, incentives, and
23 regulatory relief authorized by this chapter and to negotiate with
24 the qualified business for which application is made and with
25 neighborhood enterprise associations and other local groups or
26 businesses to achieve the public purposes of this chapter; and

27 (2) the effort of the qualified business and other

1 affected entities to cooperate in achieving those public purposes.

2 SECTION 11. Sections 2303.4051(a), (b), (e), (f), and (g),
3 Government Code, are amended to read as follows:

4 (a) In this section, "local incentive" means each tax
5 incentive, grant, other financial incentive or benefit, or program
6 to be provided by the governing body to qualified businesses
7 participating in the enterprise zone program [~~business enterprises~~
8 ~~in the block group~~] and any other local incentive listed in Section
9 2303.511.

10 (b) Before nominating the project or activity of a qualified
11 business for designation as an enterprise project, the governing
12 body of the municipality or county in which the business is located,
13 by ordinance or order, as appropriate, must identify and summarize
14 briefly any local incentives available[+

15 [~~(1) in each of the block groups or other areas within~~
16 ~~its jurisdiction that qualify as an enterprise zone under Section~~
17 ~~2303.101, if any, and~~

18 [~~(2) in any area within its jurisdiction that does not~~
19 ~~qualify as an enterprise zone]~~.

20 (e) An [~~Unless the nominating body holds a public hearing~~
21 ~~before adopting an ordinance or order under this section, the]~~
22 ordinance or order adopted under this section is not valid unless
23 the nominating body holds a public hearing before adopting the
24 ordinance or order. Notice of the hearing must be published in a
25 newspaper having general circulation in the municipality not later
26 than the seventh calendar day before the date of the hearing. The
27 notice must contain:

1 (1) the date, time, and location of the hearing;

2 (2) the provisions for any tax or other incentives
3 applicable to the enterprise zone program;

4 (3) the name of the qualified business whose project
5 or activity is being nominated for enterprise project designation;

6 and

7 (4) the location of the qualified business site.

8 (f) If the nominating body has previously nominated a
9 project or activity for designation as an enterprise project, the
10 nominating body, instead of issuing a new ordinance or order under
11 this section for a nominated project or activity, may by resolution
12 make a reference to a previously issued ordinance or order that met
13 the requirements of this section if:

14 (1) the resolution nominates the project or activity
15 for designation as an enterprise project and states:

16 (A) whether the nominated project or activity is
17 located in an area designated as an enterprise zone;

18 (B) the level of enterprise project designation
19 being sought; and

20 (C) the ending date of the project's designation
21 period;

22 (2) the local incentives described in the previously
23 issued ordinance or order [~~for the areas described by Subsections~~
24 ~~(b)(1) and (2)] are [~~substantially~~] the same on the date the
25 resolution is issued; and~~

26 (3) the local incentives to be made available to the
27 nominated project or activity are the same as those made available

1 to the project or activity that are the subject of the previously
2 issued ordinance or order.

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

7 SECTION 12. Section 2303.4052, Government Code, is amended
8 to read as follows:

9 Sec. 2303.4052. REQUIRED INFORMATION FROM NOMINATING BODY.
10 Before nominating the project or activity of a qualified business
11 for designation as an enterprise project, the nominating body must
12 submit to the bank:

13 (1) a certified copy of the ordinance or order, as
14 appropriate, or reference to an ordinance or order as required by
15 Section 2303.4051;

16 (2) a transcript of all public hearings conducted with
17 respect to local incentives available to qualified businesses
18 [~~business enterprises~~] within the jurisdiction of the governmental
19 entity nominating the project or activity, regardless of whether
20 those businesses [~~business enterprises~~] are located in an
21 enterprise zone;

22 (3) the name, title, address, telephone number, and
23 electronic mail address of the nominating body's liaison designated
24 under Section 2303.204; [~~and~~]

25 (4) if the business is seeking job retention benefits,
26 documentation showing the number of employment positions at the
27 qualified business site; and

1 (5) any additional information the bank may require.

2 SECTION 13. Section 2303.406, Government Code, is amended
3 by amending Subsection (a) and adding Subsections (g) and (h) to
4 read as follows:

5 (a) The bank may designate a project or activity of a
6 business as an enterprise project only if the bank receives all of
7 the information required by Section 2303.4052 and determines that:

8 (1) the business is a qualified business under Section
9 2303.402 that is located in or has made a substantial commitment to
10 locate in an enterprise zone or at a qualified business site;

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

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

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

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

23 (B) the business will close down permanently;

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

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

1 (E) [~~a 10 percent decrease in overall cost per~~
2 ~~unit produced will occur,~~

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

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

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

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

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

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

20 SECTION 14. Section 2303.406(e), Government Code, as added
21 by Chapter 814, Acts of the 78th Legislature, Regular Session,
22 2003, is amended to read as follows:

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

26 SECTION 15. Section 2303.407, Government Code, is amended
27 to read as follows:

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

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

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

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

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

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

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

20 (5) \$150,000,000 to \$249,999,999 will result in a
21 refund of up to \$5,000 per job with a maximum refund of \$2,500,000
22 for the creation or retention of 500 jobs if the bank designates the
23 project as a double jumbo enterprise project; or

24 (6) \$250,000,000 or more will result in a refund of up
25 to \$7,500 per job with a maximum refund of \$3,750,000 for the
26 creation or retention of at least 500 jobs if the bank designates
27 the project as a triple jumbo enterprise project.

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

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

11 SECTION 16. Section 2303.4072, Government Code, is amended
12 to read as follows:

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

19 SECTION 17. Section 2303.502(c), Government Code, is
20 amended to read as follows:

21 (c) The bank shall disseminate the reports to the governing
22 bodies of the entities that nominated the enterprise projects
23 [~~enterprise zones~~] and others as necessary to advance the purposes
24 of this chapter.

25 SECTION 18. Section 2303.505(a), Government Code, is
26 amended to read as follows:

27 (a) To encourage the development of areas designated as

1 enterprise zones, the governing body of a municipality through a
2 program may refund its local sales and use taxes paid by a qualified
3 business on all taxable items purchased for use at the qualified
4 business site related to the project or activity[+]

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

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

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

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

13 SECTION 19. Section 2303.516, Government Code, is amended
14 to read as follows:

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

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

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

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

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

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

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

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

25 (b) Not later than the 30th day after the date the
26 comptroller completes an enterprise project's close-out, the
27 comptroller shall submit to the bank a report stating the actual

1 amount of capital investment made and the actual number of jobs
2 created or retained as a result of the enterprise project
3 designation.

