

BILL ANALYSIS

Senate Research Center

S.B. 678
By: Alvarado
Finance
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas small business owners have experienced significant delays in obtaining financial assistance that will allow them to keep their businesses open and workers employed during the novel coronavirus (COVID-19) pandemic. Specifically, federal disaster assistance programs were slow to roll out and subject to burdensome requirements that prevented small business owners from quickly obtaining desperately needed relief.

Additionally, sources of federal financial assistance, such as the Paycheck Protection Program, were quickly depleted because of high demand. In other cases, the federal government disbursed limited assistance to local governments that faced high demands for assistance. Congressional inaction severely delayed replenishing these funds. Moreover, the State of Texas lacks a dedicated financial assistance program to provide short-term loans to small businesses to enable them to recover from disaster. As a result, many small businesses were faced with imminent closure or untenable financial decisions.

Ultimately, issues with federal assistance and the lack of state resources threaten the viability of Texas small businesses during the COVID-19 pandemic and future disasters. This jeopardizes employment for thousands of hardworking Texans and undermines short-term and long-term prospects for economic recovery.

To address these concerns, S.B. 678 establishes the small business disaster revolving loan fund and program with the Office of the Comptroller of Public Accounts of the State of Texas (comptroller). This loan program provides short-term loans to small businesses affected by a disaster. The bill establishes the small business disaster revolving fund to support loans made by the program and directs the comptroller to implement an application, rules, and guidelines governing the fund, program, and loans made to small businesses through the program.

(Original Author's/Sponsor's Statement of Intent)

S.B. 678 amends current law relating to the creation of the small business disaster recovery loan program.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Economic Development and Tourism Office in SECTION 1 (Sections 481.602, 481.603, and 481.608, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 481, Government Code, by adding Subchapter CC, as follows:

SUBCHAPTER CC. SMALL BUSINESS DISASTER RECOVERY LOAN PROGRAM

Sec. 481.601. DEFINITIONS. Defines "disaster declaration," "fund," "small business," and "trust company."

Sec. 481.602. SMALL BUSINESS DISASTER RECOVERY LOAN PROGRAM. (a) Requires the Texas Economic Development and Tourism Office (office) by rule to

establish a loan program to use money from the small business disaster recovery revolving fund (fund) established under this subchapter to provide financial assistance to small businesses affected by a disaster.

(b) Authorizes the office to provide financial assistance from the fund only in the form of a loan to an eligible small business that is located in an area under a disaster declaration and during the period for which the disaster declaration is in effect.

(c) Requires the office to credit to the fund all principal and interest payments on a loan from the fund.

Sec. 481.603. ELIGIBILITY FOR LOAN. Requires the office by rule to establish the eligibility requirements for a loan to a small business under this subchapter. Sets forth certain eligibility requirements for small businesses.

Sec. 481.604. USES OF LOAN. Authorizes an eligible small business to only use a loan received under this subchapter to pay the small business's payroll costs, including costs related to the continuation of health care benefits for the small business's employees.

Sec. 481.605. APPLICATION FOR LOAN. Requires the office to develop and implement an application process for an eligible small business to receive a loan under this subchapter.

Sec. 481.606. SMALL BUSINESS DISASTER RECOVERY REVOLVING FUND. (a) Provides that the fund is a special fund outside the state treasury to be used by the office, without further legislative appropriation, for the purpose of providing financial assistance to small businesses in response to a disaster declaration as provided by this subchapter. Requires the office to administer the fund. Authorizes the office to establish separate accounts in the fund. Provides that the fund and the fund's accounts are kept and held by the Texas Treasury Safe Keeping Trust Company (trust company) in escrow and in trust for and in the name of the office. Provides that the office has legal title to money and investments in the fund until money is disbursed from the fund as provided by this subchapter and office rules.

(b) Authorizes money deposited to the credit of the fund to be used only as provided by this subchapter.

(c) Provides that the fund consists of certain money, proceeds, revenue, and earnings.

Sec. 481.607. MANAGEMENT AND INVESTMENT OF FUND. (a) Requires the trust company to hold and invest the fund, and any accounts established in the fund, for and in the name of the office, taking into account the purposes for which money in the fund is authorized to be used. Authorizes co-investment of the fund with the state treasury pool.

(b) Provides that the overall objective for the investment of the fund is to maintain sufficient liquidity to meet the needs of the fund while striving to preserve the purchasing power of the fund. Provides that it is the intent of the legislature that the fund remain available in perpetuity for the purposes of this subchapter.

(c) Provides that the trust company has any power necessary to accomplish the purposes of managing and investing the assets of the fund. Authorizes the trust company, in managing the assets of the fund, through procedures and subject to restrictions the trust company considers appropriate, to acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the fund then prevailing, taking into consideration the investment of all the assets of the fund rather than a single investment.

(d) Authorizes the trust company to recover the costs incurred in managing and investing the fund only from the earnings of the fund.

(e) Requires the trust company to annually report to the office with respect to the investment of the fund. Requires the trust company to contract with a certified public accountant to conduct an independent audit of the fund annually and to present the results of each annual audit to the office. Provides that this subsection does not affect the state auditor's authority to conduct an audit of the fund under Chapter 321 (State Auditor).

(f) Requires the trust company to adopt an investment policy that is appropriate for the fund. Requires the trust company to present the investment policy to the investment advisory board established under Section 404.028 (Investment Advisory Board). Requires the investment advisory board to submit to the trust company recommendations regarding the policy.

(g) Requires the office annually to provide to the trust company a forecast of the cash flows into and out of the fund. Requires the office to provide updates to the forecasts as appropriate to ensure that the trust company is able to achieve the objective specified by Subsection (b).

(h) Requires the trust company to disburse money from the fund as directed by the office.

Sec. 481.608. RULES. Requires the office to adopt rules necessary to implement this subchapter.

Sec. 481.609. REPORT. Requires the office, not later than December 1 of each even-numbered year, to prepare and submit to the governor, the lieutenant governor, and each member of the legislature a report that includes certain information.

SECTION 2. Requires the office and the trust company to implement a provision of this Act only if the legislature appropriates money specifically for that purpose. Provides that, if the legislature does not appropriate money specifically for that purpose, the office and the trust company are authorized, but are not required, to implement a provision of this Act using other appropriations that are available for that purpose.

SECTION 3. Effective date: September 1, 2021.