

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**March 19, 2019**

**TO:** Honorable Rafael Anchia, Chair, House Committee on International Relations & Economic Development

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
 Legislative Budget Board

**IN RE:** **HB390** by Blanco (Relating to defense economic readjustment zones.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB390, Committee Report 1st House, Substituted: a negative impact of (\$24,400,000) through the biennium ending August 31, 2021.

Additionally there would be a negative impact of (\$102,000,000) for the biennium ending August 31, 2023.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	\$0
2021	(\$24,400,000)
2022	(\$44,900,000)
2023	(\$66,300,000)
2024	(\$88,600,000)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>Property Tax Relief Fund</i> 304
2020	\$0	\$0
2021	(\$24,400,000)	(\$7,300,000)
2022	(\$44,900,000)	(\$13,400,000)
2023	(\$66,300,000)	(\$19,900,000)
2024	(\$88,600,000)	(\$26,600,000)

## **Fiscal Analysis**

The bill would amend Chapter 2310 of the Government Code and Section 151.4291 of the Tax Code relating to defense economic readjustment zones.

The bill would amend Section 2310.001 Subdivision (7) of the Government Code to define a readjustment zone as a municipality or county designated as a defense economic readjustment zone under this chapter.

The bill would amend Section 2310.001 of the Government Code by adding Subdivision (8) to define "Veteran" as it is defined in Section 2308.251 of the Government Code.

The bill would amend Section 2310.002 of the Government Code by adding subsections (b) and (c) to authorize the governing body of a county to apply to the bank for designation as a defense readjustment project a project or activity of a qualified business that is located within the jurisdiction of a municipality located in the county. Before applying to the bank for designation as a defense readjustment project, the county must enter into an interlocal agreement with the affected municipality. The interlocal agreement must specify that either the applying county or the municipality that has jurisdiction over the territory in which the project or activity described by Subsection (b) will be located is the governmental body having administration authority under Section 2310.201 and that both the applying county and municipality approve the application. For purposes of this subsection, a county during any biennium may use the maximum number of designations the county is permitted under Section 2310.306(e) within the territory described by this subsection.

The bill would amend Section 2310.051(b) of the Government Code to require the bank to establish the criteria and procedures for designating a defense readjustment project.

The bill would amend Section 2310.052(b) of the Government Code to make non-substantive changes to the information required in the annual report from the bank regarding the defense readjustment zone program, required by Section 489.107 of the Government Code.

The bill would amend Section 2310.101(a) of the Government Code to grant a municipality or county automatic qualification for designation as a readjustment zone if the municipality or county is a defense defense-dependent community as described by Section 2310.102 of the Government Code.

The bill would amend Section 2310.101(b) of the Government Code to state that a municipality or county designated as a readjustment zone under this section is not prohibited from having an area of the municipality or county also included in an enterprise zone designated under Chapter 2303.

The bill would amend Section 2310.102 of the Government Code to provide that a municipality or county is a defense-dependent community if it encompasses any part of a federally owned or operated military installation, facility, or mission that is functioning on May 19, 1997. The bill would also remove all other restricting qualifying criteria for a defense-dependent community from the Section.

The bill would amend Section 2310.109 of the Government Code to remove the seven-year maximum time limit and allow designation to remain in effect indefinitely so long as the municipality or county, as applicable, continues to qualify for designation as a readjustment zone under this chapter.

The bill would amend Section 2310.111 of the Government Code to authorize the bank to remove the designation of an area designated as a readjustment zone before September 1, 2019 if the area no longer meets the criteria for designation under this chapter, as this chapter existed on January 1, 2019. The bank also may remove designation by rule of the office adopted under this chapter before September 1, 2019 or if the bank determines the governing body of the readjustment zone has not complied with commitments made in the ordinance or order nominating the area as a readjustment zone before September 1, 2019.

The bill would amend Section 2310.201 of the Government Code, to authorize the governing body of a municipality or county to determine by interlocal agreement which entity would have administrative control over a readjustment project authorized by Section 2310.002(c) of the Government Code.

The bill would amend Section 2310.204(c) of the Government Code to make a non-substantive change to the bank's annual reporting requirement by a governing body with authority over a readjustment zone.

The bill would amend Section 2310.301 of the Government Code to define a retained job as one that existed with a qualified business on the 91st day before the date the business's project or activity is designated as a defense readjustment project; has provided and will continue to provide employment to a qualified employee of at least 1,820 hours annually. A retained job also must be or have been an employment position for the longer of the duration of the project's designation period; or three years after the expiration date of the claim period for receipt of a state benefit authorized by this chapter.

The bill would amend Section 2310.302(a) of the Government Code to add veterans to the category of persons that a business must employ to qualify for local benefits under this chapter.