4 SECTION 21. Sections 151.429(a), (b), (c), and (e), Tax
5 Code, are amended to read as follows:

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

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

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

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

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

21 (b) Subject to the limitations provided by Subsection (c) of
22 this section, an enterprise project qualifies for a refund of taxes
23 under this section based on the amount of capital investment made at
24 the qualified business site, the project's designation level, and
25 the refund per job with a maximum refund to be included in a
26 computation of a tax refund for the project. A capital investment
27 at the qualified business site 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 \$149,999,999 will result in a refund
11 of up to \$2,500 per job with a maximum refund of \$1,250,000 for the
12 creation or retention of 500 jobs;

13 (5) \$150,000,000 to \$249,999,999 will result in a
14 refund of up to \$5,000 per job with a maximum refund of \$2,500,000
15 for the creation or retention of 500 jobs if the Texas Economic
16 Development Bank designates the project as a double jumbo
17 enterprise project; or

18 (6) \$250,000,000 or more will result in a refund of up
19 to \$7,500 per job with a maximum refund of \$3,750,000 for the
20 creation or retention of at least 500 jobs if the Texas Economic
21 Development Bank designates the project as a triple jumbo
22 enterprise project.

23 (c) The total amount of tax refund that an enterprise
24 project may apply for in a state fiscal year may not exceed
25 \$250,000, at not more than \$2,500 per job. The total amount of tax
26 refund that a double jumbo enterprise project may apply for in a
27 state fiscal year may not exceed \$500,000, at not more than \$5,000

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

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

14 (2) a double jumbo enterprise project under this
15 section may not exceed the amount determined by multiplying
16 \$500,000 by the number of state fiscal years during which the double
17 jumbo enterprise project created or retained one or more jobs for
18 qualified employees; or

19 (3) a triple jumbo enterprise project under this
20 section may not exceed the amount determined by multiplying
21 \$750,000 by the number of state fiscal years during which the triple
22 jumbo enterprise project created or retained one or more jobs for
23 qualified employees.

24 (e) In this section:

25 (1) "Enterprise project" means a project or activity
26 [~~person~~] designated by the Texas Economic Development Bank as an
27 enterprise project under Chapter 2303, Government Code.

1 (2) "Qualified employee" [~~"Enterprise zone,"~~
2 ~~"qualified employee,"~~] and "qualified hotel project" have the
3 meanings assigned to those terms by Section 2303.003, Government
4 Code.

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

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

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

13 (4) "Retained job" has the meaning assigned by Section
14 2303.401, Government Code.

15 (5) "Double jumbo enterprise project" and "triple
16 jumbo enterprise project" have the meanings assigned by Section
17 2303.407, Government Code.

18 SECTION 22. The following provisions are repealed:

19 (1) Section 2303.4051(d), Government Code; and

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

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

1 effective date of this Act is governed by the law in effect on the
2 date the application was filed, and the former law is continued in
3 effect for that purpose.

4 SECTION 24. The changes in law made by this Act to Section
5 151.429, Tax Code, apply only to an application for a tax refund
6 made on or after the effective date of this Act. An application for
7 a tax refund made before the effective date of this Act is governed
8 by the law in effect on the date the application was made, and the
9 former law is continued in effect for that purpose.

10 SECTION 25. This Act takes effect September 1, 2007.

ADOPTED

MAY 23 2007

Atty. Gen.
Secretary of the Senate

By: Deshaun/Janek

H.B. No. 3094

Substitute the following for H.B. No. 3094:

By: Craig Estes

C.S.H.B. No. 3094

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

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

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

(A) works for a qualified business; and

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

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

SECTION 2. Section 2303.004, Government Code, is amended to read as follows:

Sec. 2303.004. JURISDICTION OF MUNICIPALITY. (a) For the

1 purposes of this chapter, territory in the municipal boundaries and
2 in the extraterritorial jurisdiction of a municipality is
3 considered to be in the jurisdiction of the municipality.

4 (b) Notwithstanding Subsection (a), the governing body of a
5 county with a population of 750,000 or more may nominate for
6 designation as an enterprise project a project or activity of a
7 qualified business that is located within the jurisdiction of a
8 municipality located in the county. For purposes of this
9 subsection, a county during any biennium may not use in any one
10 municipality more than three of the maximum number of designations
11 the county is permitted under Section 2303.406(d)(2).

12 SECTION 3. Section 2303.052, Government Code, is amended to
13 read as follows:

14 Sec. 2303.052. BANK [~~EVALUATION,~~] REPORT REGARDING
15 PROGRAM. [~~(a)~~] The bank must include the following information
16 regarding the enterprise zone program in the report required by
17 Section 489.107 [~~shall conduct a continuing evaluation of the~~
18 ~~enterprise zone program.~~

19 [~~(b) The bank shall develop data from available information~~
20 ~~demonstrating the relationship between the incentives provided~~
21 ~~under this chapter and the economy.~~

22 [~~(c) The bank biennially shall review local incentives.~~

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

26 (1) an evaluation of [~~evaluates~~] the effectiveness of
27 the [~~enterprise zone~~] program;

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

4 (3) suggestions for [~~suggests~~] legislation with
5 regard to the program.

6 SECTION 4. Section 2303.401, Government Code, is amended to
7 read as follows:

8 Sec. 2303.401. DEFINITIONS. In this subchapter:

9 (1) "New permanent job" means a new employment
10 position that:

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

15 (B) will provide or has provided for the duration
16 of the project's designation period [~~that:~~

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

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

21 (i) the duration of the project's
22 designation period; or

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

25 (2) "Retained job" means a job that:

26 (A) existed with a qualified business on the 91st
27 day before the date [~~designation of~~] the business's project or

1 activity is designated as an enterprise project;

2 (B) [~~that~~,

3 [~~(A)~~] has provided and will continue to provide
4 employment to a qualified employee of at least 1,820 hours
5 annually; and

6 (C) will [~~(B) is intended to~~] be or has been an
7 employment position for the longer of:

8 (i) the duration of the project's
9 designation period; or

10 (ii) [~~at least~~] three years after the
11 expiration date of the claim period for receipt of [~~date on which~~] a
12 state benefit [~~is received as~~] authorized by this chapter.

