

BILL ANALYSIS

C.S.H.B. 2397
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Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There are suggestions that federal legislation establishing economic opportunity zones, which at the federal level provide a tax incentive for investing in those zones, could serve as a potential model for Texas in its effort to ensure that the areas of the state that are most in need of economic development receive adequate investment. C.S.H.B. 2397 seeks to provide franchise tax credits for qualifying investments made in an area designated as an economic opportunity zone under that federal law.

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

C.S.H.B. 2397 amends the Tax Code to make a taxable entity that makes a qualifying investment on or after September 1, 2019, and in a total amount that is at least \$100,000 eligible for a franchise tax credit in an amount equal to 25 percent of the total amount of the qualifying investment. The bill defines "qualifying investment" as an investment made by a taxable entity:

- to remodel, rehabilitate, or construct a structure owned or leased by the entity that is located in an economic opportunity zone, defined by the bill as a population census tract in Texas that, as of September 1, 2019, was designated as a qualified opportunity zone under federal law;
- to purchase equipment or machinery to be located in, or used in the operation of, a structure owned or leased by the entity that is located in such an economic opportunity zone; or
- for one or more of those purposes.

C.S.H.B. 2397 sets out requirements for a taxable entity in requesting certification by the comptroller of public accounts that the entity qualifies for the franchise tax credit, provides for the comptroller's issuance of the certificate of eligibility, and sets out provisions relating to the application for the credit. The bill prohibits a taxable entity from claiming more than one credit. The bill limits the total credit claimed for a report at the amount of franchise tax due for the report after all other applicable tax credits.

C.S.H.B. 2397 establishes that a qualifying investment may be counted only once in determining the amount of the tax credit available and prohibits more than one taxable entity from claiming a

credit for the same qualifying investment. The bill requires the comptroller to adopt rules necessary to implement and administer the bill's provisions.

EFFECTIVE DATE

January 1, 2020.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2397 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not include provisions providing for a one-time sales and use tax refund for qualifying business entities that are eligible to receive a franchise tax credit under the bill's provisions for investment in an economic opportunity zone.

The substitute clarifies that the bill's franchise tax credit is available only with respect to a taxable entity and that an applicable economic opportunity zone is one located in Texas. The substitute revises the definition of "qualifying investment" by including an investment made for one or more of the otherwise qualifying purposes.

The substitute does not include provisions providing for the sale, assignment, or carryforward of all or part of a franchise tax credit.

The substitute changes the type of document an entity is required to provide for purposes of obtaining the comptroller's certification of eligibility for the franchise tax credit from documentation certified by the entity's chief financial officer demonstrating certain information with respect to a qualifying investment to an audited cost report prepared by a certified public accountant that includes such information. The substitute specifies that the required information regarding the date on which the qualifying investment was made is information that includes the date on which each expenditure used to determine the total amount of the qualifying investment was made.