

By: Hinojosa

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 ~~[+ and~~ 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].~~

(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 of the service in which the person served.

SECTION 2. Subsection (a), Section 2303.402, 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

1 body of a project or activity of the person under this chapter, for  
2 the purpose of local incentives, certifies that:

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

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

11 (B) economically disadvantaged individuals; or

12 (C) veterans; or

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

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

22 (B) individuals who are economically  
23 disadvantaged; or

24 (C) veterans.

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

27 Sec. 2303.403. PROHIBITION ON QUALIFIED BUSINESS

1 CERTIFICATION; LIMIT ON ENTERPRISE PROJECT DESIGNATIONS. (a) If  
2 the bank determines that the governing body eligible to nominate an  
3 enterprise project is not complying with this chapter, the bank  
4 shall prohibit the certification of a qualified business until the  
5 bank determines that the governing body is complying with this  
6 chapter.

7 (b) The bank may not designate more than 105 enterprise  
8 projects during any biennium. The bank may not designate more than  
9 10 percent of the maximum allowed enterprise projects in each of the  
10 application rounds during the biennium, except that the bank may  
11 exceed the 10 percent limit during any application round to  
12 designate an enterprise project of a qualified business considered  
13 by the office to be a state priority project. Any designations  
14 remaining at the end of a biennium may be carried forward to the  
15 next biennium.

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

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

22 (1) a certified copy of the ordinance or order, as  
23 appropriate, or reference to an ordinance or order as required  
24 by Section 2303.4051;

25 (2) a certified copy of the minutes [~~transcript~~]  
26 all public hearings conducted with respect to local incentives  
27 available to qualified businesses within the jurisdiction of the

1 governmental entity nominating the project or activity, regardless  
2 of whether those businesses are located in an enterprise zone;

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

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

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

10 SECTION 5. Subsections (b), (e), and (g), Section 2303.406,  
11 Government Code, are amended to read as follows:

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

20 (1) 40 percent of the evaluation depends on the  
21 economic distress of the block group or distressed county in which a  
22 proposed enterprise project is located;

23 (2) 25 percent of the evaluation depends on the local  
24 effort to achieve development and revitalization of the block group  
25 or distressed county in which a proposed enterprise project is  
26 located; and

27 (3) 35 percent of the evaluation depends on the

1 evaluation criteria as determined by the bank, which must include:

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

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

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

13 (e) The office may not, during any biennium, designate  
14 multiple concurrent enterprise projects to a qualified business  
15 located at a qualified business site.

16 (g) The bank may split or lower the designation level of a  
17 proposed project or activity nominated for enterprise project  
18 designation based on the number of projected new permanent jobs or  
19 retained jobs[+]

20 [~~1~~] if there are fewer designations available than  
21 applications received[+] or

22 [~~2~~] to further the economic interests of the state.  
23 If an enterprise project designation is split between two or more  
24 projects or activities, the bank may determine how to  
25 proportionally allocate state benefits among the projects or  
26 activities.

27 SECTION 6. Section 2303.407, Government Code, is amended by

1 amending Subsections (b), (c), and (d) and adding Subsection (e) to  
2 read as follows:

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

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

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

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

13 (4) \$5,000,000 or more [~~to \$149,999,999~~] will result  
14 in a refund of up to \$2,500 per job with a maximum refund of  
15 \$1,250,000 for the creation or retention of 500 jobs, except as  
16 provided by Subdivision (5) or (6);

17 (5) \$150,000,000 to \$249,999,999 will result in a  
18 refund of up to \$5,000 per job with a maximum refund of \$2,500,000  
19 for the creation [~~or retention~~] of 500 new permanent jobs if the  
20 bank designates the project as a double jumbo enterprise project;  
21 or

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

26 (c) An enterprise project for which a commitment for a  
27 capital investment in the range amount and the creation [~~or~~

1 ~~retention]~~ of the number of new permanent jobs specified by  
2 Subsection (b)(5) is made is considered a double jumbo enterprise  
3 project if the project is so designated by the bank. The bank may  
4 not designate a project as a double jumbo enterprise project after  
5 the initial designation period approved by the bank under Section  
6 2303.404(b).

7 (d) An enterprise project for which a commitment for a  
8 capital investment in the range amount and the creation [~~or~~  
9 ~~retention]~~ of the number of new permanent jobs specified by  
10 Subsection (b)(6) is made is considered a triple jumbo enterprise  
11 project if the project is so designated by the bank. The bank may  
12 not designate a project as a triple jumbo enterprise project after  
13 the initial designation period approved by the bank under Section  
14 2303.404(b).

