

By: Button

H.B. No. 1116

A BILL TO BE ENTITLED

AN ACT

relating to tax incentives for certain businesses for job creation and retention.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 111, Tax Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. BUSINESS TAX INCENTIVES FOR CERTAIN JOB CREATION AND RETENTION ACTIVITIES

Sec. 111.401. ENTITLEMENT TO TAX REFUND OR CREDIT. (a) A qualified business is entitled to a refund of or credit against state sales and use taxes imposed under Chapter 151 and state franchise taxes imposed under Chapter 171.

(b) The total amount of the refund or credit a qualified business claims in a calendar year may not exceed the amount of net state sales and use taxes and franchise taxes paid by the business, after any other applicable credit, in the calendar year for which the refund or credit is requested.

Sec. 111.402. TYPES OF BUSINESSES THAT QUALIFY FOR TAX REFUND OR CREDIT. A business qualifies for a tax refund or credit under this subchapter if the total wages and salaries paid in this state by the business during the calendar year for which the refund or credit is requested exceed the total wages and salaries paid in this state during the previous calendar year.

Sec. 111.403. COMPUTATION OF REFUND OR CREDIT. The total

1 amount of the refund or credit to which a qualifying business is
2 entitled under this subchapter is computed by:

3 (1) determining the total wages and salaries paid in
4 this state by the business during the calendar year for which the
5 refund or credit is requested;

6 (2) subtracting from the amount determined under
7 Subdivision (1) the average total wages and salaries paid in this
8 state by the business during:

9 (A) the three calendar years preceding the
10 calendar year for which the refund or credit is requested, if the
11 qualifying business was paying wages and salaries in this state
12 during that period; or

13 (B) the period preceding the first day of the
14 calendar year for which the refund or credit is requested and during
15 which the business was paying wages and salaries in this state, if
16 the business was paying wages and salaries in this state for less
17 than three years preceding the first day of the calendar year for
18 which the refund or credit is requested;

19 (3) subtracting \$200,000 from the amount determined
20 under Subdivision (2); and

21 (4) multiplying the result of Subdivisions (1)-(3) by
22 five percent.

23 Sec. 111.404. PROCEDURE FOR CLAIMING REFUND OR CREDIT. (a)
24 An application for a refund or credit must be made to the
25 comptroller on a form prescribed by the comptroller.

26 (b) A qualified business must provide to the comptroller any
27 information the comptroller needs to determine the validity of an

1 application. The burden of establishing entitlement to and the
2 value of the refund or credit is on the business.

3 (c) Except as provided by Subsection (d), a qualified
4 business must apply for a refund or credit under this subchapter
5 before August 1 of the year after the calendar year for which the
6 business requests the refund or credit.

7 (d) If a business requests a credit against franchise taxes
8 under this subchapter, the business must claim the credit on or with
9 the report for the accounting period in which the wages and salaries
10 are paid.

11 (e) A refund payable under this subchapter does not earn
12 interest.

13 Sec. 111.405. COMPTROLLER POWERS AND DUTIES. (a) The
14 comptroller shall adopt rules and forms for the administration of
15 this subchapter.

16 (b) The comptroller may conduct any audit the comptroller
17 determines necessary for the enforcement or administration of this
18 subchapter.

19 SECTION 2. This Act takes effect January 1, 2010.