

1-1 By: Hinojosa S.B. No. 1084
 1-2 (In the Senate - Filed March 4, 2013; March 12, 2013, read
 1-3 first time and referred to Committee on Economic Development;
 1-4 April 15, 2013, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 5, Nays 0; April 15, 2013,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Deuell	X			
1-9 Hancock			X	
1-10 Birdwell	X			
1-11 Davis	X			
1-12 Eltife	X			
1-13 Fraser			X	
1-14 Watson	X			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 1084 By: Watson

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the enterprise zone program.
 1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-21 SECTION 1. Section 2303.003, Government Code, is amended by
 1-22 amending Subdivision (7) and adding Subdivision (9) to read as
 1-23 follows:
 1-24 (7) "Qualified employee" means a person who:
 1-25 (A) works for a qualified business; ~~and~~
 1-26 (B) receives wages from the qualified business
 1-27 from which employment taxes are deducted; and
 1-28 (C) performs at least 50 percent of the person's
 1-29 service for the business at the qualified business site, or if the
 1-30 person engages in the transportation of goods or services, the
 1-31 person reports to the qualified business site and resides within 50
 1-32 miles of the qualified business site.
 1-33 (9) "Veteran" means a person who:
 1-34 (A) has served in:
 1-35 (i) the army, navy, air force, coast guard,
 1-36 or marine corps of the United States;
 1-37 (ii) the state military forces as defined
 1-38 by Section 431.001; or
 1-39 (iii) an auxiliary service of one of those
 1-40 branches of the armed forces; and
 1-41 (B) has been honorably discharged from the branch
 1-42 of the service in which the person served.
 1-43 SECTION 2. Section 2303.004, Government Code, is amended by
 1-44 amending Subsection (b) and adding Subsection (c) to read as
 1-45 follows:
 1-46 (b) Notwithstanding Subsection (a), the governing body of a
 1-47 county ~~[with a population of one million or more]~~ may nominate for
 1-48 designation as an enterprise project a project or activity of a
 1-49 qualified business that is located within the jurisdiction of a
 1-50 municipality located in the county. ~~[For purposes of this~~
 1-51 ~~subsection, a county during any biennium may not use in any one~~
 1-52 ~~municipality more than three of the maximum number of designations~~
 1-53 ~~the county is permitted under Section 2303.406(d)(2).]~~
 1-54 (c) Before a county makes a nomination under Subsection (b),
 1-55 the nominating county must enter into an interlocal agreement with
 1-56 the municipality that has jurisdiction of the territory in which
 1-57 the nominated project or activity will be located. The interlocal
 1-58 agreement must specify that either the nominating county or the
 1-59 municipality that has jurisdiction of the territory in which the
 1-60 nominated project or activity will be located is the governmental

2-1 body having administration authority under Section 2303.201 and
2-2 that both the nominating county and municipality approve the
2-3 nomination. For purposes of this subsection, a county during any
2-4 biennium may use the maximum number of designations the county is
2-5 permitted under Section 2303.406(d) within the territory described
2-6 by this subsection.

2-7 SECTION 3. Section 2303.201, Government Code, is amended to
2-8 read as follows:

2-9 Sec. 2303.201. ADMINISTRATION BY GOVERNING BODY. (a) The
2-10 governing body of an enterprise zone is the governing body of the
2-11 municipality or county with jurisdiction over the area designated
2-12 as an enterprise zone, except as provided by Subsection (b).

2-13 (b) The governing body with administration authority over
2-14 an enterprise project nominated under Section 2303.004(c) is
2-15 determined under the terms of an interlocal agreement required by
2-16 that subsection.

2-17 SECTION 4. Subsection (a), Section 2303.402, Government
2-18 Code, is amended to read as follows:

2-19 (a) A person is a qualified business if the bank, for the
2-20 purpose of state benefits under this chapter, or the nominating
2-21 body of a project or activity of the person under this chapter, for
2-22 the purpose of local incentives, certifies that:

2-23 (1) the person is engaged in or has provided
2-24 substantial commitment to initiate the active conduct of a trade or
2-25 business in an enterprise zone, and at least 25 percent of the
2-26 person's new permanent jobs [~~employees~~] in the enterprise zone are
2-27 held by:

2-28 (A) residents of any enterprise zone in this
2-29 state; [~~or~~]

2-30 (B) economically disadvantaged individuals; or

2-31 (C) veterans; or

2-32 (2) the person is engaged in or has provided
2-33 substantial commitment to initiate the active conduct of a trade or
2-34 business in an area of this state that does not qualify as an
2-35 enterprise zone, and at least 35 percent of the person's new
2-36 permanent jobs [~~employees~~] at the qualified business site are held
2-37 by:

2-38 (A) residents of any enterprise zone in this
2-39 state; [~~or~~]

2-40 (B) individuals who are economically
2-41 disadvantaged; or

2-42 (C) veterans.