13 SECTION 5. Section 2303.402(c), Government Code, is amended
14 to read as follows:

15 (c) For the purposes of this section, an economically
16 disadvantaged individual is an individual who:

17 (1) was unemployed for at least three months before
18 obtaining employment with the qualified business;

19 (2) receives public assistance benefits, including
20 welfare payments or food stamps, based on need and intended to
21 alleviate poverty;

22 (3) is a low-income [~~an economically disadvantaged~~]
23 individual, as defined by Section 101, Workforce Investment Act of
24 1998 (29 U.S.C. Section 2801(25)) [~~4(8), Job Training Partnership~~
25 ~~Act (29 U.S.C. Section 1503(8))~~];

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

1 (5) is an inmate, as defined by Section 498.001;

2 (6) is entering the workplace after being confined in
3 a facility operated by the institutional division of the Texas
4 Department of Criminal Justice or under contract with the Texas
5 Department of Criminal Justice;

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

9 (8) meets the current low income or moderate income
10 limits developed under Section 8, United States Housing Act of 1937
11 (42 U.S.C. Section 1437f et seq.).

12 SECTION 6. Section 2303.403, Government Code, is amended to
13 read as follows:

14 Sec. 2303.403. PROHIBITION ON QUALIFIED BUSINESS
15 CERTIFICATION; LIMIT ON ENTERPRISE PROJECT DESIGNATIONS. If the
16 bank determines that the governing body eligible to nominate an
17 enterprise project is not complying with this chapter, the bank
18 shall prohibit the certification of a qualified business until the
19 bank determines that the governing body is complying with this
20 chapter. The bank may not designate more than 105 [~~85~~] enterprise
21 projects during any biennium. Any designations remaining at the
22 end of a biennium may be carried forward to the next biennium.

23 SECTION 7. Section 2303.404(c), Government Code, is amended
24 to read as follows:

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

1 SECTION 8. Sections 2303.405(a) and (b), Government Code,
2 are amended to read as follows:

3 (a) If the governing body approves a request made under
4 Section 2303.404, the governing body may apply to the bank for the
5 designation of the project or activity of a qualified business as an
6 enterprise project only after it submits to the bank the order or
7 ordinance and other information that complies with the requirements
8 of Sections 2303.4051 and 2303.4052.

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

12 (1) the number of employment positions in existence at
13 the qualified business site on the 91st day before the application
14 deadline;

15 (1-a) the number of [~~anticipated~~] new permanent jobs
16 the enterprise project commits to [~~will~~] create during the
17 designation period presented in the form of a tabular listing of:

18 (A) the classification titles of those jobs; and

19 (B) the number of jobs and salary range for each
20 classification title;

21 (2) the [~~anticipated~~] number of permanent jobs the
22 enterprise project commits to [~~will~~] retain during the designation
23 period presented in the form of a tabular listing of:

24 (A) the classification titles of the retained
25 jobs; and

26 (B) the number of retained jobs and salary range
27 for each classification title;

1 (3) the amount of investment to be made by the
2 enterprise project;

3 (4) a complete description of the projected schedule
4 for completion of the specific activity described by Section
5 2303.404(b) to be undertaken by the enterprise project;

6 (5) other information the bank requires;

7 (6) a description of the local effort made by the
8 nominating body, the qualified business, and other affected
9 entities to develop and revitalize the jurisdiction of the
10 governmental entity nominating the project or activity; and

11 (7) if the nominating body is applying for a double or
12 triple jumbo enterprise project, as defined by Section 2303.407, an
13 indication of which level [~~of those types~~] of designation
14 [~~designations~~] is being sought.

15 SECTION 9. Sections 2303.4051(a), (b), (e), (f), and (g),
16 Government Code, are amended to read as follows:

17 (a) In this section, "local incentive" means each tax
18 incentive, grant, other financial incentive or benefit, or program
19 to be provided by the governing body to qualified businesses
20 participating in the enterprise zone program [~~business enterprises~~
21 ~~in the block group~~] and any other local incentive listed in Section
22 2303.511.

23 (b) Before nominating the project or activity of a qualified
24 business for designation as an enterprise project, the governing
25 body of the municipality or county in which the business is located,
26 by ordinance or order, as appropriate, must identify and summarize
27 briefly any local incentives available[+]

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

4 ~~[(2) in any area within its jurisdiction that does not~~
5 ~~qualify as an enterprise zone].~~

6 (e) An ~~[Unless the nominating body holds a public hearing~~
7 ~~before adopting an ordinance or order under this section, the]~~
8 ordinance or order adopted under this section is not valid unless
9 the nominating body holds a public hearing before adopting the
10 ordinance or order. Notice of the hearing must be published in a
11 newspaper having general circulation in the municipality not later
12 than the seventh calendar day before the date of the hearing. The
13 notice must contain:

14 (1) the date, time, and location of the hearing;

15 (2) the provisions for any tax or other incentives
16 applicable to the enterprise zone program;

17 (3) the name of the qualified business whose project
18 or activity is being nominated for enterprise project designation;
19 and

20 (4) the location of the qualified business site.

21 (f) If the nominating body has previously nominated a
22 project or activity for designation as an enterprise project, the
23 nominating body, instead of issuing a new ordinance or order under
24 this section for a nominated project or activity, may by resolution
25 make a reference to a previously issued ordinance or order that met
26 the requirements of this section if:

27 (1) the resolution nominates the project or activity

1 for designation as an enterprise project and states:

2 (A) whether the nominated project or activity is
3 located in an area designated as an enterprise zone;

4 (B) the level of enterprise project designation
5 being sought; and

6 (C) the ending date of the project's designation
7 period;

8 (2) the local incentives described in the previously
9 issued ordinance or order [~~for the areas described by Subsections~~
10 ~~(b)(1) and (2)~~] are [~~substantially~~] the same on the date the
11 resolution is issued; and

12 (3) the local incentives to be made available to the
13 nominated project or activity are the same as those made available
14 to the project or activity that are the subject of the previously
15 issued ordinance or order.

16 (g) This section does not prohibit a municipality or county
17 from extending additional incentives, including tax incentives,
18 for qualified businesses [~~business enterprises~~] in an enterprise
19 zone by a separate order or ordinance.

20 SECTION 10. Section 2303.4052, Government Code, is amended
21 to read as follows:

22 Sec. 2303.4052. REQUIRED INFORMATION FROM NOMINATING BODY.
23 Before nominating the project or activity of a qualified business
24 for designation as an enterprise project, the nominating body must
25 submit to the bank:

26 (1) a certified copy of the ordinance or order, as
27 appropriate, or reference to an ordinance or order as required by

1 Section 2303.4051;

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

8 (3) the name, title, address, telephone number, and
9 electronic mail address of the nominating body's liaison designated
10 under Section 2303.204; [~~and~~]

11 (4) if the business is seeking job retention benefits,
12 documentation showing the number of employment positions at the
13 qualified business site; and

14 (5) any additional information the bank may require.

