

By: Parker, et al.

H.B. No. 3092

A BILL TO BE ENTITLED

AN ACT

relating to qualified manufacturing project zones and the creation and funding of the Texas workforce investment program.

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

SECTION 1. The legislature finds that a qualified manufacturing project, as defined by Section 399.001, Local Government Code, as added by this Act, and the enhancement of manufacturing workforce development serve the public purposes of:

(1) developing and diversifying employment in this state;

(2) eliminating unemployment or underemployment in this state; and

(3) developing and expanding 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

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 399.001. DEFINITIONS. In this chapter:

(1) "Eligible manufacturing facility" means a proposed new or expanded facility that, on the date of the facility's designation as a qualified manufacturing project under Section 399.051:

(A) is subject to an agreement entered into on or after January 1, 2014, but before January 1, 2019, with a county,

1 municipality, or other taxing unit under Chapter 312, Tax Code, or  
2 with a school district under Chapter 313, Tax Code, under which the  
3 investment in the facility is at least \$100 million;

4 (B) will be engaged in manufacturing, as that  
5 term is defined by Section 151.318, Tax Code, the construction of  
6 which begins on or after September 1, 2013;

7 (C) is forecasted to create at least 200 new  
8 full-time jobs; and

9 (D) is owned by a person or entity that is:

10 (i) considering at least one alternative  
11 site for the facility that is not located in this state; or

12 (ii) competing against similar projects  
13 located outside this state for federal funds or financial support,  
14 including loan guarantees, that would benefit the project.

15 (2) "New full-time job" means a newly created  
16 permanent full-time job that:

17 (A) requires at least 1,600 hours of work a year;

18 (B) is not transferred from one area in this  
19 state to another area in this state; and

20 (C) is not created to replace a previous  
21 employee.

22 (3) "Qualified manufacturing project" means an  
23 eligible manufacturing facility the owner of which has filed an  
24 election under Section 399.051 to establish the facility's status  
25 as a qualified manufacturing project.

26 SUBCHAPTER B. QUALIFIED MANUFACTURING PROJECT; DESIGNATION OF ZONE

27 Sec. 399.051. DESIGNATION OF ELIGIBLE MANUFACTURING

1 FACILITY AS QUALIFIED MANUFACTURING PROJECT; DATE OF  
2 QUALIFICATION. An eligible manufacturing facility becomes a  
3 qualified manufacturing project on the date the owner of the  
4 facility files an election for automatic designation of the  
5 facility as a qualified manufacturing project, without further  
6 qualification, with the comptroller.

7 Sec. 399.052. ECONOMIC IMPACT STUDY. (a) Before applying  
8 for designation of the applicable county as a qualified  
9 manufacturing project zone under Section 399.054, the owner of a  
10 qualified manufacturing project must conduct an economic impact  
11 study of the county in which the project is located and submit the  
12 study to the comptroller for certification not later than the 120th  
13 day after the date the owner files an election to establish the  
14 facility's status as a qualified manufacturing project under  
15 Section 399.051.

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

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

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

22 (A) will occur in the county during the period  
23 the county is designated as a qualified manufacturing project zone;  
24 and

25 (B) is directly attributable to the economic  
26 impact from the design, construction, or operation of the qualified  
27 manufacturing project;

1           (3) the projected number of new full-time jobs likely  
2 to be available at the qualified manufacturing project; and

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

5           Sec. 399.053. COMPTROLLER CERTIFICATION OF ECONOMIC IMPACT  
6 STUDY. (a) Not later than the 30th day after receiving the  
7 economic impact study from an owner of a qualified manufacturing  
8 project, the comptroller shall certify the study if the comptroller  
9 determines that the study accurately estimates the information  
10 required by Sections 399.052(b)(2)-(4).

11           (b) If the comptroller determines that the economic impact  
12 study does not accurately estimate the information required by  
13 Sections 399.052(b)(2)-(4), the comptroller, not later than the  
14 30th day after the date of receipt of the study, shall:

15           (1) notify the owner of the qualified manufacturing  
16 project in writing of the comptroller's preliminary determination  
17 and the basis for that determination; and

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

21           (c) In evaluating a new or amended economic impact study  
22 submitted by the owner of a qualified manufacturing project  
23 following the comptroller's rejection of the owner's initial study,  
24 the comptroller shall determine whether to accept or certify the  
25 new or amended study not later than the 30th day after the date of  
26 receipt of the new or amended study.

