

1-1 By: Hinojosa S.B. No. 100
1-2 (In the Senate - Filed November 10, 2014; January 26, 2015,
1-3 read first time and referred to Committee on Natural Resources and
1-4 Economic Development; April 9, 2015, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 11,
1-6 Nays 0; April 9, 2015, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			
1-19	X			

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 100 By: Hinojosa

1-21 A BILL TO BE ENTITLED
1-22 AN ACT

1-23 relating to the enterprise zone program.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 2303.003, Government Code, is amended by
1-26 amending Subdivision (7) and adding Subdivision (9) to read as
1-27 follows:

1-28 (7) "Qualified employee" means a person who:

1-29 (A) works for a qualified business;

1-30 (B) receives wages from the qualified business
1-31 from which employment taxes are deducted; and

1-32 (C) performs at least 50 percent of the person's
1-33 service for the business at the qualified business site, or if the
1-34 person engages in the transportation of goods or services, the
1-35 person reports to the qualified business site and resides within 50
1-36 miles of the qualified business site [unless the person's job
1-37 responsibility is to transport or deliver the enterprise project's
1-38 goods or services].

1-39 (9) "Veteran" means a person who:

1-40 (A) has served in:

1-41 (i) the army, navy, air force, coast guard,
1-42 or marine corps of the United States;

1-43 (ii) the state military forces as defined
1-44 by Section 431.001; or

1-45 (iii) an auxiliary service of one of those
1-46 branches of the armed forces; and

1-47 (B) has been honorably discharged from the branch
1-48 of the service in which the person served.

1-49 SECTION 2. Section 2303.004, Government Code, is amended by
1-50 amending Subsection (b) and adding Subsection (c) to read as
1-51 follows:

1-52 (b) Notwithstanding Subsection (a), the governing body of a
1-53 county [~~with a population of one million or more~~] may nominate for
1-54 designation as an enterprise project a project or activity of a
1-55 qualified business that is located within the jurisdiction of a
1-56 municipality located in the county. [~~For purposes of this~~
1-57 ~~subsection, a county during any biennium may not use in any one~~
1-58 ~~municipality more than three of the maximum number of designations~~
1-59 ~~the county is permitted under Section 2303.406(d)(2).]~~

1-60 (c) Before a county makes a nomination under Subsection (b),

2-1 the nominating county must enter into an interlocal agreement with
 2-2 the municipality that has jurisdiction of the territory in which
 2-3 the nominated project or activity will be located. The interlocal
 2-4 agreement must specify that either the nominating county or the
 2-5 municipality that has jurisdiction of the territory in which the
 2-6 nominated project or activity will be located is the governmental
 2-7 body having administration authority under Section 2303.201 and
 2-8 that both the nominating county and municipality approve the
 2-9 nomination. For purposes of this subsection, a county during any
 2-10 biennium may use the maximum number of designations the county is
 2-11 permitted under Section 2303.406(d) within the territory described
 2-12 by this subsection.

2-13 SECTION 3. Section 2303.201, Government Code, is amended to
 2-14 read as follows:

2-15 Sec. 2303.201. ADMINISTRATION BY GOVERNING BODY. (a) The
 2-16 governing body of an enterprise zone is the governing body of the
 2-17 municipality or county with jurisdiction over the area designated
 2-18 as an enterprise zone, except as provided by Subsection (b).

2-19 (b) The governing body with administration authority over
 2-20 an enterprise project nominated under Section 2303.004(c) is
 2-21 determined under the terms of an interlocal agreement required by
 2-22 that subsection.

2-23 SECTION 4. Section 2303.402(a), Government Code, is amended
 2-24 to read as follows:

2-25 (a) A person is a qualified business if the bank, for the
 2-26 purpose of state benefits under this chapter, or the nominating
 2-27 body of a project or activity of the person under this chapter, for
 2-28 the purpose of local incentives, certifies that:

2-29 (1) the person is engaged in or has provided
 2-30 substantial commitment to initiate the active conduct of a trade or
 2-31 business in an enterprise zone, and at least 25 percent of the
 2-32 person's new permanent jobs [~~employees~~] in the enterprise zone are
 2-33 held by:

2-34 (A) residents of any enterprise zone in this
 2-35 state; [~~or~~]

2-36 (B) economically disadvantaged individuals; or

2-37 (C) veterans; or

2-38 (2) the person is engaged in or has provided
 2-39 substantial commitment to initiate the active conduct of a trade or
 2-40 business in an area of this state that does not qualify as an
 2-41 enterprise zone, and at least 35 percent of the person's new
 2-42 permanent jobs [~~employees~~] at the qualified business site are held
 2-43 by:

2-44 (A) residents of any enterprise zone in this
 2-45 state; [~~or~~]

2-46 (B) individuals who are economically
 2-47 disadvantaged; or

2-48 (C) veterans.