2-43 SECTION 5. Section 2303.4052, Government Code, is amended
2-44 to read as follows:

2-45 Sec. 2303.4052. REQUIRED INFORMATION FROM NOMINATING BODY.
2-46 Before nominating the project or activity of a qualified business
2-47 for designation as an enterprise project, the nominating body must
2-48 submit to the bank:

2-49 (1) a certified copy of the ordinance or order, as
2-50 appropriate, or reference to an ordinance or order as required by
2-51 Section 2303.4051;

2-52 (2) a certified copy of the minutes [~~transcript~~] of
2-53 all public hearings conducted with respect to local incentives
2-54 available to qualified businesses within the jurisdiction of the
2-55 governmental entity nominating the project or activity, regardless
2-56 of whether those businesses are located in an enterprise zone;

2-57 (3) the name, title, address, telephone number, and
2-58 electronic mail address of the nominating body's liaison designated
2-59 under Section 2303.204;

2-60 (4) if the business is seeking job retention benefits,
2-61 documentation showing the number of employment positions at the
2-62 qualified business site; [~~and~~]

2-63 (5) any interlocal agreement required under Section
2-64 2303.004(c) that states:

2-65 (A) which governing body has the administration
2-66 authority under Section 2303.201; and

2-67 (B) that both the county in which the project or
2-68 activity is located and the municipality in whose jurisdiction the
2-69 project or activity is located approve the nomination of the

3-1 project or activity; and

3-2 (6) any additional information the bank may require.

3-3 SECTION 6. Section 2303.406, Government Code, is amended by
3-4 amending Subsections (b) and (e) and adding Subsection (d-1) to
3-5 read as follows:

3-6 (b) ~~[This subsection does not apply to a qualified business
3-7 located in a federally designated zone, as described by Section
3-8 2303.101(2), which will receive priority designation in allocating
3-9 the number of enterprise projects allowed statewide per biennium as
3-10 provided by Section 2303.403.]~~ The bank shall designate qualified

3-11 businesses as enterprise projects on a competitive basis. The bank
3-12 shall make its designation decisions using a weighted scale in
3-13 which:

3-14 (1) 40 percent of the evaluation depends on the
3-15 economic distress of the block group or distressed county in which a
3-16 proposed enterprise project is located;

3-17 (2) 25 percent of the evaluation depends on the local
3-18 effort to achieve development and revitalization of the block group
3-19 or distressed county in which a proposed enterprise project is
3-20 located; and

3-21 (3) 35 percent of the evaluation depends on the
3-22 evaluation criteria as determined by the bank, which must include:

3-23 (A) with respect to a proposed enterprise project
3-24 located in a block group, the level of cooperation and support the
3-25 project applicant commits to the revitalization goals of all of the
3-26 enterprise zone block groups within the jurisdiction of the
3-27 nominating governmental entity;

3-28 (B) with respect to a proposed enterprise project
3-29 located in a distressed county, the level of cooperation and
3-30 support the project applicant commits to the revitalization of the
3-31 distressed county; and

3-32 (C) the type and wage level of the jobs to be
3-33 created or retained by the business.

3-34 (d-1) An enterprise project designation may be split into
3-35 two half designations. A half designation uses one-half of one of
3-36 the enterprise project designations allowed to a nominating body
3-37 under Subsection (d) and to the bank under Section 2303.403.

3-38 (e) The office may ~~not~~ not ~~[, during any biennium,]~~ designate
3-39 multiple concurrent enterprise projects to a qualified business
3-40 located at a qualified business site.

3-41 SECTION 7. Section 2303.407, Government Code, is amended by
3-42 amending Subsections (b), (c), and (d) and adding Subsections (e)
3-43 and (f) to read as follows:

3-44 (b) A capital investment in a project of:

3-45 (1) \$40,000 to \$399,999 will result in a refund of up
3-46 to \$2,500 per job with a maximum refund of \$25,000 for the creation
3-47 or retention of 10 jobs;

3-48 (2) \$400,000 to \$999,999 will result in a refund of up
3-49 to \$2,500 per job with a maximum refund of \$62,500 for the creation
3-50 or retention of 25 jobs;

3-51 (3) \$1,000,000 to \$4,999,999 will result in a refund
3-52 of up to \$2,500 per job with a maximum refund of \$312,500 for the
3-53 creation or retention of 125 jobs;

3-54 (4) \$5,000,000 or more ~~[to \$149,999,999]~~ will result
3-55 in a refund of up to \$2,500 per job with a maximum refund of
3-56 \$1,250,000 for the creation or retention of 500 jobs, except as
3-57 provided by Subdivision (5) or (6);

3-58 (5) \$150,000,000 to \$249,999,999 will result in a
3-59 refund of up to \$5,000 per new permanent job with a maximum refund
3-60 of \$2,500,000 for the creation ~~[or retention]~~ of 500 new permanent
3-61 jobs if the bank designates the project as a double jumbo enterprise
3-62 project; or

3-63 (6) \$250,000,000 or more will result in a refund of up
3-64 to \$7,500 per new permanent job with a maximum refund of \$3,750,000
3-65 for the creation ~~[or retention]~~ of at least 500 new permanent
3-66 jobs if the bank designates the project as a triple jumbo enterprise
3-67 project.

