

BILL ANALYSIS

H.B. 2246
By: Shine
State Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

An employee stock ownership plan is a retirement plan in which an employer contributes its stock to the plan for the benefit of the company's employees. These plans can also be used to finance mergers and acquisitions and are a proven opportunity to maximize economic opportunity for Texans by retaining businesses and the high-quality jobs they produce in Texas. It has been suggested that the state should do more to encourage the creation of employee stock ownership plans and make it easier for existing businesses to utilize these plans to their full potential. H.B. 2246 seeks to do so by establishing the employee ownership assistance office within the Texas Economic Development and Tourism Office, authorizing contracting preference to be given to certain corporations controlled by an employee stock ownership plan, and making it easier for certain entities to adopt such a plan.

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 this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 2246 amends the Business Organizations Code to establish that an employee stock ownership plan, as defined by the federal Internal Revenue Code of 1986, that is established by a professional corporation is an authorized person with respect to that corporation under the following conditions:

- all of the plan's voting trustees are professional individuals who are licensed to provide at least one category of the professional services described in the corporation's certificate of formation; and
- the ownership interests in the plan are not directly issued to any person other than such a professional individual or the plan trust.

H.B. 2246 amends the Government Code to establish the employee ownership assistance office within the Texas Economic Development and Tourism Office and to require the office to do the following:

- establish and administer for businesses in Texas an outreach and information dissemination program to foster increased awareness of employee stock ownership plans;
- establish and administer for those businesses a technical assistance program to assist them in determining the feasibility of establishing such a plan; and
- make available to those businesses information relating to obtaining assistance under those programs.

H.B. 2246 authorizes the comptroller of public accounts and all state agencies purchasing goods or services, if other considerations are equal, to give preference to a corporation domiciled in Texas in which a majority of the stock is held by an employee stock ownership plan. The bill classifies as a historically underutilized business (HUB) for purposes of state purchasing requirements such an employee-owned company in which 51 percent or more of the ownership interests in the company, including allocated shares of stock in the account of a plan participant of the company's employee stock ownership plan, are held by economically disadvantaged persons who have a proportionate interest and actively participate in the company's control, operation, and management, including as voting trustees of an employee stock ownership plan of the company.

H.B. 2246 establishes that a business that has been certified as a HUB on certain other grounds and that establishes an employee stock ownership plan that causes the business to lose status or eligibility for recertification as a HUB retains that status or eligibility for a period of not more than five years after the date the business establishes the plan. The bill requires the comptroller, in cooperation with each state agency subject to the planning and reporting requirements applicable to HUBs, to categorize each HUB included in certain required reports by whether the business qualifies as a HUB on the basis of being an employee-owned company that meets the requisite criteria.

H.B. 2246 amends the Local Government Code to authorize a municipality, county, or special district, in purchasing goods or services, to give preference to an employee-owned company domiciled in Texas if other considerations are equal.

EFFECTIVE DATE

September 1, 2021.