15 SECTION 11. Section 2303.406, Government Code, is amended
16 by amending Subsection (a) and adding Subsections (g) and (h) to
17 read as follows:

18 (a) The bank may designate a project or activity of a
19 business as an enterprise project only if the bank receives all of
20 the information required by Section 2303.4052 and determines that:

21 (1) the business is a qualified business under Section
22 2303.402 that is located in or has made a substantial commitment to
23 locate in an enterprise zone or at a qualified business site;

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

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

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

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

9 (B) the business will close down permanently;

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

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

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

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

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

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

27 (1) if there are fewer designations available than

1 applications received; or

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

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

6 SECTION 12. Section 2303.406(e), Government Code, as added
7 by Chapter 814, Acts of the 78th Legislature, Regular Session,
8 2003, is amended to read as follows:

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

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

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

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

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

21 (1) \$40,000 to \$399,999 will result in a refund of up
22 to \$2,500 per job with a maximum refund of \$25,000 for the creation
23 or retention of 10 jobs;

24 (2) \$400,000 to \$999,999 will result in a refund of up
25 to \$2,500 per job with a maximum refund of \$62,500 for the creation
26 or retention of 25 jobs;

27 (3) \$1,000,000 to \$4,999,999 will result in a refund

1 of up to \$2,500 per job with a maximum refund of \$312,500 for the
2 creation or retention of 125 jobs;

3 (4) \$5,000,000 to \$149,999,999 will result in a refund
4 of up to \$2,500 per job with a maximum refund of \$1,250,000 for the
5 creation or retention of 500 jobs;

6 (5) \$150,000,000 to \$249,999,999 will result in a
7 refund of up to \$5,000 per job with a maximum refund of \$2,500,000
8 for the creation or retention of 500 jobs if the bank designates the
9 project as a double jumbo enterprise project; or

10 (6) \$250,000,000 or more will result in a refund of up
11 to \$7,500 per job with a maximum refund of \$3,750,000 for the
12 creation or retention of at least 500 jobs if the bank designates
13 the project as a triple jumbo enterprise project.

14 (c) An enterprise project for which a commitment for a [A]
15 capital investment in the range amount and the creation or
16 retention of the number of jobs specified [~~described~~] by Subsection
17 (b)(5) is made is considered a double jumbo enterprise project if
18 the project is so designated by the bank.

19 (d) An enterprise project for which a commitment for a [A]
20 capital investment in the range amount and the creation or
21 retention of the number of jobs specified [~~described~~] by Subsection
22 (b)(6) is made is considered a triple jumbo enterprise project if
23 the project is so designated by the bank.

24 SECTION 14. Section 2303.4072, Government Code, is amended
25 to read as follows:

26 Sec. 2303.4072. ENTERPRISE PROJECT CLAIM FOR STATE BENEFIT.
27 A person must make a claim to the comptroller for a state benefit as

1 prescribed under this chapter and Chapter [~~Chapters~~] 151 [~~and 171~~],
2 Tax Code, not later than 18 months after the date on which the term
3 of the enterprise project designation expires as provided by
4 Section 2303.404.

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

7 (c) The bank shall disseminate the reports to the governing
8 bodies of the entities that nominated the enterprise projects
9 [~~enterprise zones~~] and others as necessary to advance the purposes
10 of this chapter.

11 SECTION 16. (a) Section 2303.504, Government Code, is
12 amended to read as follows:

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

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

17 (2) a franchise tax credit under Subchapter Q-1,
18 Chapter 171, Tax Code.

19 (b) At the time of receipt of any tax benefit available as a
20 result of participating in the enterprise zone program, including a
21 state sales and use tax refund or franchise tax credit, three
22 percent of the amount of the tax benefit shall be transferred to the
23 Texas economic development bank fund under Subchapter B, Chapter
24 489, to defray the cost of administering this chapter.

25 (c) Not later than the 60th day after the last day of each
26 fiscal year, the comptroller shall report to the bank the statewide
27 total of actual jobs created, actual jobs retained, and the tax

1 refunds and credits made under this section during that fiscal
2 year.

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

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

7 Sec. 171.815. DEFINITIONS. In this subchapter:

8 (1) "Enterprise project" means:

9 (A) a person designated by the Texas Department
10 of Economic Development as an enterprise project under Chapter
11 2303, Government Code, on or after September 1, 2001, but before
12 September 1, 2003; and

13 (B) a person designated by the Texas Economic
14 Development Bank as an enterprise project under Chapter 2303,
15 Government Code, on or after September 1, 2003, but before January
16 1, 2005.

17 (2) "Enterprise zone" has the meaning assigned by
18 Section 2303.003, Government Code.

19 (3) "Qualified business" means a person certified as a
20 qualified business under Section 2303.402, Government Code.

21 (4) "Qualified capital investment" means tangible
22 personal property that is first placed in service in an enterprise
23 zone by a qualified business that has been designated as an
24 enterprise project and that is described in Section 1245(a),
25 Internal Revenue Code, such as engines, machinery, tools, and
26 implements used in a trade or business or held for investment and
27 subject to an allowance for depreciation, cost recovery under the

1 accelerated cost recovery system, or amortization. The term does
2 not include real property or buildings and their structural
3 components. Property that is leased under a capitalized lease is
4 considered a qualified capital investment, but property that is
5 leased under an operating lease is not considered a qualified
6 capital investment. Property expensed under Section 179, Internal
7 Revenue Code, is not considered a qualified capital investment.

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

13 (1) purchased by an enterprise project for placement
14 in an improvement that was under active construction or other
15 physical preparation;

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

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

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

27 (b) An enterprise project is not eligible for a credit under

1 this subchapter if the enterprise project claimed a credit under
2 Subchapter Q before the repeal of that subchapter on January 1,
3 2008.

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

9 (d) A taxable entity, other than a combined group, may not
10 claim the credit under this subchapter unless the taxable entity
11 was, on May 1, 2006, subject to the tax imposed by this chapter as
12 this chapter existed on that date. A taxable entity that is a
13 combined group may claim the credit for each member entity that was,
14 on May 1, 2006, subject to the tax imposed by this chapter as this
15 chapter existed on that date and shall compute the amount of the
16 credit for that member as provided by this subchapter.

17 Sec. 171.818. CALCULATION OF CREDIT. (a) An enterprise
18 project that is eligible for a credit under this subchapter may, on
19 or after the later of January 1, 2008, or the date the project was
20 designated, establish a credit equal to 7.5 percent of the
21 qualified capital investment made on or after January 1, 2005, and
22 before January 1, 2007.

