

By: Walle

H.B. No. 4247

A BILL TO BE ENTITLED

1 AN ACT
2 relating to franchise tax credits for small businesses that create
3 quality jobs.

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

5 SECTION 1. Chapter 171, Tax Code, is amended by adding
6 Subchapter P-1 to read as follows:

7 SUBCHAPTER P-1. TAX CREDITS FOR SMALL BUSINESSES FOR CREATION OF
8 QUALITY JOBS

9 Sec. 171.821. DEFINITIONS. In this subchapter:

10 (1) "Estimated direct state benefits" means the tax
11 revenues projected by the comptroller to accrue to this state as a
12 result of the creation of qualifying new direct jobs by a qualified
13 small business.

14 (2) "Estimated direct state cost" means the cost to
15 this state that the comptroller projects will result because of the
16 creation of qualifying new direct jobs by a qualified small
17 business, including:

18 (A) the cost of educating the children of new
19 state residents;

20 (B) the cost of public health, public safety, and
21 transportation services provided to new state residents;

22 (C) the cost of other state services provided to
23 new state residents; and

24 (D) the cost of providing additional state

1 services to existing state residents.

2 (3) "Estimated net direct state benefits" means the
3 estimated direct state benefits minus the estimated direct state
4 cost as determined by the comptroller.

5 (4) "Full-time employment" means employment of a
6 person residing in this state and working for at least 30 hours a
7 week in this state for more than six months during any 12-month
8 period.

9 (5) "Gross taxable payroll" means wages for new direct
10 jobs that are subject to federal income taxation.

11 (6) "Group health benefit plan" means:

12 (A) a health plan provided by a health
13 maintenance organization established under Chapter 843, Insurance
14 Code;

15 (B) a health benefit plan approved by the
16 commissioner of insurance; or

17 (C) a self-funded or self-insured employee
18 welfare benefit plan that provides health benefits and is
19 established in accordance with the Employee Retirement Income
20 Security Act of 1974 (29 U.S.C. Section 1001 et seq.).

21 (7) "Manufacturing" means being primarily engaged in
22 activities described in industry sectors 31, 32, and 33 of the 2017
23 North American Industry Classification System.

24 (8) "Net benefit rate" means the estimated net direct
25 state benefits computed as a percentage of gross taxable payroll as
26 determined by the comptroller.

27 (9) "New direct job" means full-time employment that

1 did not exist in this state preceding the first day of the period on
2 which margin is based. A job is considered to exist in this state
3 preceding the first day of the period on which margin is based if
4 the activities and functions for which the particular job exists
5 had been ongoing at any time during the six-month period preceding
6 that date.

7 (10) "Qualified small business" means a business
8 primarily engaged in manufacturing that:

9 (A) has not more than 90 full-time employees on
10 the date preceding the first day of the period on which margin is
11 based or had an average of not more than 90 full-time employees
12 during the year preceding the first day of the period on which
13 margin is based; and

14 (B) creates the applicable number of qualifying
15 new direct jobs required by Section 171.823 during the period on
16 which margin is based.

17 (11) "Qualifying new direct job" means a new direct
18 job:

19 (A) that pays an annual wage in an amount not less
20 than the wage prescribed by Section 171.822; and

21 (B) for which the qualified small business offers
22 a group health benefit plan.

23 Sec. 171.822. WAGE REQUIREMENTS FOR QUALIFYING NEW DIRECT
24 JOB. (a) A qualifying new direct job must pay an average
25 annualized wage that equals or exceeds:

26 (1) 110 percent of the county average wage paid to
27 employees of small businesses located in the county in which the

1 qualifying new direct job is located, as computed by the Texas
2 Workforce Commission, at the time the qualifying new direct job is
3 created if the cost to the qualified small business of providing a
4 health benefit plan for each person hired for a qualifying new
5 direct job is not included; or

6 (2) 125 percent of the county average wage paid to
7 employees of small businesses located in the county in which the
8 qualifying new direct job is located, as computed by the Texas
9 Workforce Commission, at the time the qualifying new direct job is
10 created if the cost to the qualified small business of providing a
11 health benefit plan for each person hired for a qualifying new
12 direct job is included.

