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S.B. No. 1084

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, Government Code, is amended by amending Subdivision (7) and adding Subdivision (9) to read as follows:

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

(A) works for a qualified business; ~~and~~

(B) receives wages from the qualified business from which employment taxes are deducted; and

(C) performs at least 50 percent of the person's service for the business at the qualified business site, or if the person engages in the transportation of goods or services, the person reports to the qualified business site and resides within 50 miles of the qualified business site.

(9) "Veteran" means a person who:

(A) has served in:

(i) the army, navy, air force, coast guard, or marine corps of the United States;

(ii) the state military forces as defined by Section 431.001; or

(iii) an auxiliary service of one of those branches of the armed forces; and

(B) has been honorably discharged from the branch

1 of the service in which the person served.

2 SECTION 2. Section 2303.004, Government Code, is amended by
3 amending Subsection (b) and adding Subsection (c) to read as
4 follows:

5 (b) Notwithstanding Subsection (a), the governing body of a
6 county [~~with a population of one million or more~~] may nominate for
7 designation as an enterprise project a project or activity of a
8 qualified business that is located within the jurisdiction of a
9 municipality located in the county. [~~For purposes of this
10 subsection, a county during any biennium may not use in any one
11 municipality more than three of the maximum number of designations
12 the county is permitted under Section 2303.406(d)(2).~~]

13 (c) Before a county makes a nomination under Subsection (b),
14 the nominating county must enter into an interlocal agreement with
15 the municipality that has jurisdiction of the territory in which
16 the nominated project or activity will be located. The interlocal
17 agreement must specify that either the nominating county or the
18 municipality that has jurisdiction of the territory in which the
19 nominated project or activity will be located is the governmental
20 body having administration authority under Section 2303.201 and
21 that both the nominating county and municipality approve the
22 nomination. For purposes of this subsection, a county during any
23 biennium may use the maximum number of designations the county is
24 permitted under Section 2303.406(d) within the territory described
25 by this subsection.

26 SECTION 3. Section 2303.201, Government Code, is amended to
27 read as follows:

1 Sec. 2303.201. ADMINISTRATION BY GOVERNING BODY. (a) The
2 governing body of an enterprise zone is the governing body of the
3 municipality or county with jurisdiction over the area designated
4 as an enterprise zone, except as provided by Subsection (b).

5 (b) The governing body with administration authority over
6 an enterprise project nominated under Section 2303.004(c) is
7 determined under the terms of an interlocal agreement required by
8 that subsection.

9 SECTION 4. Subsection (a), Section 2303.402, Government
10 Code, is amended to read as follows:

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

15 (1) 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 25 percent of the
18 person's new permanent jobs [~~employees~~] in the enterprise zone are
19 held by:

20 (A) residents of any enterprise zone in this
21 state; [~~or~~]

22 (B) economically disadvantaged individuals; or

23 (C) veterans; or

24 (2) the person is engaged in or has provided
25 substantial commitment to initiate the active conduct of a trade or
26 business in an area of this state that does not qualify as an
27 enterprise zone, and at least 35 percent of the person's new

1 permanent jobs [~~employees~~] at the qualified business site are held
2 by:

3 (A) residents of any enterprise zone in this
4 state; [~~or~~]

5 (B) individuals who are economically
6 disadvantaged; or

7 (C) veterans.

8 SECTION 5. 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 by
16 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 interlocal agreement required under Section
2 2303.004(c) that states:

3 (A) which governing body has the administration
4 authority under Section 2303.201; and

5 (B) that both the county in which the project or
6 activity is located and the municipality in whose jurisdiction the
7 project or activity is located approve the nomination of the
8 project or activity; and

9 (6) any additional information the bank may require.

10 SECTION 6. Section 2303.406, Government Code, is amended by
11 amending Subsections (b) and (e) and adding Subsection (d-1) to
12 read as follows:

13 (b) [~~This subsection does not apply to a qualified business~~
14 ~~located in a federally designated zone, as described by Section~~
15 ~~2303.101(2), which will receive priority designation in allocating~~
16 ~~the number of enterprise projects allowed statewide per biennium as~~
17 ~~provided by Section 2303.403.] The bank shall designate qualified
18 businesses as enterprise projects on a competitive basis. The bank
19 shall make its designation decisions using a weighted scale in
20 which:~~

21 (1) 40 percent of the evaluation depends on the
22 economic distress of the block group or distressed county in which a
23 proposed enterprise project is located;

24 (2) 25 percent of the evaluation depends on the local
25 effort to achieve development and revitalization of the block group
26 or distressed county in which a proposed enterprise project is
27 located; and

1 (3) 35 percent of the evaluation depends on the
2 evaluation criteria as determined by the bank, which must include:

3 (A) with respect to a proposed enterprise project
4 located in a block group, the level of cooperation and support the
5 project applicant commits to the revitalization goals of all of the
6 enterprise zone block groups within the jurisdiction of the
7 nominating governmental entity;

8 (B) with respect to a proposed enterprise project
9 located in a distressed county, the level of cooperation and
10 support the project applicant commits to the revitalization of the
11 distressed county; and

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

14 (d-1) An enterprise project designation may be split into
15 two half designations. A half designation uses one-half of one of
16 the enterprise project designations allowed to a nominating body
17 under Subsection (d) and to the bank under Section 2303.403.