23 (b) The enterprise project may claim the entire credit
24 earned on a report originally due on or after January 1, 2008, and
25 before January 1, 2009, subject to Section 171.819.

26 Sec. 171.819. LIMITATIONS. The total credit claimed under
27 this subchapter for a report, including the amount of any

1 carryforward credit under Section 171.820, may not exceed 50
2 percent of the amount of franchise tax due for the report before any
3 other applicable tax credits.

4 Sec. 171.820. CARRYFORWARD. If an enterprise project is
5 eligible for a credit that exceeds the limitation under Section
6 171.819, the enterprise project may carry the unused credit forward
7 for not more than five consecutive reports.

8 Sec. 171.821. CERTIFICATION OF ELIGIBILITY. (a) For the
9 initial and each succeeding report in which a credit is claimed
10 under this subchapter, the enterprise project shall file with its
11 report, on a form provided by the comptroller, information that
12 sufficiently demonstrates that the enterprise project is eligible
13 for the credit.

14 (b) The burden of establishing entitlement to and the value
15 of the credit is on the enterprise project.

16 Sec. 171.822. ASSIGNMENT PROHIBITED. An enterprise project
17 may not convey, assign, or transfer the credit allowed under this
18 subchapter to another entity unless all of the assets of the
19 enterprise project are conveyed, assigned, or transferred in the
20 same transaction.

21 Sec. 171.823. BIENNIAL REPORT BY COMPTROLLER. (a) Before
22 the beginning of each regular session of the legislature, the
23 comptroller shall submit to the governor, the lieutenant governor,
24 and the speaker of the house of representatives a report that
25 states:

26 (1) the total amount of qualified capital investments
27 made by enterprise projects that claim a credit under this

1 subchapter and the average and median wages paid by those
2 enterprise projects;

3 (2) the total amount of credits applied against the
4 tax under this chapter and the amount of unused credits, including:

5 (A) the total amount of franchise tax due by
6 enterprise projects claiming a credit under this subchapter before
7 and after the application of the credit;

8 (B) the average percentage reduction in
9 franchise tax due by enterprise projects claiming a credit under
10 this subchapter;

11 (C) the percentage of tax credits that were
12 awarded to enterprise projects with fewer than 100 employees; and

13 (D) the two-digit standard industrial
14 classification of enterprise projects claiming a credit under this
15 subchapter;

16 (3) the geographical distribution of the qualified
17 capital investments on which tax credit claims are made under this
18 subchapter; and

19 (4) the impact of the credit provided under this
20 subchapter on employment, capital investment, personal income, and
21 state tax revenues.

22 (b) The final report issued before the expiration of this
23 subchapter must include historical information on the credit
24 authorized under this subchapter.

25 (c) The comptroller may not include in the report
26 information that is confidential by law.

27 (d) For purposes of this section, the comptroller may

1 require an enterprise project that claims a credit under this
2 subchapter to submit information, on a form provided by the
3 comptroller, on the location of the enterprise project's capital
4 investment in this state and any other information necessary to
5 complete the report required under this section.

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

9 Sec. 171.824. COMPTROLLER POWERS AND DUTIES. The
10 comptroller shall adopt rules and forms necessary to implement this
11 subchapter.

12 Sec. 171.825. EXPIRATION. (a) This subchapter expires
13 December 31, 2009.

14 (b) The expiration of this subchapter does not affect the
15 carryforward of a credit under Section 171.820 or those credits for
16 which an enterprise project is eligible before the date this
17 subchapter expires.

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

20 (1) on a franchise tax report originally due on or
21 after January 1, 2008; and

22 (2) notwithstanding any other law, for qualified
23 capital investments made on or after January 1, 2005, and before
24 January 1, 2007.

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

1 2007.

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

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

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

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

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

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

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

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

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

26 Sec. 2303.516. MONITORING QUALIFIED BUSINESS OR ENTERPRISE
27 PROJECT COMMITMENTS. (a) The comptroller [~~bank~~] may monitor a

1 qualified business or enterprise project to determine whether and
2 to what extent the business or project has followed through on any
3 commitments made by it or on its behalf under this chapter.

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

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

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

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

24 [~~(d)~~] A qualified business may obtain a state benefit,
25 earned through a specific enterprise project designation, on
26 completion of an audit performed by the comptroller that will
27 certify hiring commitments and eligible purchases made by or on

1 behalf of a qualified business under this chapter.

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

4 Sec. 2303.517. REPORT. (a) Before obtaining a state
5 benefit, the qualified business must submit to the comptroller
6 ~~[bank]~~ a certified report of the actual number of jobs created or
7 retained and the capital investment made at or committed to the
8 qualified business site.

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

15 SECTION 20. Sections 151.429(a), (b), (c), and (e), Tax
16 Code, are amended to read as follows:

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

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

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

26 ~~[(3) labor for remodeling, rehabilitating, or~~
27 ~~constructing a structure by an enterprise project at the qualified~~

1 ~~business site, and~~

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

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

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

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

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

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

24 (5) \$150,000,000 to \$249,999,999 will result in a
25 refund of up to \$5,000 per job with a maximum refund of \$2,500,000
26 for the creation or retention of 500 jobs if the Texas Economic
27 Development Bank designates the project as a double jumbo

1 enterprise project; or

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

7 (c) The total amount of tax refund that an enterprise
8 project may apply for in a state fiscal year may not exceed
9 \$250,000, at not more than \$2,500 per job. The total amount of tax
10 refund that a double jumbo enterprise project may apply for in a
11 state fiscal year may not exceed \$500,000, at not more than \$5,000
12 per job. The total amount of tax refund that a triple jumbo
13 enterprise project may apply for in a state fiscal year may not
14 exceed \$750,000, at not more than \$7,500 per job. If an enterprise
15 project, double jumbo enterprise project, or triple jumbo
16 enterprise project qualifies in a state fiscal year for a refund of
17 taxes in an amount in excess of the applicable limitation provided
18 by this subsection, it may apply for a refund of those taxes in a
19 subsequent year, subject to the applicable [~~\$250,000~~] limitation
20 for each year. The total amount that may be refunded to:

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

25 (2) a double jumbo enterprise project under this
26 section may not exceed the amount determined by multiplying
27 \$500,000 by the number of state fiscal years during which the double

1 jumbo enterprise project created or retained one or more jobs for
2 qualified employees; or

3 (3) a triple jumbo enterprise project under this
4 section may not exceed the amount determined by multiplying
5 \$750,000 by the number of state fiscal years during which the triple
6 jumbo enterprise project created or retained one or more jobs for
7 qualified employees.