13 (b) Notwithstanding Subsection (a), a qualifying new direct
14 job is required to pay only an amount that equals or exceeds 100
15 percent of the county average wage paid to employees of small
16 businesses located in the county in which the qualifying new direct
17 job is located, as computed by the Texas Workforce Commission, at
18 the time the qualifying new direct job is created if the qualifying
19 new direct job is located in a county that:

20 (1) has an unemployment rate that is more than 10
21 percent higher than the state unemployment rate; and

22 (2) has a county personal poverty rate of more than 15
23 percent according to the most recent data from the United States
24 Census Bureau.

25 Sec. 171.823. ELIGIBILITY. A taxable entity that is a
26 qualified small business is eligible for a credit against the tax
27 imposed under this chapter if the taxable entity, during the period

1 on which margin is based, creates at least:

2 (1) five qualifying new direct jobs if:

3 (A) the qualifying new direct jobs are located in
4 a municipality with a population of less than 3,500; or

5 (B) the qualifying new direct jobs are located in
6 an unincorporated area and the largest municipality within 20 miles
7 of that location is a municipality described by Paragraph (A);

8 (2) 10 qualifying new direct jobs if:

9 (A) the qualifying new direct jobs are located in
10 a municipality with a population of at least 3,500 but less than
11 7,000; or

12 (B) the qualifying new direct jobs are located in
13 an unincorporated area and the largest municipality within 20 miles
14 of that location is a municipality described by Paragraph (A); or

15 (3) 15 qualifying new direct jobs if:

16 (A) the qualifying new direct jobs are located in
17 a municipality with a population of at least 7,000; or

18 (B) the qualifying new direct jobs are located in
19 an unincorporated area and the largest municipality within 20 miles
20 of that location is a municipality described by Paragraph (A).

21 Sec. 171.824. AMOUNT OF CREDIT. (a) A taxable entity is
22 entitled to a credit equal to the taxable entity's annual gross
23 taxable payroll for qualifying new direct jobs created during the
24 reporting period multiplied by the lesser of five percent or the net
25 benefit rate.

26 (b) The comptroller shall compute a taxable entity's net
27 benefit rate and provide that rate to the taxable entity on request.

1 Sec. 171.825. LIMITATIONS. The total credit claimed under
2 this subchapter for a report, including the amount of any credit
3 carryforward under Section 171.826, may not exceed the amount of
4 franchise tax due for the report before any other applicable tax
5 credits.

6 Sec. 171.826. CARRYFORWARD. (a) If a taxable entity is
7 eligible for a credit that exceeds the limitations under Section
8 171.825, the taxable entity may carry the unused credit forward for
9 not more than seven consecutive reports.

10 (b) A credit carryforward is considered the remaining
11 portion of an installment that cannot be claimed in the current year
12 because of a limitation under Section 171.825. A credit
13 carryforward is added to the next year's installment of the credit
14 in determining the limitation for that year. A credit carryforward
15 from a previous report is considered to be used before the current
16 year installment.

17 Sec. 171.827. CERTIFICATION OF ELIGIBILITY. (a) For each
18 report on which a credit is claimed under this subchapter, the
19 taxable entity shall file with its report, on a form provided by the
20 comptroller, information that sufficiently demonstrates that the
21 taxable entity is eligible for the credit.

22 (b) The burden of establishing entitlement to and the value
23 of the credit is on the taxable entity.

24 Sec. 171.828. ASSIGNMENT PROHIBITED. A taxable entity may
25 not convey, assign, or transfer the credit allowed under this
26 subchapter to another entity unless all of the assets of the taxable
27 entity are conveyed, assigned, or transferred in the same

1 transaction.

2 Sec. 171.829. BIENNIAL REPORT BY COMPTROLLER. (a) Before
3 the beginning of each regular session of the legislature, the
4 comptroller shall submit to the governor, the lieutenant governor,
5 and the speaker of the house of representatives a report that
6 states:

7 (1) the total number of jobs created by taxable
8 entities that claim a credit under this subchapter and the average
9 and median annual wage of those jobs; and

10 (2) a fiscal analysis of the costs and benefits of this
11 subchapter to this state.

12 (b) The comptroller may not include in the report
13 information that is confidential by law.

14 (c) The comptroller shall provide notice to the members of
15 the legislature that the report required under this section is
16 available on request.

17 Sec. 171.830. COMPTROLLER POWERS AND DUTIES. The
18 comptroller shall adopt rules and forms necessary to implement this
19 subchapter.

20 SECTION 2. This Act applies only to a report originally due
21 on or after the effective date of this Act.

22 SECTION 3. This Act takes effect January 1, 2018.