

BILL ANALYSIS

C.S.H.B. 4525

By: Parker

Technology, Economic Development & Workforce
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The unemployment rate in Texas continues to rise with the current economic crisis. According to the Texas Workforce Commission, Texas' unemployment rate is now at 6.5 percent. In February alone, Texas lost more than 46,000 jobs, making it incumbent upon the legislature to enact a policy that will reverse this trend and encourage job growth and workforce training.

C.S.H.B. 4525 seeks to incentivize the manufacturing industry to create new positions and further train its workforce by offering qualified manufacturing projects a refund on half of the additional state sales tax revenue that a qualified manufacturing project brings to its region. This refund, which is capped at the lesser of \$50 million or five percent of the amount the qualified manufacturing project invests in the facility, will be invested in workforce development.

RULEMAKING AUTHORITY

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

ANALYSIS

C.S.H.B. 4525 sets forth legislative findings relating to qualified manufacturing projects and the enhancement of manufacturing workforce development. The bill amends the Local Government Code to define "qualified manufacturing project" as a proposed new or expanded facility that, on the date of qualification, is subject to an agreement entered into on or after January 1, 2008, but before January 1, 2015, with a county, municipality, or other taxing unit under the Property Redevelopment and Tax Abatement Act, or with a school district under the Texas Economic Development Act, under which the investment in the facility is at least \$200 million; will be engaged in manufacturing, the construction of which begins on or after September 1, 2009; is forecasted to create at least 300 full-time equivalent employment positions; and the owner of which is considering at least one alternative site for the facility that is not located in Texas or is competing against similar projects located outside Texas for federal funds or financial support, including loan guarantees, that would benefit the project. The bill provides for a proposed facility to become a qualified manufacturing project on the date the owner of the facility files an election to become a project with the comptroller of public accounts.

C.S.H.B. 4525 requires the owner of a project to conduct an economic impact study of the county in which the project is located and submit the study to the comptroller for certification within 120 days of the date the owner files an election for qualification. The bill requires the study to provide an estimate of the general economic impact likely to occur in the county as a result of the project; the anticipated amount of increase in the tax receipts to Texas from the state sales and use tax that will occur in the county during the 10 year period that the zone is designated, and is directly attributable to the economic impact from the design, construction, or operation of the project; the projected number of full-time equivalent employment positions likely to be available at the project; and the investment projected to be made at the project.

C.S.H.B. 4525 requires the comptroller, not later than the 30th day after receiving the study from an owner of a project, to certify the study if the comptroller determines that it accurately estimates the required information described above. The bill requires the comptroller, if the comptroller determines that the study submitted by the owner of the project does not accurately estimate the information, not later than the 30th day after receiving the study, to submit a preliminary determination to the owner of the project and provide the owner of the project with an opportunity to respond or submit a new or amended study to the comptroller. The bill requires the comptroller to certify the study submitted by an owner if the study is conducted by an independent third party engaged by the owner, using generally accepted economic impact forecasting methods.

C.S.H.B. 4525 authorizes the owner of a project for which the comptroller has certified a study to apply to the comptroller for designation of the county in which the project is located as a qualified manufacturing project zone. The bill requires the comptroller to approve the application upon a determination that the project is the first facility in the county to apply for the designation, and provides that the designation takes effect on September 1 preceding the date of approval of a request for designation as a zone. The bill specifies that only one project in a zone may qualify for benefits at any one time, and requires the comptroller, if more than one project applies for zone designation from a single county within a calendar month, to approve the request or requests with the most investment in the proposed new or expanded facility, as determined by the study. The bill provides for a project zone designation to remain in effect until the expiration of any tax limitations, credits, abatements, or other benefits under an agreement entered into under the Property Redevelopment and Tax Abatement Act or the Texas Economic Development Act for the project.

C.S.H.B. 4525 establishes that to receive benefits under the bill's provisions, the owner of a project must make one of the annual certifications described below to the comptroller as of the last day of the state fiscal year for each year the zone is designated. The bill specifies that if the zone has been designated for three years or less and the project has not begun commercial operation, the owner must certify the forecast of at least 300 full-time equivalent employment positions for the year that the facility will commence commercial operation. The bill specifies that if the zone has been designated for more than three years and the project has not begun commercial operation, the owner must certify the creation of at least 300 full-time equivalent employment positions; or the expenditure of \$1 billion on the new or expanded facility, the year that the facility will commence commercial operation, and the forecast of at least 300 full-time equivalent employment positions that will be created no more than eight years after the zone has been designated. The bill provides that if the project has begun commercial operation, the owner must certify the creation of at least 300 full-time equivalent employment positions at the facility.