2-49 SECTION 5. Section 2303.4052, Government Code, is amended
 2-50 to read as follows:

2-51 Sec. 2303.4052. REQUIRED INFORMATION FROM NOMINATING BODY.
 2-52 Before nominating the project or activity of a qualified business
 2-53 for designation as an enterprise project, the nominating body must
 2-54 submit to the bank:

2-55 (1) a certified copy of the ordinance or order, as
 2-56 appropriate, or reference to an ordinance or order as required
 2-57 by Section 2303.4051;

2-58 (2) a certified copy of the minutes [~~transcript~~] of
 2-59 all public hearings conducted with respect to local incentives
 2-60 available to qualified businesses within the jurisdiction of the
 2-61 governmental entity nominating the project or activity, regardless
 2-62 of whether those businesses are located in an enterprise zone;

2-63 (3) the name, title, address, telephone number, and
 2-64 electronic mail address of the nominating body's liaison designated
 2-65 under Section 2303.204;

2-66 (4) if the business is seeking job retention benefits,
 2-67 documentation showing the number of employment positions at the
 2-68 qualified business site; [~~and~~]

2-69 (5) any interlocal agreement required under Section

3-1 2303.004(c) that states:

3-2 (A) which governing body has the administration
 3-3 authority under Section 2303.201; and

3-4 (B) that both the county in which the project or
 3-5 activity is located and the municipality in whose jurisdiction the
 3-6 project or activity is located approve the nomination of the
 3-7 project or activity; and

3-8 (6) any additional information the bank may require.

3-9 SECTION 6. Section 2303.406, Government Code, is amended by
 3-10 amending Subsections (b) and (e) and adding Subsection (d-1) to
 3-11 read as follows:

3-12 (b) ~~[This subsection does not apply to a qualified business~~
 3-13 ~~located in a federally designated zone, as described by Section~~
 3-14 ~~2303.101(2), which will receive priority designation in allocating~~
 3-15 ~~the number of enterprise projects allowed statewide per biennium as~~
 3-16 ~~provided by Section 2303.403.]~~ The bank shall designate qualified
 3-17 businesses as enterprise projects on a competitive basis. The bank
 3-18 shall make its designation decisions using a weighted scale in
 3-19 which:

3-20 (1) 40 percent of the evaluation depends on the
 3-21 economic distress of the block group or distressed county in which a
 3-22 proposed enterprise project is located;

3-23 (2) 25 percent of the evaluation depends on the local
 3-24 effort to achieve development and revitalization of the block group
 3-25 or distressed county in which a proposed enterprise project is
 3-26 located; and

3-27 (3) 35 percent of the evaluation depends on the
 3-28 evaluation criteria as determined by the bank, which must include:

3-29 (A) with respect to a proposed enterprise project
 3-30 located in a block group, the level of cooperation and support the
 3-31 project applicant commits to the revitalization goals of all of the
 3-32 enterprise zone block groups within the jurisdiction of the
 3-33 nominating governmental entity;

3-34 (B) with respect to a proposed enterprise project
 3-35 located in a distressed county, the level of cooperation and
 3-36 support the project applicant commits to the revitalization of the
 3-37 distressed county; and

3-38 (C) the type and wage level of the jobs to be
 3-39 created or retained by the business.

3-40 (d-1) An enterprise project designation may be split into
 3-41 two half designations. A half designation uses one-half of one of
 3-42 the enterprise project designations allowed to a nominating body
 3-43 under Subsection (d) and to the bank under Section 2303.403.

3-44 (e) The office may ~~not~~ not ~~[, during any biennium,]~~ designate
 3-45 multiple concurrent enterprise projects to a qualified business
 3-46 located at a qualified business site.

3-47 SECTION 7. Section 2303.407, Government Code, is amended by
 3-48 amending Subsections (b), (c), and (d) and adding Subsection (e) to
 3-49 read as follows:

3-50 (b) A capital investment in a project of:

3-51 (1) \$40,000 to \$399,999 will result in a refund of up
 3-52 to \$2,500 per job with a maximum refund of \$25,000 for the creation
 3-53 or retention of 10 jobs;

3-54 (2) \$400,000 to \$999,999 will result in a refund of up
 3-55 to \$2,500 per job with a maximum refund of \$62,500 for the creation
 3-56 or retention of 25 jobs;

3-57 (3) \$1,000,000 to \$4,999,999 will result in a refund
 3-58 of up to \$2,500 per job with a maximum refund of \$312,500 for the
 3-59 creation or retention of 125 jobs;

3-60 (4) \$5,000,000 or more ~~[to \$149,999,999]~~ will result
 3-61 in a refund of up to \$2,500 per job with a maximum refund of
 3-62 \$1,250,000 for the creation or retention of 500 jobs, except as
 3-63 provided by Subdivision (5) or (6);