3-68 (c) An enterprise project for which a commitment for a
3-69 capital investment in the range amount and the creation ~~[or~~

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

4-7 (d) An enterprise project for which a commitment for a
4-8 capital investment in the range amount and the creation [~~or~~
4-9 ~~retention]~~ of the number of new permanent jobs specified by
4-10 Subsection (b)(6) is made is considered a triple jumbo enterprise
4-11 project if the project is so designated by the bank. The bank may
4-12 not designate a project as a triple jumbo enterprise project after
4-13 the initial designation period approved by the bank under Section
4-14 2303.404(b).

4-15 (e) A state-mandated or federally mandated capital
4-16 investment, including an investment in pollution abatement
4-17 equipment, does not qualify as a committed capital investment in an
4-18 enterprise project under this chapter.

4-19 (f) The maximum number of jobs that the bank may allocate to
4-20 an enterprise project split into two half designations as provided
4-21 by Section 2303.406(d-1) is 250.

4-22 SECTION 8. Section 2303.4071, Government Code, is amended
4-23 by amending Subsection (a) and adding Subsection (e) to read as
4-24 follows:

4-25 (a) In this section:
4-26 (1) "Double[~~, "double]~~ jumbo enterprise project" and
4-27 "triple jumbo enterprise project" have the meanings assigned by
4-28 Section 2303.407.

4-29 (2) "Half enterprise project" means an enterprise
4-30 project split into two half designations as provided by Section
4-31 2303.406(d-1).

4-32 (e) A half enterprise project is eligible for a maximum
4-33 refund not to exceed \$125,000 in each state fiscal year and is
4-34 subject to the capital investment and job allocation requirements
4-35 under Section 2303.407(b)(1), (2), or (3).

4-36 SECTION 9. Section 2303.504, Government Code, is amended to
4-37 read as follows:

4-38 Sec. 2303.504. STATE TAX REFUNDS [~~AND CREDITS~~]; REPORT.
4-39 (a) Subject to Section 2303.516, an enterprise project is entitled
4-40 to[~~+~~

4-41 [~~(1)~~] a refund of state taxes under Section 151.429,
4-42 Tax Code[~~, and~~
4-43 [~~(2)~~] a franchise tax credit under Subchapter Q-1,
4-44 Chapter 171, Tax Code].

4-45 (b) At the time of receipt of any tax benefit available as a
4-46 result of participating in the enterprise zone program, including a
4-47 state sales and use tax refund [~~or franchise tax credit~~], three
4-48 percent of the amount of the tax benefit shall be transferred to the
4-49 Texas economic development bank fund under Subchapter B, Chapter
4-50 489, to defray the cost of administering this chapter.

4-51 (c) Not later than the 60th day after the last day of each
4-52 fiscal year, the comptroller shall report to the bank the statewide
4-53 total of actual jobs created, actual jobs retained, and the tax
4-54 refunds [~~and credits~~] made under this section during that fiscal
4-55 year.

4-56 SECTION 10. Subsection (b), Section 2303.516, Government
4-57 Code, is amended to read as follows:

4-58 (b) The comptroller may determine that the business or
4-59 project is not entitled to a refund [~~or credit~~] of state taxes under
4-60 Section 2303.504 if the comptroller finds that:

4-61 (1) the business or project is not willing to
4-62 cooperate with the comptroller in providing the comptroller with
4-63 the information the comptroller needs to determine the state
4-64 benefits; or

4-65 (2) the business or project has substantially failed
4-66 to follow through on any commitments made by it or on its behalf
4-67 under this chapter.