18 (e) The office may not~~[, during any biennium,~~ designate
19 multiple concurrent enterprise projects to a qualified business
20 located at a qualified business site.

21 SECTION 7. Section 2303.407, Government Code, is amended by
22 amending Subsections (b), (c), and (d) and adding Subsections (e)
23 and (f) to read as follows:

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

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

1 (2) \$400,000 to \$999,999 will result in a refund of up
2 to \$2,500 per job with a maximum refund of \$62,500 for the creation
3 or retention of 25 jobs;

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

7 (4) \$5,000,000 or more [~~to \$149,999,999~~] will result
8 in a refund of up to \$2,500 per job with a maximum refund of
9 \$1,250,000 for the creation or retention of 500 jobs, except as
10 provided by Subdivision (5) or (6);

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

16 (6) \$250,000,000 or more will result in a refund of up
17 to \$7,500 per new permanent job with a maximum refund of \$3,750,000
18 for the creation [~~or retention~~] of at least 500 new permanent jobs
19 if the bank designates the project as a triple jumbo enterprise
20 project.

21 (c) An enterprise project for which a commitment for a
22 capital investment in the range amount and the creation [~~or~~
23 ~~retention~~] of the number of new permanent jobs specified by
24 Subsection (b)(5) is made is considered a double jumbo enterprise
25 project if the project is so designated by the bank. The bank may
26 not designate a project as a double jumbo enterprise project after
27 the initial designation period approved by the bank under Section

1 2303.404(b).

2 (d) An enterprise project for which a commitment for a
3 capital investment in the range amount and the creation [~~or~~
4 ~~retention~~] of the number of new permanent jobs specified by
5 Subsection (b)(6) is made is considered a triple jumbo enterprise
6 project if the project is so designated by the bank. The bank may
7 not designate a project as a triple jumbo enterprise project after
8 the initial designation period approved by the bank under Section
9 2303.404(b).

10 (e) A state-mandated or federally mandated capital
11 investment, including an investment in pollution abatement
12 equipment, does not qualify as a committed capital investment in an
13 enterprise project under this chapter.

14 (f) The maximum number of jobs that the bank may allocate to
15 an enterprise project split into two half designations as provided
16 by Section 2303.406(d-1) is 250.

17 SECTION 8. Section 2303.4071, Government Code, is amended
18 by amending Subsection (a) and adding Subsection (e) to read as
19 follows:

20 (a) In this section:

21 (1) "Double[~~, "double~~] jumbo enterprise project" and
22 "triple jumbo enterprise project" have the meanings assigned by
23 Section 2303.407.

24 (2) "Half enterprise project" means an enterprise
25 project split into two half designations as provided by Section
26 2303.406(d-1).

27 (e) A half enterprise project is eligible for a maximum

1 refund not to exceed \$125,000 in each state fiscal year and is
2 subject to the capital investment and job allocation requirements
3 under Section 2303.407(b)(1), (2), or (3).

4 SECTION 9. Section 2303.504, Government Code, is amended to
5 read as follows:

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

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

9 [~~(1)~~] a refund of state taxes under Section 151.429,
10 Tax Code[; and

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

13 (b) At the time of receipt of any tax benefit available as a
14 result of participating in the enterprise zone program, including a
15 state sales and use tax refund [~~or franchise tax credit~~], three
16 percent of the amount of the tax benefit shall be transferred to the
17 Texas economic development bank fund under Subchapter B, Chapter
18 489, to defray the cost of administering this chapter.

