

By: Hinojosa

S.B. No. 1186

A BILL TO BE ENTITLED

AN ACT

relating to the enterprise zone program.

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

SECTION 1. Section 2303.003(7), Government Code, is amended to read as follows:

(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].

SECTION 2. Section 2303.402(a), Government Code, is amended to read as follows:

(a) A person is a qualified business if the bank, for the purpose of state benefits under this chapter, or the nominating body of a project or activity of the person under this chapter, for the purpose of local incentives, certifies that:

(1) the person is engaged in or has provided substantial commitment to initiate the active conduct of a trade or business in an enterprise zone, and at least 25 percent of the person's new permanent jobs and retained jobs [~~employees~~] in the enterprise zone eligible for enterprise zone program benefits are held by:

(A) residents of any enterprise zone in this state; or

(B) economically disadvantaged individuals; or

1           (2) the person is engaged in or has provided  
2 substantial commitment to initiate the active conduct of a trade or  
3 business in an area of this state that does not qualify as an  
4 enterprise zone, and at least 35 percent of the person's new  
5 permanent jobs and retained jobs [~~employees~~] at the qualified  
6 business site eligible for enterprise zone program benefits are  
7 held by:

8                   (A) residents of any enterprise zone in this  
9 state; or

10                   (B) individuals who are economically  
11 disadvantaged.

12           SECTION 3. 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. (a) If  
16 the 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.

21           (b) The bank may not designate more than 105 enterprise  
22 projects during any biennium. The bank may not designate more than  
23 10 percent of the maximum allowed enterprise projects in each of the  
24 application rounds during the biennium, except that the bank may  
25 exceed the 10 percent limit during any application round to  
26 designate an enterprise project of a qualified business considered  
27 to be a state priority project by the office. Any designations

1 remaining at the end of a biennium may be carried forward to the  
2 next biennium.

3 SECTION 4. Section 2303.405(b), Government Code, is amended  
4 to read as follows:

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

8 (1) the number of employment positions in existence at  
9 the qualified business site on the 91st day before the application  
10 deadline;

11 (1-a) the number of new permanent jobs the enterprise  
12 project commits to create during the designation period presented  
13 in the form of a tabular listing of:

14 (A) the classification titles of those jobs; and  
15 (B) the number of jobs and salary range for each  
16 classification title;

17 (2) the number of permanent jobs the enterprise  
18 project commits to retain during the designation period presented  
19 in the form of a tabular listing of:

20 (A) the classification titles of the retained  
21 jobs; and

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

24 (3) the amount of investment to be made by the  
25 enterprise project;

26 (4) a complete description of the projected schedule  
27 for completion of the specific activity described by Section

1 2303.404(b) to be undertaken by the enterprise project;

2 (5) other information the bank requires; and

3 (6) a description of the local effort made by the  
4 nominating body, the qualified business, and other affected  
5 entities to develop and revitalize the jurisdiction of the  
6 governmental entity nominating the project or activity~~;~~ ~~and~~

7 ~~[(7) if the nominating body is applying for a double or~~  
8 ~~triple jumbo enterprise project, as defined by Section 2303.407, an~~  
9 ~~indication of which level of designation is being sought].~~

10 SECTION 5. Section 2303.4051(f), Government Code, is  
11 amended to read as follows:

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

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

20 (A) whether the nominated project or activity is  
21 located in an area designated as an enterprise zone; and

22 (B) ~~[the level of enterprise project designation~~  
23 ~~being sought; and~~

24 ~~[(C)]~~ the ending date of the project's  
25 designation period;

26 (2) the local incentives described in the previously  
27 issued ordinance or order are the same on the date the resolution is

1 issued; and

2 (3) the local incentives to be made available to the  
3 nominated project or activity are the same as those made available  
4 to the project or activity that are the subject of the previously  
5 issued ordinance or order.

6 SECTION 6. Section 2303.4052, Government Code, is amended  
7 to read as follows:

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

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

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

20 (3) the name, title, address, telephone number, and  
21 electronic mail address of the nominating body's liaison designated  
22 under Section 2303.204;

23 (4) if the business is seeking job retention benefits,  
24 documentation showing the number of employment positions [~~at the~~  
25 ~~qualified business site~~]; and

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

27 SECTION 7. Sections 2303.406(b) and (g), Government Code,

1 are amended to read as follows:

2 (b) [~~This subsection does not apply to a qualified business~~  
3 ~~located in a federally designated zone, as described by Section~~  
4 ~~2303.101(2), which will receive priority designation in allocating~~  
5 ~~the number of enterprise projects allowed statewide per biennium as~~  
6 ~~provided by Section 2303.403.] The bank shall designate qualified  
7 businesses as enterprise projects on a competitive basis, subject  
8 to the limitations provided by Section 2303.403. The bank shall  
9 make its designation decisions using a weighted scale in which:~~

10 (1) 40 percent of the evaluation depends on the  
11 economic distress of the block group or distressed county in which a  
12 proposed enterprise project is located;

13 (2) 25 percent of the evaluation depends on the local  
14 effort to achieve development and revitalization of the block group  
15 or distressed county in which a proposed enterprise project is  
16 located; and

17 (3) 35 percent of the evaluation depends on the  
18 evaluation criteria as determined by the bank, which must include:

19 (A) with respect to a proposed enterprise project  
20 located in a block group, the level of cooperation and support the  
21 project applicant commits to the revitalization goals of all of the  
22 enterprise zone block groups within the jurisdiction of the  
23 nominating governmental entity;

24 (B) with respect to a proposed enterprise project  
25 located in a distressed county, the level of cooperation and  
26 support the project applicant commits to the revitalization of the  
27 distressed county; and

1 (C) the type and wage level of the jobs to be  
2 created or retained by the business.