27           (d) If, not later than the 90th day after receiving notice

1 of the comptroller's rejection of the owner's initial economic  
2 impact study, the owner of a qualified manufacturing project either  
3 fails to receive the comptroller's certification of a new or  
4 amended economic impact study the owner submitted within that  
5 period or fails to submit a new or amended study to the comptroller,  
6 the qualified manufacturing project loses its status as a qualified  
7 manufacturing project at the end of the 90-day period.

8 Sec. 399.054. DESIGNATION OF QUALIFIED MANUFACTURING  
9 PROJECT ZONE; APPLICATION. (a) The owner of a qualified  
10 manufacturing project for which the comptroller has certified an  
11 economic impact study in accordance with Section 399.053 may apply  
12 to the comptroller for designation of the county in which the  
13 project is located as a qualified manufacturing project zone. The  
14 comptroller shall approve the application on a determination that  
15 the qualified manufacturing project is the first facility in the  
16 county to apply for the designation. The designation takes effect  
17 on September 1 preceding the date of approval of an application for  
18 designation of the county as a qualified manufacturing project  
19 zone.

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

23 (c) If the owner of more than one qualified manufacturing  
24 project applies for zone designation from a single county within a  
25 calendar month, the comptroller shall approve the qualified  
26 application that the comptroller determines will have the greatest  
27 economic impact on that county.

1       (d) A qualified manufacturing project zone designation  
2 remains in effect until the expiration of any tax limitations,  
3 credits, abatements, or other benefits under an agreement entered  
4 into under Chapter 312 or 313, Tax Code, for the qualified  
5 manufacturing project.

6       (e) The comptroller may charge an application fee in an  
7 amount sufficient to cover the comptroller's costs in administering  
8 this chapter.

9       Sec. 399.055. ANNUAL CERTIFICATION. (a) In this section,  
10 "commercial operation," with respect to a facility, means that the  
11 facility has started to operate for the facility's intended  
12 purpose.

13       (b) To receive state benefits under this chapter, the owner  
14 of a qualified manufacturing project in a qualified manufacturing  
15 project zone must make the following applicable annual  
16 certification to the comptroller, as of the last day of the state  
17 fiscal year for each year of the zone's designation:

18           (1) if the qualified manufacturing project zone  
19 designation has been in effect for three years or less and the  
20 qualified manufacturing project has not started commercial  
21 operation, the owner must certify the forecast of at least 200 new  
22 full-time jobs for the year that the facility will begin commercial  
23 operation;

24           (2) if the qualified manufacturing project zone  
25 designation has been in effect for more than three years and the  
26 qualified manufacturing project has not started commercial  
27 operation, the owner must certify:

1                   (A) the creation of at least 200 new full-time  
2 jobs; or

3                   (B) all of the following:

4                   (i) the expenditure of at least \$500  
5 million on the new or expanded facility has occurred;

6                   (ii) the year in which the facility will  
7 begin commercial operation; and

8                   (iii) the forecast of at least 200 new  
9 full-time jobs that will be created not later than the eighth  
10 anniversary of the date of the zone's designation; or

11                   (3) if the qualified manufacturing project has started  
12 commercial operation, the owner must certify the creation of at  
13 least 200 new full-time jobs at the facility.

14                   (c) If the owner of a qualified manufacturing project fails  
15 to make the applicable certification required under Subsection (b):

16                   (1) the owner forfeits the right to participate in the  
17 Texas workforce investment program under Subchapter C;

18                   (2) the owner shall pay to the applicable governmental  
19 body within 60 calendar days the entire amount of all funds  
20 previously remitted from the Texas workforce investment fund under  
21 Subchapter C from any memorandum of understanding entered into by  
22 the owner in connection with the project; and

23                   (3) the qualified manufacturing project loses its  
24 status as a qualified manufacturing project for purposes of this  
25 chapter.

26                   Sec. 399.056. STATE BENEFITS. The owner of a qualified  
27 manufacturing project in a qualified manufacturing project zone is

1 eligible for participation in the Texas workforce investment  
2 program as provided by Subchapter C.

