

SENATE AMENDMENTS

2nd Printing

By: Scott

H.B. No. 1560

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the authority of counties to nominate projects in the
3 extraterritorial jurisdictions of certain municipalities for
4 designation as enterprise projects.

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

6 SECTION 1. Section 2303.004, Government Code, is amended by
7 adding Subsection (c) to read as follows:

8 (c) Notwithstanding Subsection (a), the governing body of a
9 county may nominate for designation as an enterprise project a
10 project or activity of a qualified business that is located in the
11 county and in the extraterritorial jurisdiction of a municipality
12 primarily located in another county. For purposes of this
13 subsection, a county during any biennium may use the maximum number
14 of designations the county is permitted under Section 2303.406(d)
15 within the territory described by this subsection.

16 SECTION 2. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2011.

ADOPTED

MAY 25 2011

Atty. Gen.
Secretary of the Senate

By J. J. Aring

H.B. No. 1560

Substitute the following for H.B. No. 1560:

By: Jacks

C.S. H.B. No. 1560

A BILL TO BE ENTITLED

1

AN ACT

2

relating to the enterprise zone program.

3

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

4

SECTION 1. Section 2303.003(7), Government Code, is amended

5

to read as follows:

6

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

7

(A) works for a qualified business; and

8

(B) either:

9

(i) performs at least 50 percent of the

10

person's service for the business at the qualified business site;

11

or

12

(ii) met the requirements under

13

Subparagraph (i) immediately before being promoted to a different

14

job with the qualified business.

15

SECTION 2. Section 2303.402(a), Government Code, is amended

16

to read as follows:

17

(a) A person is a qualified business if the bank, for the

18

purpose of state benefits under this chapter, or the nominating

19

body of a project or activity of the person under this chapter, for

20

the purpose of local incentives, certifies that:

21

(1) the person is engaged in or has provided

22

substantial commitment to initiate the active conduct of a trade or

23

business in an enterprise zone, and at least 25 percent of the

24

person's new permanent jobs [~~employees~~] in the enterprise zone

1 eligible for enterprise zone program benefits are held by:

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

4 (B) economically disadvantaged individuals; [~~or~~]

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

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

13 (B) individuals who are economically
14 disadvantaged; or

15 (3) the person is engaged in or has provided
16 substantial commitment to initiate the active conduct of a trade or
17 business in an enterprise zone, and at least 10 percent of the
18 person's retained jobs in the enterprise zone eligible for
19 enterprise zone program benefits are held by residents of that
20 enterprise zone.

21 SECTION 3. Section 2303.403, Government Code, is amended to
22 read as follows:

23 Sec. 2303.403. PROHIBITION ON QUALIFIED BUSINESS
24 CERTIFICATION; LIMIT ON ENTERPRISE PROJECT DESIGNATIONS. (a) If
25 the bank determines that the governing body eligible to nominate an
26 enterprise project is not complying with this chapter, the bank
27 shall prohibit the certification of a qualified business until the

1 bank determines that the governing body is complying with this
2 chapter.

3 **(b)** The bank may not designate more than 105 enterprise
4 projects during any biennium. The bank may not designate the
5 maximum number of project designations provided by this subsection
6 in a single application round. Any designations remaining at the
7 end of a biennium may be carried forward to the next biennium.

8 SECTION 4. Section 2303.4052, Government Code, is amended
9 to read as follows:

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

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

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

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 5. Sections 2303.406(b) and (g), Government Code,
3 are amended to read as follows:

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

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

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

19 (3) 35 percent of the evaluation depends on the
20 evaluation criteria as determined by the bank, which must include:

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

26 (B) with respect to a proposed enterprise project
27 located in a distressed county, the level of cooperation and

1 support the project applicant commits to the revitalization of the
2 distressed county; and

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

5 (g) The bank may lower the designation level of a proposed
6 project or activity nominated for enterprise project designation or
7 split a proposed project or activity nominated for that
8 designation, based on the number of projected new permanent jobs or
9 retained jobs, [+

10 [~~1~~] if there are fewer designations available than
11 applications received[+] or

12 [~~2~~] to further the economic interests of the state.
13 If an enterprise project designation is split between two or more
14 projects or activities, the bank may determine how to
15 proportionally allocate state benefits among the projects or
16 activities.

17 SECTION 6. Section 2303.504, Government Code, is amended to
18 read as follows:

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

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

22 [~~1~~] a refund of state taxes under Section 151.429,
23 Tax Code[+, and

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

26 (b) At the time of receipt of any tax benefit available as a
27 result of participating in the enterprise zone program, including a

1 state sales and use tax refund [~~or franchise tax credit~~], three
2 percent of the amount of the tax benefit shall be transferred to the
3 Texas economic development bank fund under Subchapter B, Chapter
4 489, to defray the cost of administering this chapter.

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

10 SECTION 7. Section 2303.516(b), Government Code, is amended
11 to read as follows:

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

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

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

22 SECTION 8. Sections 2303.109(b) and 2303.406(e),
23 Government Code, are repealed.

24 SECTION 9. The changes in law made by this Act to Section
25 2303.402, Government Code, apply only to an application for a
26 designation of an enterprise project under the enterprise zone
27 program under Chapter 2303, Government Code, as amended by this

1 Act, filed or pending on or after September 1, 2011. An application
2 for designation of an enterprise project under the enterprise zone
3 program granted before September 1, 2011, is governed by the law in
4 effect on the date the application was granted, and the former law
5 is continued in effect for that purpose.

