

By: Parker, Button

H.B. No. 4525

Substitute the following for H.B. No. 4525:

By: Parker

C.S.H.B. No. 4525

A BILL TO BE ENTITLED

AN ACT

relating to qualified manufacturing project zones.

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

SECTION 1. The Legislature of the State of Texas finds that a qualified manufacturing project and the enhancement of manufacturing workforce development, as defined in this Act, serves the public purposes of development and diversification of the economy of this state, the elimination of unemployment or underemployment in this state, and the development or expansion of commerce in this state.

SECTION 2. Subtitle C, Title 12, Local Government Code, is amended by adding Chapter 399 to read as follows:

CHAPTER 399. QUALIFIED MANUFACTURING PROJECT ZONES

Sec. 399.001. DEFINITION. In this chapter, "qualified manufacturing project" means a proposed new or expanded facility that, on the date of qualification under section 399.002:

(1) 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 Chapter 312, Tax Code, or with a school district under Chapter 313, Tax Code, under which the investment in the facility is at least \$200 million;

(2) will be engaged in manufacturing, as that term is defined by Section 151.318, Tax Code, the construction of which begins on or after September 1, 2009;

1 (3) is forecasted to create at least 300 full-time
2 equivalent employment positions; and

3 (4) the owner of which is considering at least one
4 alternative site for the facility that is not located in this state
5 or is competing against similar projects located outside this state
6 for federal funds or financial support, including loan guarantees,
7 that would benefit the project.

8 Sec. 399.002. DATE OF QUALIFICATION. A proposed facility
9 becomes a qualified manufacturing project on the date the owner of
10 the facility files an election to become a qualified manufacturing
11 project with the comptroller.

12 Sec. 399.003. ECONOMIC IMPACT STUDY. (a) The owner of a
13 qualified manufacturing project must conduct an economic impact
14 study of the county in which the qualified manufacturing project is
15 located and submit the study to the comptroller for certification
16 within 120 days of the date the owner files an election under
17 section 399.002.

18 (b) The economic impact study must provide an estimate of:

19 (1) the general economic impact likely to occur in the
20 county as a result of the qualified manufacturing project;

21 (2) the anticipated amount of increase in the tax
22 receipts to this state from the taxes imposed under Chapter 151, Tax
23 Code, that:

24 (A) will occur in the county during the 10 year
25 period that the qualified manufacturing project zone is designated;
26 and

27 (B) is directly attributable to the economic

1 impact from the design, construction, and/or operation of the
2 qualified manufacturing project;

3 (3) the projected number of full-time equivalent
4 employment positions likely to be available at the qualified
5 manufacturing project; and

6 (4) the investment projected to be made at the
7 qualified manufacturing project.

8 Sec. 399.004. COMPTROLLER CERTIFICATION OF ECONOMIC IMPACT
9 STUDY. (a) Not later than the 30th day after receiving the
10 economic impact study from an owner of a qualified manufacturing
11 project, the comptroller shall certify the study if the comptroller
12 determines that the study accurately estimates the information
13 required by Section 399.003(b)(2-4).

14 (b) If the comptroller determines that the economic impact
15 study submitted by the owner of the qualified manufacturing project
16 does not accurately estimate the information required by Section
17 399.003(b)(2-4), the comptroller not later than the 30th day after
18 receiving the study shall:

19 (1) submit a preliminary determination to the owner of
20 the qualified manufacturing project; and

21 (2) provide the owner of the qualified manufacturing
22 project with an opportunity to respond or submit a new or amended
23 economic impact study to the comptroller.

24 (c) The comptroller shall certify the economic impact study
25 submitted by an owner if the study is conducted by an independent
26 third party engaged by the owner, utilizing generally accepted
27 economic impact forecasting methods.

1 Sec. 399.005. QUALIFIED MANUFACTURING PROJECT ZONE. (a)

2 The owner of a qualified manufacturing project for which the
3 comptroller has certified an economic impact study may apply to the
4 comptroller for designation of the county in which the project is
5 located as a qualified manufacturing project zone. The comptroller
6 shall approve the application upon a determination that the
7 qualified manufacturing project is the first facility in the county
8 to apply for the designation. The designation takes effect on
9 September 1 preceding the date of approval of a request for
10 designation as a qualified manufacturing project zone.

11 (b) Only one qualified manufacturing project that is in a
12 qualified manufacturing project zone may qualify for benefits under
13 this chapter at any one time.

14 (c) If more than one qualified manufacturing project
15 applies for zone designation from a single county within a calendar
16 month the comptroller shall approve the qualified request or
17 requests with the most investment in the proposed new or expanded
18 facility, as determined by the economic impact study certified
19 under Section 399.004.

20 (d) A qualified manufacturing project zone designation
21 remains in effect until the expiration of any tax limitations,
22 credits, abatements, or other benefits under an agreement entered
23 into under Chapter 312 or 313, Tax Code, for the qualified
24 manufacturing project.