3-64 (5) \$150,000,000 to \$249,999,999 will result in a
 3-65 refund of up to \$5,000 per new permanent job with a maximum refund
 3-66 of \$2,500,000 for the creation ~~[or retention]~~ of 500 new permanent
 3-67 jobs if the bank designates the project as a double jumbo enterprise
 3-68 project; or

3-69 (6) \$250,000,000 or more will result in a refund of up

4-1 to \$7,500 per new permanent job with a maximum refund of \$3,750,000
 4-2 for the creation [~~or retention~~] of at least 500 new permanent jobs
 4-3 if the bank designates the project as a triple jumbo enterprise
 4-4 project.

4-5 (c) An enterprise project for which a commitment for a
 4-6 capital investment in the range amount and the creation [~~or~~
 4-7 ~~retention~~] of the number of new permanent jobs specified by
 4-8 Subsection (b)(5) is made is considered a double jumbo enterprise
 4-9 project if the project is so designated by the bank.

4-10 (d) An enterprise project for which a commitment for a
 4-11 capital investment in the range amount and the creation [~~or~~
 4-12 ~~retention~~] of the number of new permanent jobs specified by
 4-13 Subsection (b)(6) is made is considered a triple jumbo enterprise
 4-14 project if the project is so designated by the bank.

4-15 (e) The maximum number of jobs that the bank may allocate to
 4-16 an enterprise project split into two half designations as provided
 4-17 by Section 2303.406(d-1) is 250.

4-18 SECTION 8. Section 2303.4071, Government Code, is amended
 4-19 by amending Subsection (a) and adding Subsection (e) to read as
 4-20 follows:

4-21 (a) In this section:
 4-22 (1) "Double [~~or~~ "double] jumbo enterprise project" and
 4-23 "triple jumbo enterprise project" have the meanings assigned by
 4-24 Section 2303.407.

4-25 (2) "Half enterprise project" means an enterprise
 4-26 project split into two half designations as provided by Section
 4-27 2303.406(d-1).

4-28 (e) A half enterprise project is eligible for a maximum
 4-29 refund not to exceed \$125,000 in each state fiscal year and is
 4-30 subject to the capital investment and job allocation requirements
 4-31 under Section 2303.407(b)(1), (2), or (3).

4-32 SECTION 9. Section 2303.504, Government Code, is amended to
 4-33 read as follows:

4-34 Sec. 2303.504. STATE TAX REFUNDS [~~AND CREDITS~~]; REPORT.

4-35 (a) Subject to Section 2303.516, an enterprise project is entitled
 4-36 to[+] to[+]

4-37 [(1)] a refund of state taxes under Section 151.429,
 4-38 Tax Code[+, and

4-39 [(2)] ~~a franchise tax credit under Subchapter Q-1,~~
 4-40 ~~Chapter 171, Tax Code].~~

4-41 (b) At the time of receipt of any tax benefit available as a
 4-42 result of participating in the enterprise zone program, including a
 4-43 state sales and use tax refund [~~or franchise tax credit~~], three
 4-44 percent of the amount of the tax benefit shall be transferred to the
 4-45 Texas economic development bank fund under Subchapter B, Chapter
 4-46 489, to defray the cost of administering this chapter.

4-47 (c) Not later than the 60th day after the last day of each
 4-48 fiscal year, the comptroller shall report to the bank the statewide
 4-49 total of actual jobs created, actual jobs retained, and the tax
 4-50 refunds [~~and credits~~] made under this section during that fiscal
 4-51 year.

4-52 SECTION 10. Section 2303.516(b), Government Code, is
 4-53 amended to read as follows:

4-54 (b) The comptroller may determine that the business or
 4-55 project is not entitled to a refund [~~or credit~~] of state taxes under
 4-56 Section 2303.504 if the comptroller finds that:

4-57 (1) the business or project is not willing to
 4-58 cooperate with the comptroller in providing the comptroller with
 4-59 the information the comptroller needs to determine the state
 4-60 benefits; or

4-61 (2) the business or project has substantially failed
 4-62 to follow through on any commitments made by it or on its behalf
 4-63 under this chapter.