Section 2310.303 would be amended to remove the limit on the number of projects that the bank may designate in a single readjustment zone.

The bill would amend Section 2310.305(b) of the Government Code to describe the requirements of the application for defense readjustment project designation including a tabular list of the classification titles and the number of jobs anticipated to be created or retained during the designation period. The business also would be required to provide the number of employment positions in existence at the qualified business site on the 91st day before the application deadline; and if the application is for a double or triple jumbo defense adjustment project, as defined by Section 2310.307, an indication of which level of designation is being sought.

The bill would amend Section 2310.306 of the Government Code to limit the maximum number of readjustment projects that the bank may designate for each readjustment zone during any biennium. If the readjustment zone is located in a municipality or county with a population of less than 250,000, the limit would be six projects. For a readjustment zone located in a municipality or county with a population of 250,000 or more, the limit would be nine projects.

The bill would amend Section 2310.307 of the Government Code to require the bank to allocate to a defense readjustment project the maximum number of new permanent jobs or retained jobs eligible. The decision must be based on the amount of capital investment made in the project, the project's designation level, and the refund per job with a maximum refund to a computation of a tax refund for the project.

A capital investment in a project of \$40,000 to \$399,999 will result in a refund of up to \$2,500 per

job with a maximum refund of \$25,000 for the creation or retention of 10 jobs. A capital investment in a project of \$400,000 to \$999,999 will result in a refund of up to \$2,500 per job with a maximum refund of \$62,500 for the creation or retention of 25 jobs. A capital investment in a project of \$1,000,000 to \$4,999,999 will result in a refund of up to \$2,500 per job with a maximum refund of \$312,500 for the creation or retention of 125 jobs. A capital investment in a project of \$5,000,000 or more will result in a refund of up to \$2,500 per job with a maximum refund of \$1,250,000 for the creation or retention of 500 jobs.

Larger projects would have different refund limits. Projects with capital investments of \$150,000,000 to \$249,999,999 will result in a refund of up to \$5,000 per new permanent job with a maximum refund of \$2,500,000 for the creation of 500 new permanent jobs if the bank designates the project as a double jumbo defense readjustment project.

Those projects with capital investments of \$250,000,000 or more will result in a refund of up to \$7,500 per new permanent job with a maximum refund of \$3,750,000 for the creation of at least 500 new permanent jobs if the bank designates the project as a triple jumbo defense readjustment project.

The bill would amend Subchapter E, Chapter 2310 of the Government Code by adding Section 2310.3071 to set maximum limits for tax refunds available to a defense readjustment project under this chapter. For defense readjustment projects the maximum refund would be \$250,000 per state fiscal year. Double jumbo defense readjustment projects would be eligible for refunds of not more than \$500,000 per state fiscal year. The maximum refund for eligible triple jumbo defense readjustment projects would be limited to \$750,000 per state fiscal year.

The bill would amend Section 2310.405(a) to authorize the governing body of a municipality designated as a readjustment zone under this chapter, through a program, to refund its local sales and use taxes paid by a qualified business on all taxable items purchased for use at the qualified business site related to the project or activity.

The bill would amend Section 2310.409 of the Government Code to grant more discretion to the governing body of a municipality or county that is the governing body of a readjustment zone to offer waivers of administrative rules orders or ordinances within a readjustment zone to promote economic development within the zone.

The bill would amend Section 151.4291 of the Tax Code by amending Subsections (a), (b), (c), and (e) and adding Subsection (i) to establish eligibility criteria for refund of all sales and use taxes paid on all taxable items purchased for use at the qualified business site related to the project or activity of a defense readjustment project.

The bill would amend Section 151.4291 of the Tax Code, by amending Subsection (b) to provide a schedule of refunds of sales taxes a business would be eligible to receive when an investment is made at a qualified business site. The amount of the sales and use tax refund must be based on the amount of capital investment made at the qualified business site, the project's designation level, and the refund per job with a maximum refund to be included in a computation of a tax refund for the project.

For a capital investment at the qualified business site of \$40,000 to \$399,999 a business would be eligible for a refund of up to \$2,500 per job with a maximum refund of \$25,000 for the creation or retention of 10 jobs.

For a capital investment at the qualified business site of \$400,000 to \$999,999 a business would

be eligible for a refund of up to \$2,500 per job with a maximum refund of \$62,500 for the creation or retention of 25 jobs.

For a capital investment at the qualified business site of \$1,000,000 to \$4,999,999 a business would be eligible for a refund of up to \$2,500 per job with a maximum refund of \$312,500 for the creation or retention of 125 jobs.

For a capital investment at the qualified business site of \$5,000,000 or more a business would be eligible for a refund of up to \$2,500 per job with a maximum refund of \$1,250,000 for the creation or retention of 500 jobs, except as provided by Subdivision (5) or (6).

