

BILL ANALYSIS

H.B. 983
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Ways & Means
Committee Report (Unamended)

BACKGROUND AND PURPOSE

It has been noted that the state has previously encouraged economic development in high-employment, low-wage areas, known as "enterprise zones," by offering both a sales tax refund on qualifying purchases and a franchise tax credit to businesses that would create jobs and invest capital in these zones. Although the sales tax refund remains, the franchise tax credit has expired. There have been calls to reestablish the franchise tax in order to incentivize job creation and increase investments in the manufacturing sector in these zones. H.B. 983 seeks to do so.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 1 of this bill.

ANALYSIS

H.B. 983 amends the Tax Code to establish a franchise tax credit for enterprise projects for certain capital investments. The bill makes a person designated as an enterprise project under the Texas Enterprise Zone Act on or after September 1, 2003, who is certified as a qualified business under that act eligible for a franchise tax credit and authorizes such an enterprise project to establish, beginning on January 1 of the year in which the project is designated or January 1, 2015, the credit in an amount equal to 7.5 percent of a qualified capital investment, defined by the bill as certain tangible personal property first placed in service by an enterprise project after January 1, 2015, including property that is leased under a capitalized lease, but excluding the following:

- any real property or buildings or their structural components;
- any property that is leased under an operating lease; and
- certain property expensed under the federal Internal Revenue Code as a Section 179 depreciation deduction.

H.B. 983 caps the total credit claimed under the bill's provisions for a report, including the amount of any carryforward, at 50 percent of the amount of franchise tax due for the report before any other applicable tax credits. The bill authorizes an enterprise project eligible for a credit from an installment that exceeds that limitation to carry the unused credit forward for not more than five consecutive reports. A carryforward is considered to be the remaining portion of an installment that cannot be claimed in the current year because of the limitation on the amount of credit claimed and is added to the next year's installment of the credit in determining the

limitation for that year. A credit carryforward from a previous report is considered to be used before the current year installment.

H.B. 983 requires an enterprise project, for the initial and each succeeding report in which a franchise tax credit is claimed under the bill's provisions, to file with its report, on a form provided by the comptroller of public accounts, information that sufficiently demonstrates that the enterprise project is eligible for the credit and places the burden of establishing entitlement to and the value of the credit on the enterprise project. The bill authorizes an enterprise project to file an amended report to claim all or part of a credit earned in a previous tax year that has not been claimed on another report, subject to the limitation on the total credit claimed, if the applicable period of limitation for claiming that credit has not expired.

H.B. 983 requires the comptroller, before the beginning of each regular session of the legislature, to submit to the governor, the lieutenant governor, and the speaker of the house of representatives a report containing specified information about the franchise tax credits established under the bill's provisions and prohibits the comptroller from including in the biennial report information that is confidential by law. The bill authorizes the comptroller to require an enterprise project that claims the credit to submit information, on a form provided by the comptroller, on the location of the enterprise project's capital investment in Texas and any other required information necessary to complete the biennial report. The bill requires the comptroller to provide notice to the members of the legislature that the biennial report is available on request.

H.B. 983 requires the comptroller to adopt rules and forms necessary to implement the bill's provisions. The bill applies only to a report originally due on or after the effective date of the bill except as provided by the bill provision relating to certain amended reports.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2019.