3 (g) The bank may split [~~lower the designation level of~~] a  
4 proposed project or activity nominated for enterprise project  
5 designation based on the number of projected new permanent jobs or  
6 retained jobs[+]

7 [~~(1)~~] if there are fewer designations available than  
8 applications received[+] or

9 [~~(2)~~] to further the economic interests of the state.

10 If an enterprise project designation is split between two or more  
11 projects or activities, the bank may determine how to  
12 proportionally allocate state benefits among the projects or  
13 activities.

14 SECTION 8. Sections 2303.407(a) and (b), Government Code,  
15 are amended to read as follows:

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

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

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

26 (2) \$400,000 to \$999,999 will result in a refund of up  
27 to \$2,500 per job with a maximum refund of \$62,500 for the creation

1 or retention of 25 jobs;

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

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

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

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

16 SECTION 9. Section 2303.504, Government Code, is amended to  
17 read as follows:

18 Sec. 2303.504. STATE TAX REFUNDS [~~AND CREDITS~~]; REPORT.

19 (a) Subject to Section 2303.516, an enterprise project is entitled  
20 to[~~+~~

21 [~~(1)~~] a refund of state taxes under Section 151.429,  
22 Tax Code[~~, and~~

23 [~~(2) a franchise tax credit under Subchapter Q-1,~~  
24 ~~Chapter 171, Tax Code].~~

25 (b) At the time of receipt of any tax benefit available as a  
26 result of participating in the enterprise zone program, including a  
27 state sales and use tax refund [~~or franchise tax credit~~], three



1 percent of the amount of the tax benefit shall be transferred to the  
2 Texas economic development bank fund under Subchapter B, Chapter  
3 489, to defray the cost of administering this chapter.

4 (c) Not later than the 60th day after the last day of each  
5 fiscal year, the comptroller shall report to the bank the statewide  
6 total of actual jobs created, actual jobs retained, and the tax  
7 refunds [~~and credits~~] made under this section during that fiscal  
8 year.

9 SECTION 10. Section 2303.516(b), Government Code, is  
10 amended to read as follows:

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

14 (1) the business or project is not willing to  
15 cooperate with the comptroller in providing the comptroller with  
16 the information the comptroller needs to determine the state  
17 benefits; or

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

21 SECTION 11. Sections 151.429(b) and (c), Tax Code, are  
22 amended to read as follows:

23 (b) Subject to the limitations provided by Subsection (c) of  
24 this section, an enterprise project qualifies for a refund of taxes  
25 under this section based on the amount of capital investment made at  
26 the qualified business site [~~, the project's designation level,~~] and  
27 the refund per job with a maximum refund to be included in a

1 computation of a tax refund for the project. A capital investment  
2 at the qualified business site of:

3 (1) \$40,000 to \$399,999 will result in a refund of up  
4 to \$2,500 per job with a maximum refund of \$25,000 for the creation  
5 or retention of 10 jobs;

6 (2) \$400,000 to \$999,999 will result in a refund of up  
7 to \$2,500 per job with a maximum refund of \$62,500 for the creation  
8 or retention of 25 jobs;

9 (3) \$1,000,000 to \$4,999,999 will result in a refund  
10 of up to \$2,500 per job with a maximum refund of \$312,500 for the  
11 creation or retention of 125 jobs; or

12 (4) \$5,000,000 or more [~~to \$149,999,999~~] will result  
13 in a refund of up to \$2,500 per job with a maximum refund of  
14 \$1,250,000 for the creation or retention of 500 jobs[+

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

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

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

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

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

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

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

26           SECTION 12. The following laws are repealed:

27           (1) Section 2303.109(b), Government Code;

- 1           (2) Sections 2303.406(e) and (f), Government Code;
- 2           (3) Sections 2303.407(c) and (d), Government Code;
- 3           (4) Sections 2303.4071(a), (c), and (d), Government
- 4 Code; and
- 5           (5) Sections 151.429(e)(5) and (i), Tax Code.

6           SECTION 13. The changes in law made by this Act to Section  
7 2303.402, Government Code, apply only to an application for a  
8 designation of an enterprise project under the enterprise zone  
9 program under Chapter 2303, Government Code, as amended by this  
10 Act, filed on or after the effective date of this Act. An  
11 application for designation of an enterprise project under the  
12 enterprise zone program filed before the effective date of this Act  
13 is governed by the law in effect on the date the application was  
14 filed, and the former law is continued in effect for that purpose.

15           SECTION 14. This Act takes effect immediately if it  
16 receives a vote of two-thirds of all the members elected to each  
17 house, as provided by Section 39, Article III, Texas Constitution.  
18 If this Act does not receive the vote necessary for immediate  
19 effect, this Act takes effect September 1, 2011.