For a capital investment at the qualified business site of \$150,000,000 to \$249,999,999 a business would be eligible for a refund of up to \$5,000 per new permanent job with a maximum refund of \$2,500,000 for the creation of 500 new permanent jobs if the Texas Economic Development Bank designates the project as a double jumbo defense readjustment project.

If the Texas Economic Development Bank designates the project as a triple jumbo defense readjustment project and the capital investment at the qualified business site of \$250,000,000 or more, a business would be eligible for a refund of up to \$7,500 per new permanent job with a maximum refund of \$3,750,000 for the creation of at least 500 new permanent jobs.

The bill would amend Section 151.4291 of the Tax Code, by amending Subsection (c) to establish maximum refunds that a defense readjustment project may apply for in a state fiscal year. The total amount of tax refund that a defense readjustment project may apply for in a state fiscal year may not exceed \$250,000, at not more than \$2,500 per job.

The total amount of tax refund that a double jumbo defense readjustment project may apply for in a state fiscal year may not exceed \$500,000, at not more than \$5,000 per new permanent job.

The total amount of tax refund that a triple jumbo defense readjustment project may apply for in a state fiscal year may not exceed \$750,000, at not more than \$7,500 per new permanent job.

If a defense readjustment project, double jumbo defense readjustment project, or triple jumbo defense readjustment project qualifies in a state fiscal year for a refund of taxes in an amount in excess of the applicable limitation provided by this subsection, it may apply for a refund of those taxes in a subsequent year, subject to the applicable limitation for each year.

The total amount that may be refunded to a defense readjustment project under this section may not exceed the amount determined by multiplying \$250,000 by the number of state fiscal years during which the defense readjustment project created or retained one or more jobs for qualified employees.

The total amount that may be refunded to a double jumbo defense readjustment project under this section may not exceed the amount determined by multiplying \$500,000 by the number of state fiscal years during which the double jumbo defense readjustment project created one or more new permanent joboyees.

The total amount that may be refunded to a triple jumbo defense readjustment project under this section may not exceed the amount determined by multiplying \$750,000 by the number of state fiscal years during which the triple jumbo defense readjustment project created one or more new permanent jobs for qualified employees.

The bill would amend Section 151.4291(e) by adding subsections (4) and (5) to define "retained job" as assigned by Section 2310.301, Government Code. "Double jumbo defense readjustment project" and "triple jumbo defense readjustment project" are defined as assigned by Section 2310.307, Government Code.

The bill would amend Section 151.4291 by adding subsection (i) to establish maximum eligible refunds in each state fiscal year for a double jumbo defense readjustment project and a triple jumbo defense readjustment project as \$500,000 and \$750,000, respectively.

The bill would repeal Sections 2310.001(4), 2310.053(d), 2310.103, 2310.104, 2310.105, 2310.106, 2310.107, 2310.108, 2310.110, and 2310.407 of the Government Code.

The bill would take effect September 1, 2019.

### **Methodology**

Readjustment zones would consist of the entire areas within the boundaries of eligible municipalities and counties. The only requirement for a municipality and a county to be a defense-dependent community, and therefore a readjustment zone, is that the jurisdiction encompass any part of a federally owned military installation, facility, or mission that is functioning on May 19, 1997. For purposes of this fiscal analysis, it is assumed that 19 municipalities and 21 counties which have been identified as encompassing a federally owned military installation would qualify as readjustment zones, eligible for up to 282 project designations per biennium. To allow for lags for program implementation and project designation, it is assumed that only 165 project designations would occur in the 2020-2021 biennium with state sales tax refunds paid in fiscal 2021. Of these, it is assumed that 154 would be defense readjustment projects subject to a maximum annual refund of \$250,000 each with average employment and investment amounts sufficient to exhaust half the maximum refund potential, nine would be double jumbo defense readjustment projects subject to a maximum annual refund of \$500,000 each with average employment and investment amounts sufficient to exhaust 80 percent of the maximum refund potential, and two would be a triple jumbo defense readjustment project subject to a maximum annual refund of \$750,000.

Additionally, franchise tax obligation of businesses with defense readjustment project designations would be reduced by exclusions of receipts from services performed in the zones from receipts from business done in the state under Section 2310.40(c) and Section 171.106(e), Tax Code. Franchise tax reductions, allocable to the property tax relief funds, are estimated proportionally to the sales tax refunds of the eligible projects.

State sales tax refunds and franchise tax reductions would escalate in subsequent biennia as the allowable allotments of biennial designations are more fully utilized.

### **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 300 Trusted Programs Within the Office of the Governor, 304 Comptroller of Public Accounts, 601 Department of Transportation

**LBB Staff:** WP, JSm, CLo, NV, AF, TG