4-64 SECTION 11. Section 151.429, Tax Code, is amended by
 4-65 amending Subsections (b) and (c) and adding Subsection (k) to read
 4-66 as follows:

4-67 (b) Subject to the limitations provided by Subsection (c) of
 4-68 this section, an enterprise project qualifies for a refund of taxes
 4-69 under this section based on the amount of capital investment made at

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

5-5 (1) \$40,000 to \$399,999 will result in a refund of up
 5-6 to \$2,500 per job with a maximum refund of \$25,000 for the creation
 5-7 or retention of 10 jobs;

5-8 (2) \$400,000 to \$999,999 will result in a refund of up
 5-9 to \$2,500 per job with a maximum refund of \$62,500 for the creation
 5-10 or retention of 25 jobs;

5-11 (3) \$1,000,000 to \$4,999,999 will result in a refund
 5-12 of up to \$2,500 per job with a maximum refund of \$312,500 for the
 5-13 creation or retention of 125 jobs;

5-14 (4) \$5,000,000 or more [~~to \$149,999,999~~] will result
 5-15 in a refund of up to \$2,500 per job with a maximum refund of
 5-16 \$1,250,000 for the creation or retention of 500 jobs, except as
 5-17 provided by Subdivision (5) or (6);

5-18 (5) \$150,000,000 to \$249,999,999 will result in a
 5-19 refund of up to \$5,000 per new permanent job with a maximum refund
 5-20 of \$2,500,000 for the creation [~~or retention~~] of 500 new permanent
 5-21 jobs if the Texas Economic Development Bank designates the project
 5-22 as a double jumbo enterprise project; or

5-23 (6) \$250,000,000 or more will result in a refund of up
 5-24 to \$7,500 per new permanent job with a maximum refund of \$3,750,000
 5-25 for the creation [~~or retention~~] of at least 500 new permanent jobs
 5-26 if the Texas Economic Development Bank designates the project as a
 5-27 triple jumbo enterprise project.

5-28 (c) The total amount of tax refund that an enterprise
 5-29 project may apply for in a state fiscal year may not exceed
 5-30 \$250,000, at not more than \$2,500 per job. The total amount of tax
 5-31 refund that a double jumbo enterprise project may apply for in a
 5-32 state fiscal year may not exceed \$500,000, at not more than \$5,000
 5-33 per new permanent job. The total amount of tax refund that a triple
 5-34 jumbo enterprise project may apply for in a state fiscal year may
 5-35 not exceed \$750,000, at not more than \$7,500 per new permanent job.
 5-36 If an enterprise project, double jumbo enterprise project, or
 5-37 triple jumbo enterprise project qualifies in a state fiscal year
 5-38 for a refund of taxes in an amount in excess of the applicable
 5-39 limitation provided by this subsection, it may apply for a refund of
 5-40 those taxes in a subsequent year, subject to the applicable
 5-41 limitation for each year. The total amount that may be refunded to:

5-42 (1) an enterprise project under this section may not
 5-43 exceed the amount determined by multiplying \$250,000 by the number
 5-44 of state fiscal years during which the enterprise project created
 5-45 or retained one or more jobs for qualified employees;

5-46 (2) a double jumbo enterprise project under this
 5-47 section may not exceed the amount determined by multiplying
 5-48 \$500,000 by the number of state fiscal years during which the double
 5-49 jumbo enterprise project created [~~or retained~~] one or more new
 5-50 permanent jobs for qualified employees; or

5-51 (3) a triple jumbo enterprise project under this
 5-52 section may not exceed the amount determined by multiplying
 5-53 \$750,000 by the number of state fiscal years during which the triple
 5-54 jumbo enterprise project created [~~or retained~~] one or more new
 5-55 permanent jobs for qualified employees.

5-56 (k) A half enterprise project is eligible for a maximum
 5-57 refund not to exceed \$125,000 in each state fiscal year and is
 5-58 subject to the capital investment and job allocation requirements
 5-59 under Subsection (b)(1), (2), or (3).

5-60 SECTION 12. Section 151.429(e), Tax Code, is amended by
 5-61 adding Subdivision (6) to read as follows:

5-62 (6) "Half enterprise project" means an enterprise
 5-63 project split into two half designations as provided by Section
 5-64 2303.406(d-1), Government Code.

5-65 SECTION 13. Section 2303.109(b), Government Code, is
 5-66 repealed.

5-67 SECTION 14. (a) The changes in law made by this Act to
 5-68 Section 2303.402(a), Government Code, apply only to an application
 5-69 for a designation of an enterprise project under the enterprise

6-1 zone program under Chapter 2303, Government Code, as amended by
6-2 this Act, filed on or after the effective date of this Act. An
6-3 application for designation of an enterprise project under the
6-4 enterprise zone program filed before the effective date of this Act
6-5 is governed by the law in effect on the date the application was
6-6 filed, and the former law is continued in effect for that purpose.

6-7 (b) The changes in law made by this Act to Section 2303.407,
6-8 Government Code, and Section 151.429, Tax Code, apply only to an
6-9 enterprise project designation made on or after the effective date
6-10 of this Act. An enterprise project designation made before the
6-11 effective date of this Act is governed by the law in effect when the
6-12 designation was made, and the former law is continued in effect for
6-13 that purpose.

6-14 SECTION 15. This Act takes effect September 1, 2015.

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