3 Sec. 399.057. REPORT ON COMPLIANCE WITH JOB OR CAPITAL  
4 INVESTMENT CERTIFICATION. (a) Before the beginning of each  
5 regular session of the legislature, the comptroller shall submit to  
6 the lieutenant governor, the speaker of the house of  
7 representatives, and each other member of the legislature a report  
8 assessing the progress of qualified manufacturing projects  
9 receiving state benefits under this chapter. The report must be  
10 based on data annually certified to the comptroller by each owner of  
11 a qualified manufacturing project under this chapter and state for  
12 each project:

13 (1) the number of new full-time jobs the owner of the  
14 project committed to create;

15 (2) the number of new full-time jobs the owner of the  
16 project created;

17 (3) the median wage of the new full-time jobs created;

18 (4) the amount of capital investment the owner of the  
19 project committed to expend in the facility; and

20 (5) the amount of capital investment the owner  
21 expended in the facility.

22 (b) The report may not include information that is made  
23 confidential by law.

24 (c) The comptroller may require an owner of a qualified  
25 manufacturing project to submit, on a form the comptroller  
26 provides, information required to complete the report.

27 Sec. 399.058. COMPTROLLER DUTIES. The comptroller shall



1 adopt rules, forms, and fees necessary to perform the comptroller's  
2 duties under this chapter.

3 SUBCHAPTER C. TEXAS WORKFORCE INVESTMENT FUND

4 Sec. 399.101. DEFINITIONS. In this subchapter:

5 (1) "Additional sales and use tax" means the total  
6 amount of sales and use taxes collected under Chapter 151, Tax Code,  
7 on purchases of all taxable items purchased within a qualified  
8 manufacturing project zone for each state fiscal year for the  
9 duration of the qualified manufacturing project zone designation  
10 less the sales tax base, not otherwise due as a rebate or refund  
11 under any other applicable law.

12 (2) "Fund" means the Texas workforce investment fund  
13 established under Section 399.102.

14 (3) "Qualified educational participant" means any  
15 public community college, public university, state licensed career  
16 and vocational school, and public high school in good standing with  
17 the state.

18 (4) "Sales tax base" means the amount of the sales and  
19 use taxes collected under Chapter 151, Tax Code, on purchases of all  
20 taxable items purchased within the boundaries of a qualified  
21 manufacturing project zone for the state fiscal year ending before  
22 the date the zone is designated.

23 Sec. 399.102. TEXAS WORKFORCE INVESTMENT FUND. (a) The  
24 Texas workforce investment fund is a special fund in the state  
25 treasury outside the general revenue fund to be administered by the  
26 comptroller under this subchapter. Money in the fund may be used  
27 for the workforce investment program established under Section

1 399.103 and for any other purpose of this subchapter.

2 (b) The fund consists of:

3 (1) the amounts deposited by the comptroller under  
4 Section 399.104;

5 (2) refunds received by the comptroller under Section  
6 399.107;

7 (3) interest earned on money credited to the fund; and

8 (4) money from gifts, grants, or donations to the  
9 fund.

10 (c) Sections 403.095 and 404.071, Government Code, do not  
11 apply to the fund.

12 Sec. 399.103. WORKFORCE INVESTMENT PROGRAM. (a) The  
13 comptroller shall establish and implement the Texas workforce  
14 investment program to remit money from the Texas workforce  
15 investment fund to qualified educational participants to provide  
16 job training and education for the current and future workforce  
17 needs of qualified manufacturing projects participating in the  
18 program.

19 (b) A qualified manufacturing project is eligible to  
20 participate in the program to the extent that the fund has on hand  
21 amounts deposited by the comptroller under Section 399.104 that are  
22 directly attributable to the project.

23 (c) To receive funding under the program, a qualified  
24 educational participant must enter into a memorandum of  
25 understanding with the owner of a qualified manufacturing project  
26 eligible to participate in the program. The memorandum of  
27 understanding must outline specifically how money from the fund

1 will be used by the qualified educational participant to provide  
2 the educational courses and workforce training needed by the  
3 workforce of the qualified manufacturing project.