8 (e) In this section:

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

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

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

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

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

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

26 (5) "Double jumbo enterprise project" and "triple
27 jumbo enterprise project" have the meanings assigned by Section

1 2303.407, Government Code.

2 SECTION 21. The following provisions are repealed:

3 (1) Section 2303.4051(d), Government Code; and

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

6 SECTION 22. The changes in law made by this Act to Chapter
7 2303, Government Code, apply only to an application for a
8 designation under the enterprise zone program under Chapter 2303,
9 Government Code, as amended by this Act, that is filed on or after
10 the effective date of this Act. An application for designation
11 under the enterprise zone program that is filed before the
12 effective date of this Act is governed by the law in effect on the
13 date the application was filed, and the former law is continued in
14 effect for that purpose.

15 SECTION 23. The changes in law made by this Act to Section
16 151.429, Tax Code, apply only to an application for a tax refund
17 made on or after the effective date of this Act. An application for
18 a tax refund made before the effective date of this Act is governed
19 by the law in effect on the date the application was made, and the
20 former law is continued in effect for that purpose.

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

ADOPTED

MAY 23 2007

FLOOR AMENDMENT NO. 1

Lotay Spaw
Secretary of the Senate

Kyle Smith

1 Amend C.S.H.B. No. 3694 (Senate committee printing) as
2 follows:

3 (1) In the recital to SECTION 1 of the bill (page 1, line
4 13), strike "Sections 2303.003(5-a), (7), and (8)" and substitute
5 "Sections 2303.003(5-a) and (7)".

6 (2) In SECTION 1 of the bill, in amended Section 2303.003,
7 Government Code (page 1, lines 22 through 30), strike Subdivision
8 (8).

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

Revision 1

May 21, 2007

TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3694 by Deshotel (Relating to the enterprise zone program.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3694, Committee Report 2nd House, Substituted: a negative impact of (\$4,400,000) relating to the provisions of the entire bill, with the exception of the language regarding qualified hotel projects. However, there could be a significant negative fiscal impact to General Revenue Related Funds concerning qualified hotel projects depending on the number of projects.

The table below addresses the entire bill, with the exception of the language regarding qualified hotel projects.

Note: HB 2, 79th Legislature, Third Called Session (2006) dedicates to the Property Tax Relief Fund all revenues collected under Chapter 171 in excess of the amount that would have been collected under the chapter as it existed on August 31, 2007. The following fiscal impact table reflects that dedication.

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>GENERAL REVENUE FUND</i> 1	Probable Revenue Gain/(Loss) from <i>Property Tax Relief Fund</i> 304
2008	(\$1,400,000)	(\$5,371,000)
2009	(\$3,000,000)	(\$4,297,000)
2010	(\$3,000,000)	(\$3,437,000)
2011	(\$3,000,000)	(\$2,750,000)
2012	(\$3,000,000)	(\$2,200,000)

The table below addresses only the bill's language concerning qualified hotel projects and is provided for illustrative purposes only. **It represents the potential loss in state and local revenues for a single hypothetical project in one city and does not represent the entire potential loss in state and local revenues.**

Fiscal Year	Probable Revenue Gain/(Loss) from <i>GENERAL REVENUE FUND</i> 1	Probable Revenue Gain/(Loss) from <i>Cities</i>	Probable Revenue Gain/(Loss) from <i>Counties</i>	Probable Revenue Gain/(Loss) from <i>Transit Authorities</i>
2008	(\$3,277,000)	(\$2,148,000)	(\$30,000)	(\$79,000)
2009	(\$3,415,000)	(\$2,235,000)	(\$31,000)	(\$82,000)
2010	(\$3,553,000)	(\$2,320,000)	(\$32,000)	(\$86,000)
2011	(\$3,695,000)	(\$3,409,000)	(\$33,000)	(\$89,000)
2012	(\$3,835,000)	(\$2,490,000)	(\$35,000)	(\$93,000)

Fiscal Year	Probable Revenue Gain/(Loss) from Enterprise Project (Hotel)
2008	\$5,534,000
2009	\$5,786,000
2010	\$5,991,000
2011	\$6,223,000
2012	\$6,453,000

Fiscal Analysis

The bill would amend Chapter 2303 of the Government Code and Section 151.429 of the Tax Code, relating to the enterprise zone program. Under the provisions of the bill, the definitions of "new permanent job" and "retained job" would be amended as they relate to enterprise zones. The bill would raise the number of enterprise projects that could be designated during a biennium to 105 from 85, and allow any designations remaining at the end of a biennium to be carried forward to the next biennium.

Under the provisions of the bill, the Texas Economic Development Bank (TEDB) could lower the designation level of a proposed project if there were fewer designations available than applications received or to further the economic interests of the state. The Comptroller of Public accounts reports that a benefit to the state would not be obtained for jobs moved from one jurisdiction to another in the state. Furthermore, the bill would allow the Comptroller to monitor qualified business or enterprise project commitments currently monitored by TEDB; and require the Comptroller to submit a report to TEDB stating the actual amount of capital investment made and the actual number of jobs created as a result of a project's designation after the completion of an enterprise project's close-out.

Under current law, enterprise projects are eligible for a refund of sales and use taxes paid on purchases of certain machinery, equipment, materials, labor, and electricity and natural gas. The bill would allow the refund for purchases of all taxable items purchased for use at a qualified business site related to an enterprise project or activity.

The bill would amend the Tax Code by adding a subchapter for a capital investment tax credit. A taxable entity would have to have been designated as an enterprise project on or after September 1, 2001 and before January 1, 2005 to be eligible for the credit. To claim the credit, the taxable entity, other than a combined group, would have to have been subject to the franchise tax on May 1, 2006. A combined group could claim the credit only for members of the group that were subject to the franchise tax on May 1, 2006. An enterprise project would not be eligible for the credit if the enterprise project had claimed a credit under Subchapter Q, before the repeal of that subchapter on January 1, 2008.

Under the provisions of the bill, the franchise tax credit for capital investment would be based on qualified capital investment made by the enterprise project and first placed in service in an enterprise zone. "Qualified capital investment" would be defined as tangible personal property described in Section 1245(a) of the Internal Revenue Code and subject to depreciation. Qualified capital investment would not include real property or buildings and their structural components. The amount of credit would be equal to 7.5 percent of the qualified capital investment made on or after January 1, 2005 and before January 1, 2007. The credit could be claimed on a franchise tax report originally due on or after January 1, 2008 and before January 1, 2009. The amount of credit that could be used to reduce franchise tax liability on a report would be limited to 50 percent of the tax due on that report. Credit that could not be used to reduce tax liability because of the limitation could be carried forward for no more than five consecutive reports.