15 (e) State-mandated and federally mandated capital  
16 investments, including pollution abatement equipment, do not  
17 qualify as committed capital investment in an enterprise project  
18 under this chapter.

19 SECTION 7. Section 2303.504, Government Code, is amended to  
20 read as follows:

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

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

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

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

1           (b) At the time of receipt of any tax benefit available as a  
2 result of participating in the enterprise zone program, including a  
3 state sales and use tax refund [~~or franchise tax credit~~], three  
4 percent of the amount of the tax benefit shall be transferred to the  
5 Texas economic development bank fund under Subchapter B, Chapter  
6 489, to defray the cost of administering this chapter.

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

12           SECTION 8. Subsection (b), Section 2303.516, Government  
13 Code, is amended to read as follows:

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

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

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

24           SECTION 9. Subsections (b) and (c), Section 151.429, Tax  
25 Code, are amended to read as follows:

26           (b) Subject to the limitations provided by Subsection (c) of  
27 this section, an enterprise project qualifies for a refund of taxes



1 under this section based on the amount of capital investment made at  
2 the qualified business site, the project's designation level, and  
3 the refund per job with a maximum refund to be included in a  
4 computation of a tax refund for the project. A capital investment  
5 at the qualified business site of:

6 (1) \$40,000 to \$399,999 will result in a refund of up  
7 to \$2,500 per job with a maximum refund of \$25,000 for the creation  
8 or retention of 10 jobs;

9 (2) \$400,000 to \$999,999 will result in a refund of up  
10 to \$2,500 per job with a maximum refund of \$62,500 for the creation  
11 or retention of 25 jobs;

12 (3) \$1,000,000 to \$4,999,999 will result in a refund  
13 of up to \$2,500 per job with a maximum refund of \$312,500 for the  
14 creation or retention of 125 jobs;

15 (4) \$5,000,000 or more [~~to \$149,999,999~~] will result  
16 in a refund of up to \$2,500 per job with a maximum refund of  
17 \$1,250,000 for the creation or retention of 500 jobs, except as  
18 provided by Subdivision (5) or (6);

19 (5) \$150,000,000 to \$249,999,999 will result in a  
20 refund of up to \$5,000 per job with a maximum refund of \$2,500,000  
21 for the creation [~~or retention~~] of 500 new permanent jobs if the  
22 Texas Economic Development Bank designates the project as a double  
23 jumbo enterprise project; or

24 (6) \$250,000,000 or more will result in a refund of up  
25 to \$7,500 per job with a maximum refund of \$3,750,000 for the  
26 creation [~~or retention~~] of at least 500 new permanent jobs if the  
27 Texas Economic Development Bank designates the project as a triple

1 jumbo enterprise project.

2 (c) The total amount of tax refund that an enterprise  
3 project may apply for in a state fiscal year may not exceed  
4 \$250,000, at not more than \$2,500 per job. The total amount of tax  
5 refund that a double jumbo enterprise project may apply for in a  
6 state fiscal year may not exceed \$500,000, at not more than \$5,000  
7 per new permanent job. The total amount of tax refund that a triple  
8 jumbo enterprise project may apply for in a state fiscal year may  
9 not exceed \$750,000, at not more than \$7,500 per new permanent job.  
10 If an enterprise project, double jumbo enterprise project, or  
11 triple jumbo enterprise project qualifies in a state fiscal year  
12 for a refund of taxes in an amount in excess of the applicable  
13 limitation provided by this subsection, it may apply for a refund of  
14 those taxes in a subsequent year, subject to the applicable  
15 limitation for each year. The total amount that may be refunded to:

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

20 (2) a double jumbo enterprise project under this  
21 section may not exceed the amount determined by multiplying  
22 \$500,000 by the number of state fiscal years during which the double  
23 jumbo enterprise project created [~~or retained~~] one or more new  
24 permanent jobs for qualified employees; or

25 (3) a triple jumbo enterprise project under this  
26 section may not exceed the amount determined by multiplying  
27 \$750,000 by the number of state fiscal years during which the triple

1 jumbo enterprise project created [~~or retained~~] one or more new  
2 permanent jobs for qualified employees.

3 SECTION 10. Subsection (b), Section 2303.109, Government  
4 Code is repealed.

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

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

21 SECTION 12. This Act takes effect immediately if it  
22 receives a vote of two-thirds of all the members elected to each  
23 house, as provided by Section 39, Article III, Texas Constitution.  
24 If this Act does not receive the vote necessary for immediate  
25 effect, this Act takes effect September 1, 2013.