4 (d) The comptroller by rule shall adopt the form of the  
5 memorandums of understanding entered into by owners of qualified  
6 manufacturing projects and qualified educational participants  
7 under this section.

8 Sec. 399.104. ALLOCATION OF TAXES. (a) Not later than  
9 October 1 of each state fiscal year, the comptroller shall deposit  
10 to the credit of the fund 25 percent of the additional sales and use  
11 tax collected in the preceding state fiscal year that is directly  
12 attributable, as determined by the comptroller in accordance with  
13 procedures developed by the comptroller, to the economic activity  
14 derived from the presence of each qualified manufacturing project,  
15 if the owner of the project has made the applicable employment  
16 certification to the comptroller required under Section 399.055.

17 (b) If the comptroller determines that none of the  
18 additional sales and use tax for the preceding state fiscal year is  
19 directly attributable to the economic activity derived from the  
20 presence of the qualified manufacturing project, then no money that  
21 is attributed to the qualified manufacturing project shall be  
22 deposited into the fund and the comptroller shall notify the owner  
23 of the project of the comptroller's determination and the basis for  
24 that determination.

25 Sec. 399.105. PAYMENTS FROM FUND. (a) For the duration of  
26 a qualified manufacturing project zone designation, but not to  
27 exceed 10 years, the comptroller shall remit payments from the fund

1 to a qualified educational participant who enters into a memorandum  
2 of understanding with the owner of a qualified manufacturing  
3 project under Section 399.103.

4 (b) The amounts remitted from the fund on behalf of an  
5 individual qualified manufacturing project may not exceed the  
6 amount of additional sales and use tax deposited in the fund that is  
7 directly attributable to the economic activity derived from the  
8 project as determined by the comptroller under Section 399.104.

9 (c) The total amount of money deposited into the fund that  
10 will be made available to a qualified manufacturing project for use  
11 as prescribed under this subchapter may not exceed an amount equal  
12 to the lesser of \$50 million or five percent of the qualified  
13 manufacturing project's investments in the facility under  
14 Subchapter B.

15 Sec. 399.106. USE OF FUNDS. (a) After designation of the  
16 county in which a qualified manufacturing project is located as a  
17 qualified manufacturing project zone, money may be remitted from  
18 the fund and used to pay for or to refund workforce training  
19 expenses incurred by a qualified educational participant who has  
20 entered into a memorandum of understanding with the owner of the  
21 qualified manufacturing project.

22 (b) Money from the fund may not be allocated under this  
23 subchapter for the training and workforce development of an  
24 employee or future employee of a qualified manufacturing project  
25 working in a "bona fide executive, administrative, or professional  
26 capacity," as that phrase is used for purposes of establishing an  
27 exemption to the overtime provisions of the federal Fair Labor

1 Standards Act of 1938 (29 U.S.C. Section 201 et seq.).

2 Sec. 399.107. MONITORING OF PROJECT. If the owner of a  
3 qualified manufacturing project fails to make the applicable  
4 certification required by Section 399.055 or if the comptroller  
5 elects to audit the certification and determines that the qualified  
6 manufacturing project has started commercial operation and failed  
7 to meet the job creation requirement, the owner forfeits the right  
8 to enter into memorandums of understanding with qualified  
9 educational participants under this subchapter. The owner shall  
10 pay to the comptroller the entire amount of all funds previously  
11 allocated from the fund through memorandums of understanding  
12 entered into by the owner under Section 399.103. Payment of a  
13 refund under this section shall be made not later than the 60th day  
14 after, as applicable, the date the certification is due or the date  
15 the comptroller completes the audit.

16 Sec. 399.108. UNEXPENDED FUNDS; NOTICE. (a) For the  
17 duration of a qualified manufacturing project zone's designation,  
18 the comptroller periodically shall notify the owner of a qualified  
19 manufacturing project in writing of any money in the fund  
20 attributable to the project that currently remains unexpended but  
21 may be spent by the owner by participating in the workforce  
22 investment program.

23 (b) Any money in the fund that remains unexpended by a  
24 project when its designation as a qualified manufacturing project  
25 ends shall be deposited by the comptroller to the credit of the  
26 general revenue fund.

27 SECTION 3. This Act takes effect September 1, 2013.