The bill would require the Comptroller to provide a form to be submitted by the enterprise project claiming credit for documenting the eligibility of the entity for the credit. The credit earned by an enterprise project could not be transferred to another entity unless all of the assets of the enterprise were transferred in the same transaction. The Comptroller, by rule, would prescribe the manner in which a taxable entity could claim a credit for or qualified capital investments made on or after January 1, 2005 and before January 1, 2007. The provisions of this bill would expire on December 31,

2009. The expiration of the provisions would not affect the carryforward of a credit earned before the expiration date.

Sections 2303.4051(d), relating to local financial incentives for enterprise projects, and 2303.406(e), as added by Chapter 209, Acts of the 78th Legislature, Regular Session (2003), relating to designating multiple concurrent enterprise projects in the same enterprise zone would be repealed.

The bill would take effect immediately if it were to receive the required two-thirds vote in each house of the legislature; otherwise, it would take effect September 1, 2007.

Methodology

For the purpose of this analysis, the Comptroller of Public Accounts based the estimated fiscal impact of the refund of the sales and use taxes on the average amount of sales and use tax refunds paid to enterprise projects under current law, relative to the broader refund language and greater number of projects that would be provided for in this bill. Specifically with respect to the 20 additional projects that would be allowed under the bill, the Comptroller's analysis assumes that the additional projects would be designated in fiscal 2008 and would be eligible to begin receiving refunds in fiscal 2009.

The Comptroller estimated the fiscal impact of the franchise tax credit provisions based on information provided by the Texas Economic Development Bank (TEDB) on enterprise projects designated after September 1, 2001 and before January 1, 2005. The information includes the anticipated dollar amount of new investment and identified potentially eligible enterprise projects for the credit. In the estimate, the Comptroller also used information on the utilization investment credits by corporations under the credit provisions of the existing franchise tax.

Additionally, under Chapter 2303 of the Government Code, a municipality, county, or other political subdivision could agree, for a period that could not exceed 10 years, to rebate, refund, or pay eligible taxable proceeds to the owner of a qualified hotel project at which the eligible taxable proceeds were generated. Eligible taxable proceeds include taxable proceeds generated, paid, or collected by a qualified hotel project or a business at a qualified hotel project, including hotel occupancy taxes, ad valorem taxes, sales and use taxes, and mixed beverage taxes, including state taxes.

Based on the expanded definition of qualified hotel projects, as established by this bill, the Comptroller reports that more projects could be eligible for state and local tax rebates. Taxable receipts for sales and use, hotel and mixed beverage taxes for an appropriately-sized hotel were estimated based on Comptroller tax files. State sales tax collections were multiplied by the state tax rate of 6.25 percent to determine the loss to the General Revenue Fund. The Comptroller proportionally estimated the fiscal impacts on units of local government.

The Comptroller multiplied hotel receipts by the six percent state hotel occupancy tax rate to estimate the loss to the General Revenue Fund and by a representative seven percent local hotel tax rate to estimate the loss in city hotel tax revenues. The General Revenue Fund losses in state mixed beverage tax collections were also estimated and then adjusted for local allocations to estimate the corresponding local losses.

It is not known how many eligible hotel projects or the size of the projects would be authorized to receive the taxable proceeds; therefore, the possible fiscal effect of the bill to the state cannot be estimated.

Local Government Impact

Local governmental entities in which enterprise zones are located would be allowed to utilize the additional designations for further capital investment. The fiscal impact to local governments concerning qualified hotel projects is illustrated in the tables above; however, it represents the potential loss in state and local revenues for a single hypothetical project in one city and does not represent the entire potential loss in state and local revenues. It is not known how many eligible hotel projects or the size of the projects would be authorized to receive the taxable proceeds; therefore, the possible fiscal effect of the bill to all local governments cannot be estimated.

Source Agencies: 301 Office of the Governor, 304 Comptroller of Public Accounts

LBB Staff: JOB, JRO, SD, EB, KJG

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 8, 2007

TO: Honorable Kyle Janek, Chair, Senate Committee on S/C on Emerging Technologies & Economic Dev.

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3694 by Deshotel (Relating to the enterprise zone program.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3694, As Engrossed: a negative impact of (\$5,600,000) through the biennium ending August 31, 2009.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	(\$1,400,000)
2009	(\$4,200,000)
2010	(\$4,200,000)
2011	(\$4,200,000)
2012	(\$4,200,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>GENERAL REVENUE FUND</i> 1
2008	(\$1,400,000)
2009	(\$4,200,000)
2010	(\$4,200,000)
2011	(\$4,200,000)
2012	(\$4,200,000)

Fiscal Analysis

The bill would amend Chapter 2303 of the Government Code and Section 151.429 of the Tax Code, relating to the enterprise zone program. The bill would add a section establishing neighborhood enterprise associations as entities authorized to participate in the planning and carrying out of certain activities in enterprise zones. Under the provisions of the bill the definitions of "new permanent job" and "retained job" would be amended as they relate to enterprise zones. The bill would raise the number of enterprise projects that could be designated during a biennium to 120 from 85, and allow any designations remaining at the end of a biennium to be carried forward to the next biennium.

Under the provisions of the bill, the Texas Economic Development Bank (TEDB) could lower the designation level of a proposed project if there were fewer designations available than applications received or to further the economic interests of the state. The Comptroller of Public accounts reports that a benefit to the state would not be obtained for jobs moved from one jurisdiction to another in the state. Furthermore, the bill would allow the Comptroller to monitor qualified business or enterprise project commitments currently monitored by TEDB; and require the Comptroller to submit a report to

TEDB stating the actual amount of capital investment made and the actual number of jobs created as a result of a project's designation after the completion of an enterprise project's close-out.

Under current law, enterprise projects are eligible for a refund of sales and use taxes paid on purchases of certain machinery, equipment, materials, labor, and electricity and natural gas. The bill would allow the refund for purchases of all taxable items purchased for use at a qualified business site related to an enterprise project or activity.

Sections 2303.4051(d), relating to local financial incentives for enterprise projects, and 2303.406(e), as added by Chapter 209, Acts of the 78th Legislature, Regular Session (2003), relating to designating multiple concurrent enterprise projects in the same enterprise zone would be repealed.