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

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

26 (b) The comptroller may determine that the business or
27 project is not entitled to a refund [~~or credit~~] of state taxes under

1 Section 2303.504 if the comptroller finds that:

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

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

9 SECTION 11. Section 151.429, Tax Code, is amended by
10 amending Subsections (b) and (c) and adding Subsection (k) to read
11 as follows:

12 (b) Subject to the limitations provided by Subsection (c) of
13 this section, an enterprise project qualifies for a refund of taxes
14 under this section based on the amount of capital investment made at
15 the qualified business site, the project's designation level, and
16 the refund per job with a maximum refund to be included in a
17 computation of a tax refund for the project. A capital investment
18 at the qualified business site of:

19 (1) \$40,000 to \$399,999 will result in a refund of up
20 to \$2,500 per job with a maximum refund of \$25,000 for the creation
21 or retention of 10 jobs;

22 (2) \$400,000 to \$999,999 will result in a refund of up
23 to \$2,500 per job with a maximum refund of \$62,500 for the creation
24 or retention of 25 jobs;

25 (3) \$1,000,000 to \$4,999,999 will result in a refund
26 of up to \$2,500 per job with a maximum refund of \$312,500 for the
27 creation or retention of 125 jobs;

1 (4) \$5,000,000 or more [~~to \$149,999,999~~] will result
2 in a refund of up to \$2,500 per job with a maximum refund of
3 \$1,250,000 for the creation or retention of 500 jobs, except as
4 provided by Subdivision (5) or (6);

5 (5) \$150,000,000 to \$249,999,999 will result in a
6 refund of up to \$5,000 per new permanent job with a maximum refund
7 of \$2,500,000 for the creation [~~or retention~~] of 500 new permanent
8 jobs if the Texas Economic Development Bank designates the project
9 as a double jumbo enterprise project; or

10 (6) \$250,000,000 or more will result in a refund of up
11 to \$7,500 per new permanent job with a maximum refund of \$3,750,000
12 for the creation [~~or retention~~] of at least 500 new permanent jobs
13 if the Texas Economic Development Bank designates the project as a
14 triple jumbo enterprise project.

15 (c) The total amount of tax refund that an enterprise
16 project may apply for in a state fiscal year may not exceed
17 \$250,000, at not more than \$2,500 per job. The total amount of tax
18 refund that a double jumbo enterprise project may apply for in a
19 state fiscal year may not exceed \$500,000, at not more than \$5,000
20 per new permanent job. The total amount of tax refund that a triple
21 jumbo enterprise project may apply for in a state fiscal year may
22 not exceed \$750,000, at not more than \$7,500 per new permanent job.
23 If an enterprise project, double jumbo enterprise project, or
24 triple jumbo enterprise project qualifies in a state fiscal year
25 for a refund of taxes in an amount in excess of the applicable
26 limitation provided by this subsection, it may apply for a refund of
27 those taxes in a subsequent year, subject to the applicable

1 limitation for each year. The total amount that may be refunded to:

2 (1) an enterprise project under this section may not
3 exceed the amount determined by multiplying \$250,000 by the number
4 of state fiscal years during which the enterprise project created
5 or retained one or more jobs for qualified employees;

6 (2) a double jumbo enterprise project under this
7 section may not exceed the amount determined by multiplying
8 \$500,000 by the number of state fiscal years during which the double
9 jumbo enterprise project created [~~or retained~~] one or more new
10 permanent jobs for qualified employees; or

11 (3) a triple jumbo enterprise project under this
12 section may not exceed the amount determined by multiplying
13 \$750,000 by the number of state fiscal years during which the triple
14 jumbo enterprise project created [~~or retained~~] one or more new
15 permanent jobs for qualified employees.

16 (k) A half enterprise project is eligible for a maximum
17 refund not to exceed \$125,000 in each state fiscal year and is
18 subject to the capital investment and job allocation requirements
19 under Subsection (b)(1), (2), or (3).

20 SECTION 12. Subsection (e), Section 151.429, Tax Code, is
21 amended by adding Subdivision (6) to read as follows:

22 (6) "Half enterprise project" means an enterprise
23 project split into two half designations as provided by Section
24 2303.406(d-1), Government Code.

25 SECTION 13. Subsection (b), Section 2303.109, Government
26 Code, is repealed.

27 SECTION 14. (a) The changes in law made by this Act to

1 Subsection (a), Section 2303.402, Government Code, apply only to an
2 application for a designation of an enterprise project under the
3 enterprise zone program under Chapter 2303, Government Code, as
4 amended by this Act, filed on or after the effective date of this
5 Act. An application for designation of an enterprise project under
6 the enterprise zone program filed before the effective date of this
7 Act is governed by the law in effect on the date the application was
8 filed, and the former law is continued in effect for that purpose.

9 (b) The changes in law made by this Act to Section 2303.407,
10 Government Code, and Section 151.429, Tax Code, apply only to an
11 enterprise project designation made on or after the effective date
12 of this Act. An enterprise project designation made before the
13 effective date of this Act is governed by the law in effect when the
14 designation was made, and the former law is continued in effect for
15 that purpose.

16 SECTION 15. This Act takes effect September 1, 2013.