4-68 SECTION 11. Section 151.429, Tax Code, is amended by
4-69 amending Subsections (b) and (c) and adding Subsection (k) to read

5-1 as follows:

5-2 (b) Subject to the limitations provided by Subsection (c) of
5-3 this section, an enterprise project qualifies for a refund of taxes
5-4 under this section based on the amount of capital investment made at
5-5 the qualified business site, the project's designation level, and
5-6 the refund per job with a maximum refund to be included in a
5-7 computation of a tax refund for the project. A capital investment
5-8 at the qualified business site of:

5-9 (1) \$40,000 to \$399,999 will result in a refund of up
5-10 to \$2,500 per job with a maximum refund of \$25,000 for the creation
5-11 or retention of 10 jobs;

5-12 (2) \$400,000 to \$999,999 will result in a refund of up
5-13 to \$2,500 per job with a maximum refund of \$62,500 for the creation
5-14 or retention of 25 jobs;

5-15 (3) \$1,000,000 to \$4,999,999 will result in a refund
5-16 of up to \$2,500 per job with a maximum refund of \$312,500 for the
5-17 creation or retention of 125 jobs;

5-18 (4) \$5,000,000 or more [~~to \$149,999,999~~] will result
5-19 in a refund of up to \$2,500 per job with a maximum refund of
5-20 \$1,250,000 for the creation or retention of 500 jobs, except as
5-21 provided by Subdivision (5) or (6);

5-22 (5) \$150,000,000 to \$249,999,999 will result in a
5-23 refund of up to \$5,000 per new permanent job with a maximum refund
5-24 of \$2,500,000 for the creation [~~or retention~~] of 500 new permanent
5-25 jobs if the Texas Economic Development Bank designates the project
5-26 as a double jumbo enterprise project; or

5-27 (6) \$250,000,000 or more will result in a refund of up
5-28 to \$7,500 per new permanent job with a maximum refund of \$3,750,000
5-29 for the creation [~~or retention~~] of at least 500 new permanent jobs
5-30 if the Texas Economic Development Bank designates the project as a
5-31 triple jumbo enterprise project.

5-32 (c) The total amount of tax refund that an enterprise
5-33 project may apply for in a state fiscal year may not exceed
5-34 \$250,000, at not more than \$2,500 per job. The total amount of tax
5-35 refund that a double jumbo enterprise project may apply for in a
5-36 state fiscal year may not exceed \$500,000, at not more than \$5,000
5-37 per new permanent job. The total amount of tax refund that a triple
5-38 jumbo enterprise project may apply for in a state fiscal year may
5-39 not exceed \$750,000, at not more than \$7,500 per new permanent job.
5-40 If an enterprise project, double jumbo enterprise project, or
5-41 triple jumbo enterprise project qualifies in a state fiscal year
5-42 for a refund of taxes in an amount in excess of the applicable
5-43 limitation provided by this subsection, it may apply for a refund of
5-44 those taxes in a subsequent year, subject to the applicable
5-45 limitation for each year. The total amount that may be refunded to:

5-46 (1) an enterprise project under this section may not
5-47 exceed the amount determined by multiplying \$250,000 by the number
5-48 of state fiscal years during which the enterprise project created
5-49 or retained one or more jobs for qualified employees;

5-50 (2) a double jumbo enterprise project under this
5-51 section may not exceed the amount determined by multiplying
5-52 \$500,000 by the number of state fiscal years during which the double
5-53 jumbo enterprise project created [~~or retained~~] one or more new
5-54 permanent jobs for qualified employees; or

5-55 (3) a triple jumbo enterprise project under this
5-56 section may not exceed the amount determined by multiplying
5-57 \$750,000 by the number of state fiscal years during which the triple
5-58 jumbo enterprise project created [~~or retained~~] one or more new
5-59 permanent jobs for qualified employees.

5-60 (k) A half enterprise project is eligible for a maximum
5-61 refund not to exceed \$125,000 in each state fiscal year and is
5-62 subject to the capital investment and job allocation requirements
5-63 under Subsection (b)(1), (2), or (3).

5-64 SECTION 12. Subsection (e), Section 151.429, Tax Code, is
5-65 amended by adding Subdivision (6) to read as follows:

5-66 (6) "Half enterprise project" means an enterprise
5-67 project split into two half designations as provided by Section
5-68 2303.406(d-1), Government Code.

5-69 SECTION 13. Subsection (b), Section 2303.109, Government

6-1 Code, is repealed.

6-2 SECTION 14. (a) The changes in law made by this Act to
6-3 Subsection (a), Section 2303.402, Government Code, apply only to an
6-4 application for a designation of an enterprise project under the
6-5 enterprise zone program under Chapter 2303, Government Code, as
6-6 amended by this Act, filed on or after the effective date of this
6-7 Act. An application for designation of an enterprise project under
6-8 the enterprise zone program filed before the effective date of this
6-9 Act is governed by the law in effect on the date the application was
6-10 filed, and the former law is continued in effect for that purpose.

6-11 (b) The changes in law made by this Act to Section 2303.407,
6-12 Government Code, and Section 151.429, Tax Code, apply only to an
6-13 enterprise project designation made on or after the effective date
6-14 of this Act. An enterprise project designation made before the
6-15 effective date of this Act is governed by the law in effect when the
6-16 designation was made, and the former law is continued in effect for
6-17 that purpose.

6-18 SECTION 15. This Act takes effect September 1, 2013.

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