The bill would take effect September 1, 2007.

Methodology

For the purpose of this analysis, the Comptroller of Public Accounts based the estimated fiscal impact on the average amount of sales and use tax refunds paid to enterprise projects under current law, relative to the broader refund language and greater number of projects that would be provided for in this bill. Specifically with respect to the 35 additional projects that would be allowed under the bill, the Comptroller's analysis assumes that the additional projects would be designated in fiscal 2008 and would be eligible to begin receiving refunds in fiscal 2009.

Local Government Impact

Local governmental entities in which enterprise zones are located would be allowed to utilize the additional designations for further capital investment.

Source Agencies: 301 Office of the Governor, 304 Comptroller of Public Accounts

LBB Staff: JOB, JRO, SD, EB, KJG

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 13, 2007

TO: Honorable Joe Deshotel, Chair, House Committee on Economic Development

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3694 by Deshotel (Relating to the enterprise zone program.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3694, Committee Report 1st House, Substituted: a negative impact of (\$5,600,000) through the biennium ending August 31, 2009.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	(\$1,400,000)
2009	(\$4,200,000)
2010	(\$4,200,000)
2011	(\$4,200,000)
2012	(\$4,200,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from GENERAL REVENUE FUND
2008	(\$1,400,000)
2009	(\$4,200,000)
2010	(\$4,200,000)
2011	(\$4,200,000)
2012	(\$4,200,000)

Fiscal Analysis

The bill would amend Chapter 2303 of the Government Code and Section 151.429 of the Tax Code, relating to the enterprise zone program. Under the provisions of the bill the definitions of "new permanent job" and "retained job" would be amended as they relate to enterprise zones. The bill would raise the number of enterprise projects that could be designated during a biennium to 120 from 85, and allow any designations remaining at the end of a biennium to be carried forward to the next biennium.

Under the provisions of the bill, the Texas Economic Development Bank (TEDB) could lower the designation level of a proposed project if there were fewer designations available than applications received or to further the economic interests of the state. The Comptroller of Public accounts reports that a benefit to the state would not be obtained for jobs moved from one jurisdiction to another in the state. Furthermore, the bill would allow the Comptroller to monitor qualified business or enterprise project commitments currently monitored by TEDB; and require the Comptroller to submit a report to TEDB stating the actual amount of capital investment made and the actual number of jobs created as a result of a project's designation after the completion of an enterprise project's close-out.

Under current law, enterprise projects are eligible for a refund of sales and use taxes paid on purchases of certain machinery, equipment, materials, labor, and electricity and natural gas. The bill would allow the refund for purchases of all taxable items purchased for use at a qualified business site related to an enterprise project or activity.

Sections 2303.4051(d), relating to local financial incentives for enterprise projects, and 2303.406(e), as added by Chapter 209, Acts of the 78th Legislature, Regular Session (2003), relating to designating multiple concurrent enterprise projects in the same enterprise zone would be repealed.

The bill would take effect September 1, 2007.

Methodology

For the purpose of this analysis, the Comptroller of Public Accounts based the estimated fiscal impact on the average amount of sales and use tax refunds paid to enterprise projects under current law, relative to the broader refund language and greater number of projects that would be provided for in this bill. Specifically with respect to the 35 additional projects that would be allowed under the bill, the Comptroller's analysis assumes that the additional projects would be designated in fiscal 2008 and would be eligible to begin receiving refunds in fiscal 2009.

Local Government Impact

Local governmental entities in which enterprise zones are located would be allowed to utilize the additional designations for further capital investment.

Source Agencies: 301 Office of the Governor, 304 Comptroller of Public Accounts

LBB Staff: JOB, JRO, SD, EB, KJG

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 4, 2007

TO: Honorable Joe Deshotel, Chair, House Committee on Economic Development

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3694 by Deshotel (Relating to the enterprise zone program.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3694, As Introduced: a negative impact of (\$5,600,000) through the biennium ending August 31, 2009.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	(\$1,400,000)
2009	(\$4,200,000)
2010	(\$4,200,000)
2011	(\$4,200,000)
2012	(\$4,200,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>GENERAL REVENUE FUND</i> 1
2008	(\$1,400,000)
2009	(\$4,200,000)
2010	(\$4,200,000)
2011	(\$4,200,000)
2012	(\$4,200,000)

Fiscal Analysis

The bill would amend Chapter 2303 of the Government Code and Section 151.429 of the Tax Code, relating to the enterprise zone program. Under the provisions of the bill the definitions of "new permanent job" and "retained job" would be amended as they relate to enterprise zones. The bill would raise the number of enterprise projects that could be designated during a biennium to 120 from 85, and allow any designations remaining at the end of a biennium to be carried forward to the next biennium.

Under the provisions of the bill, the Texas Economic Development Bank (TEDB) could lower the designation level of a proposed project if there were fewer designations available than applications received or to further the economic interests of the state. The Comptroller of Public accounts reports that a benefit to the state would not be obtained for jobs moved from one jurisdiction to another in the state. Furthermore, the bill would allow the Comptroller to monitor qualified business or enterprise project commitments currently monitored by TEDB; and require the Comptroller to submit a report to TEDB stating the actual amount of capital investment made and the actual number of jobs created as a result of a project's designation after the completion of an enterprise project's close-out.

Under current law, enterprise projects are eligible for a refund of sales and use taxes paid on purchases of certain machinery, equipment, materials, labor, and electricity and natural gas. The bill would allow the refund for purchases of all taxable items purchased for use at a qualified business site related to an enterprise project or activity.

Sections 2303.4051(d), relating to local financial incentives for enterprise projects, and 2303.406(e), as added by Chapter 209, Acts of the 78th Legislature, Regular Session (2003), relating to designating multiple concurrent enterprise projects in the same enterprise zone would be repealed.

The bill would take effect September 1, 2007.

Methodology

For the purpose of this analysis, the Comptroller of Public Accounts based the estimated fiscal impact on the average amount of sales and use tax refunds paid to enterprise projects under current law, relative to the broader refund language and greater number of projects that would be provided for in this bill. Specifically with respect to the 35 additional projects that would be allowed under the bill, the Comptroller's analysis assumes that the additional projects would be designated in fiscal 2008 and would be eligible to begin receiving refunds in fiscal 2009.

Local Government Impact

Local governmental entities in which enterprise zones are located would be allowed to utilize the additional designations for further capital investment.

Source Agencies: 301 Office of the Governor, 304 Comptroller of Public Accounts

LBB Staff: JOB, JRO, SD, EB, KJG

