

House Bill 1560
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

(c) Notwithstanding Subsection (a), the governing body of a county may nominate for designation as an enterprise project a 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. For purposes of this subsection, a county during any biennium may use the maximum number of designations the county is permitted under Section 2303.406(d) within the territory described by this subsection.

No equivalent provision.

No equivalent provision.

SENATE VERSION (IE)

No equivalent provision.

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) either:

(i) performs at least 50 percent of the person's service for the business at the qualified business site; or

(ii) met the requirements under Subparagraph (i) immediately before being promoted to a different job with the qualified business and continues to perform at least 50 percent of the person's service for the business at the qualified business site.

[FA1(1)]

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

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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 [~~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~~]

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

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

(B) individuals who are economically disadvantaged; or

(3) the person is engaged in or has provided substantial commitment to initiate the active conduct of a trade or business at a qualified business site, and at least 10 percent of the person's retained jobs at the qualified business site eligible for enterprise zone program benefits are held by:

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

(B) economically disadvantaged individuals. [FA1(2)]

No equivalent provision.

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

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

(b) The bank may not designate more than 105 enterprise

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projects during any biennium. The bank may not designate the maximum number of project designations provided by this subsection in a single application round. Any designations remaining at the end of a biennium may be carried forward to the next biennium.

No equivalent provision.

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

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

- (1) a certified copy of the ordinance or order, as appropriate, or reference to an ordinance or order as required by Section 2303.4051;
- (2) a certified copy of the minutes ~~transcript~~ of all public hearings conducted with respect to local incentives available to qualified businesses within the jurisdiction of the governmental entity nominating the project or activity, regardless of whether those businesses are located in an enterprise zone;
- (3) the name, title, address, telephone number, and electronic mail address of the nominating body's liaison designated under Section 2303.204;
- (4) if the business is seeking job retention benefits, documentation showing the number of employment positions at the qualified business site; and
- (5) any additional information the bank may require.

No equivalent provision.

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

- (b) ~~[This subsection does not apply to a qualified business~~

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~~located in a federally designated zone, as described by Section 2303.101(2), which will receive priority designation in allocating the number of enterprise projects allowed statewide per biennium as provided by Section 2303.403.]~~ The bank shall designate qualified businesses as enterprise projects on a competitive basis. The bank shall make its designation decisions using a weighted scale in which:

- (1) 40 percent of the evaluation depends on the economic distress of the block group or distressed county in which a proposed enterprise project is located;
- (2) 25 percent of the evaluation depends on the local effort to achieve development and revitalization of the block group or distressed county in which a proposed enterprise project is located; and
- (3) 35 percent of the evaluation depends on the evaluation criteria as determined by the bank, which must include:
 - (A) with respect to a proposed enterprise project located in a block group, the level of cooperation and support the project applicant commits to the revitalization goals of all of the enterprise zone block groups within the jurisdiction of the nominating governmental entity;
 - (B) with respect to a proposed enterprise project located in a distressed county, the level of cooperation and support the project applicant commits to the revitalization of the distressed county; and
 - (C) the type and wage level of the jobs to be created or retained by the business.

(g) The bank may lower the designation level of a proposed project or activity nominated for enterprise project designation or split a proposed project or activity nominated for that designation, based on the number of projected new permanent jobs or retained jobs.[:

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~~[(1)]~~ if there are fewer designations available than applications received~~;~~ or
~~[(2)]~~ to further the economic interests of the state. If an enterprise project designation is split between two projects or activities, the bank may determine how to proportionally allocate state benefits among the projects or activities.
[FA1(3)]

No equivalent provision.

SECTION 6. Section 2303.504, Government Code, is amended to read as follows:
Sec. 2303.504. STATE TAX REFUNDS ~~[AND CREDITS]~~; REPORT. (a) Subject to Section 2303.516, an enterprise project is entitled to~~:~~
~~[(1)]~~ a refund of state taxes under Section 151.429, Tax Code~~;~~ ~~and~~
~~[(2)]~~ a franchise tax credit under Subchapter Q-1, Chapter 171, Tax Code].
(b) At the time of receipt of any tax benefit available as a result of participating in the enterprise zone program, including a state sales and use tax refund ~~[or franchise tax credit]~~, three percent of the amount of the tax benefit shall be transferred to the Texas economic development bank fund under Subchapter B, Chapter 489, to defray the cost of administering this chapter.
(c) Not later than the 60th day after the last day of each fiscal year, the comptroller shall report to the bank the statewide total of actual jobs created, actual jobs retained, and the tax refunds ~~[and credits]~~ made under this section during that fiscal year.

No equivalent provision.

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

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

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

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

No equivalent provision.

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

No equivalent provision.

SECTION 9. The changes in law made by this Act to Section 2303.402, Government Code, apply only to an application for a designation of an enterprise project under the enterprise zone program under Chapter 2303, Government Code, as amended by this Act, filed or pending on or after September 1, 2011. An application for designation of an enterprise project under the enterprise zone program granted before September 1, 2011, is governed by the law in effect on the date the application was granted, and the former law is continued in effect for that purpose.

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

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