6 SECTION 10. This Act takes effect September 1, 2011.

ADOPTED

MAY 25 2011

FLOOR AMENDMENT NO. 1

Atalay Dew
Secretary of the Senate

By: *J. J. King*

- 1 Amend C.S.H.B. 1560 (Senate Committee Printing) as follows:
- 2 (1) In SECTION 1, strike the period on page 1, line 22,
- 3 and insert the following after "business":
- 4 "and continues to perform at least 50 percent of the
- 5 person's service for the business at the qualified business
- 6 site."
- 7 (2) In SECTION 2, strike subdivision (3) on page 1, lines
- 8 47 through 52 and insert the following:
- 9 (3) the person is engaged in or has provided substantial
- 10 commitment to initiate the active conduct of a trade or business
- 11 at a qualified business site, and at least 10 percent of the
- 12 person's retained jobs at the qualified business site eligible
- 13 for enterprise zone program benefits are held by:
- 14 (A) residents of any enterprise zone in this state; or
- 15 (B) economically disadvantaged individuals.
- 16 (3) In SECTION 5, on page 2, line 63, strike "or more".

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 25, 2011

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

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

IN RE: HB1560 by Scott (Relating to the enterprise zone program.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend various sections of Chapter 2303, Government Code, relating to the enterprise zone program.

The bill does not increase the total number of enterprise zone project designations that may be made during a biennium, or the benefits related to such designations. The bill does provide for split designations, but provides that the benefits of split designations be allocated proportionally. Consequently there would be no significant fiscal implications. The Comptroller indicates they would need to hire 6 FTE auditors for fiscal year 2012-2016 to handle the increased number of audits for designated projects and refunds from the implementation of the bill.

This bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2011.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 300 Trusteed Programs Within the Office of the Governor, 301 Office of the Governor,
304 Comptroller of Public Accounts

LBB Staff: JOB, KK, AG, SD

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 24, 2011

TO: Honorable Mike Jackson, Chair, Senate Committee on Economic Development

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

IN RE: HB1560 by Scott (Relating to the enterprise zone program.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend various sections of Chapter 2303, Government Code, relating to the enterprise zone program.

The bill does not increase the total number of enterprise zone project designations that may be made during a biennium, or the benefits related to such designations. The bill does provide for split designations, but provides that the benefits of split designations be allocated proportionally. Consequently there would be no significant fiscal implications. The Comptroller indicates they would need to hire 6 FTE auditors for fiscal year 2012-2016 to handle the increased number of audits for designated projects and refunds from the implementation of the bill.

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Local Government Impact

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Source Agencies: 300 Trusteed Programs Within the Office of the Governor, 301 Office of the Governor, 304 Comptroller of Public Accounts

LBB Staff: JOB, KK, AG, SD

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 29, 2011

TO: Honorable Mike Jackson, Chair, Senate Committee on Economic Development

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

IN RE: HB1560 by Scott (Relating to the authority of counties to nominate projects in the extraterritorial jurisdictions of certain municipalities for designation as enterprise projects.),
As Engrossed

No significant fiscal implication to the State is anticipated.

The bill would amend the Section 2303.004 of the Government Code to authorize the governing body of a county to nominate an enterprise project or activity of a qualified business that is located in the county and in the extraterritorial jurisdiction of a municipality primarily located in another county. The county would be authorized to use the maximum number of designations permitted under Section 2303.406(d) within the territory during any biennium.

Although the provisions of the bill could increase the number of enterprise project designations that could be made within the extraterritorial jurisdictions of certain municipalities, the total number of designations that could be made among municipalities and counties combined would not be increased. Therefore no significant revenue implications are anticipated.

Local Government Impact

The fiscal impact would vary depending on whether a county chose to use the maximum number of designations, but it is not anticipated to be significant.

According to the Texas Association of Counties (TAC), the provisions of the bill would apply only to a limited number of counties and is not anticipated to have a significant fiscal impact on those applicable counties.

Source Agencies: 300 Trusteed Programs Within the Office of the Governor, 304 Comptroller of Public Accounts

LBB Staff: JOB, AG, TP

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 23, 2011

TO: Honorable John Davis, Chair, House Committee on Economic & Small Business
Development

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

IN RE: HB1560 by Scott (Relating to the authority of counties to nominate projects in the extraterritorial jurisdictions of certain municipalities for designation as enterprise projects.),
As Introduced

No significant fiscal implication to the State is anticipated.

The bill would amend the Section 2303.004 of the Government Code to authorize the governing body of a county to nominate an enterprise project or activity of a qualified business that is located in the county and in the extraterritorial jurisdiction of a municipality primarily located in another county. The county would be authorized to use the maximum number of designations permitted under Section 2303.406(d) within the territory during any biennium.

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Source Agencies: 300 Trusteed Programs Within the Office of the Governor, 304 Comptroller of Public Accounts

LBB Staff: JOB, AG, TP