C.S.H.B. 4525 provides that if the owner fails to make one of the certifications described above, the owner is required to forfeit all future benefits specified by these provisions and to pay to the applicable governmental body within 60 calendar days the entire amount of all refunds previously received under the bill's provisions. The bill specifies that for purposes of these provisions, "commercial operation" means to have begun to operate for the intended purpose of the facility.

C.S.H.B. 4525 makes the owner of a project in a zone eligible for a refund of state sales and use taxes as described below. The bill authorizes a local governmental body to agree to rebate, refund, or pay eligible taxable proceeds to the owner of a project for a period beginning on the date that a county in which a project is located becomes a zone and ending on a date not later than the 10th anniversary of that date. The bill requires a municipality, county, or other political subdivision that makes such an agreement to make the rebate, refund, or payment directly to the owner. The bill defines "eligible taxable proceeds" to include the proceeds of hotel occupancy taxes, property taxes, sales and use taxes, and mixed beverage taxes.

C.S.H.B. 4525 amends the Tax Code to define "qualified manufacturing project," "sales tax base," "additional sales and use tax," and "manufacturing workforce development" for purposes of the law relating to tax refunds for enterprise projects. The bill amends that law to entitle the owner of a project in a zone to receive a payment of a refund of 50 percent of the additional sales and use tax for the preceding state fiscal year, provided the owner has made the applicable certification to the comptroller as required. The bill requires the comptroller to pay the refund within 60 days of the receipt of the employment certification or at the end of the state fiscal year, whichever is later, for the duration of the designation of the project as a qualified manufacturing project zone, but not to exceed 10 years. The bill prohibits the total amount of refunds that a project may receive over the course of the designation from exceeding an amount equal to the lesser of \$50 million or five percent of the project's investments in the facility. The bill requires the refund to be used to pay for or to refund eligible expenses incurred before or after designation of the county in which the project is located as a zone for the project. The bill provides that if the owner of a project fails to make the certification required by the bill's provisions, the owner is required to forfeit all future benefits received under these provisions and pay to the comptroller within 60 calendar days the entire amount of all refunds previously received.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 4525 adds provisions not in the original to provide for an economic impact study by the owner of a qualified manufacturing project and certification of the study by the comptroller of public accounts. The substitute authorizes the owner of a qualified manufacturing project to apply to the comptroller for designation of the county in which the project is located as a qualified manufacturing project zone, whereas the original requires the county in which the project is proposed to be built to apply to the Texas Economic Development and Tourism Office for the designation. The substitute adds a provision not in the original to include among the qualifications for a "qualified manufacturing project" that the owner of such a project is considering at least one alternative site not in Texas or is competing for government funds or support outside of Texas. The substitute removes a provision in the original relating to the date of qualification for a qualified manufacturing project. The substitute adds a provision not in the original to require the comptroller to approve an application for a qualified manufacturing project zone designation if the project is the first facility in the county to apply for the designation. The substitute adds a provision not in the original to require the comptroller, in a case in which more than one project in a certain area applies for zone designation, to grant approval to the project or projects proposing the highest level of investment. The substitute removes a provision in the original automatically qualifying a qualified manufacturing project zone for designation as an enterprise project. The substitute adds provisions not in the original requiring the owner of a qualified manufacturing project to make annual certifications to the comptroller relating to the number of jobs created and the amount of money expended at a facility that receives benefits under the bill's provisions.

C.S.H.B. 4525 differs from the original by entitling the owner of a qualified manufacturing project in a qualified manufacturing project zone to receive a refund of the additional state sales and use tax for the preceding state fiscal year, rather than calendar quarter as in the original, and making the refund contingent on the owner making the applicable certification to the comptroller as provided by the bill's provisions. The substitute differs from the original by requiring the comptroller to pay the refund within 60 days of the receipt of the employment certification or at the end of the state fiscal year, whichever is later, whereas the original required payment at the end of the state fiscal quarter after the calendar quarter for which the refund is due. The substitute limits the total amount of refunds that a qualified manufacturing project may receive

over the course of its designation as qualified manufacturing project zone to the lesser of \$50 million or five percent of the qualified manufacturing project's investments in the facility under the bill's provisions, whereas the original limits the total amount of refunds to five percent of the project's investments in the facility under the Texas Enterprise Zone Act. The substitute adds a provision not in the original to require the owner of a qualified manufacturing project to forfeit future benefits and return all refunds previously received if the owner fails to make the applicable certification required by the bill's provisions.

C.S.H.B. 4525 differs from the original by making numerous technical and conforming changes to reflect the changes detailed above.