25 Sec. 399.006. ANNUAL CERTIFICATION. (a) To receive
26 benefits under this chapter, the owner of a qualified manufacturing
27 project must make one of the following annual certifications to the

1 comptroller, as of the last day of the state fiscal year for each
2 year the zone is designated:

3 (1) If the qualified manufacturing project zone has
4 been designated for three years or less and the qualified
5 manufacturing project has not begun commercial operation, the owner
6 must certify the forecast of at least 300 full-time equivalent
7 employment positions for the year that the facility will commence
8 commercial operation;

9 (2) If the qualified manufacturing project zone has
10 been designated for more than three years and the qualified
11 manufacturing project has not begun commercial operation, the owner
12 must certify

13 (i) the creation of at least 300 full-time
14 equivalent employment positions; or

15 (ii) the expenditure of \$1 billion on the
16 new or expanded facility, the year that the facility will commence
17 commercial operation, and the forecast of at least 300 full-time
18 equivalent employment positions that shall be created no more than
19 eight years after the zone has been designated; or

20 (3) If the qualified manufacturing project has begun
21 commercial operation, the owner must certify the creation of at
22 least 300 full-time equivalent employment positions at the
23 facility.

24 (b) If the owner fails to make one of the certifications
25 under Section 399.006(a), then the owner shall forfeit all future
26 benefits received under this chapter and shall pay to the
27 applicable governmental body within 60 calendar days the entire

1 amount of all refunds previously received under this chapter.

2 (c) For purposes of this section, "commercial operation"
3 means to have begun to operate for the intended purpose of the
4 facility.

5 Sec. 399.007. STATE BENEFITS. The owner of a qualified
6 manufacturing project in a qualified manufacturing project zone is
7 eligible for a refund of state sales and use taxes as provided by
8 Section 151.429(h-1), Tax Code.

9 Sec. 399.008. LOCAL GOVERNMENT BENEFITS. (a) In this
10 section, "eligible taxable proceeds" means an amount, as determined
11 by a finding of the applicable governmental body, of taxable
12 proceeds generated, paid, or collected by a qualified manufacturing
13 project zone that are a direct or indirect result of the design,
14 construction, or operation of the qualified manufacturing project,
15 including hotel occupancy taxes, ad valorem taxes, sales and use
16 taxes, and mixed beverage taxes.

17 (b) For a period beginning on the date that a county in which
18 a qualified manufacturing project is located is designated as a
19 qualified manufacturing project zone under Section 399.005 and
20 ending on a date not later than the 10th anniversary of that date, a
21 governmental body, including a municipality, county, or political
22 subdivision, may agree to rebate, refund, or pay eligible taxable
23 proceeds to the owner of a qualified manufacturing project.

24 (c) A governmental body that makes an agreement under this
25 section shall make the rebate, refund, or payment directly to the
26 owner.

27 SECTION 3. Section 151.429(e), Tax Code, is amended by

1 adding Subdivisions (6), (7), (8), and (9) to read as follows:

2 (6) "Qualified manufacturing project" has the meaning
3 assigned that term by Section 399.001, Local Government Code.

4 (7) "Sales tax base" means the amount of the sales and
5 use taxes collected under this chapter on purchases of all taxable
6 items purchased within the boundaries of a qualified manufacturing
7 project zone for the state fiscal year ending before the date the
8 zone is designated.

9 (8) "Additional sales and use tax" means the total
10 amount of sales and use taxes collected under this chapter on
11 purchases of all taxable items purchased within a qualified
12 manufacturing project zone for each state fiscal year for the
13 duration of the qualified manufacturing project zone designation
14 less the sales tax base, not otherwise due as a rebate or refund
15 under any other applicable law.

16 (9) "Manufacturing workforce development" means any
17 expenditures incurred in the state by the owner, or a contractor or
18 subcontractor of the owner, of a qualified manufacturing project
19 for recruiting or training present, prospective, or potential
20 employees for jobs in this state presently available or expected to
21 be available for the planning, designing, construction,
22 fabrication, or operation of a qualified manufacturing project, and
23 the salaries, wages, and benefits of those employees through the
24 first two years of commercial operation of the qualified
25 manufacturing project.

26 SECTION 4. Section 151.429, Tax Code, is amended by adding
27 Subsection (h-1) to read as follows:

1 (h-1) (1) Notwithstanding any other provision of this
2 section, the owner of a qualified manufacturing project in a
3 qualified manufacturing project zone is entitled to receive a
4 payment of a refund of 50 percent of the additional sales and use
5 tax for the preceding state fiscal year provided the owner has made
6 the applicable certification to the comptroller required under
7 Section 399.006, Local Government Code. The comptroller shall pay
8 the refund within sixty days of the later of the receipt of the
9 employment certification or the end of the state fiscal year for the
10 duration of a qualified manufacturing project zone designation, but
11 not to exceed 10 years. The total amount of refunds that a
12 qualified manufacturing project may receive over the course of the
13 designation of the county in which it is located as a qualified
14 manufacturing project zone may not exceed an amount equal to the
15 lesser of \$50 million or five percent of the qualified
16 manufacturing project's investments in the facility under Chapter
17 399, Local Government Code. A refund received under this section
18 shall be used to pay for or to refund eligible expenses incurred
19 before or after designation of the county in which the project is
20 located as a qualified manufacturing project zone for manufacturing
21 workforce development for the project.

22 (2) If the owner of a qualified manufacturing project
23 fails to make the applicable certification required by Section
24 399.006, Local Government Code, then the owner shall forfeit all
25 future benefits received under this section and shall pay to the
26 comptroller within 60 calendar days the entire amount of all
27 refunds previously received under this section.

1 SECTION 5. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2009.