

BILL ANALYSIS

S.B. 678
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International Relations & Economic Development
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Texas small business owners have experienced significant delays in obtaining the financial assistance necessary for them to keep their businesses open and workers employed during the COVID-19 pandemic. Federal disaster assistance programs were slow to roll out and subject to burdensome requirements, and federal financial assistance sources were quickly depleted due to high demand. The state lacks its own dedicated financial assistance program to provide short-term loans to small businesses for disaster recovery purposes. Issues with federal assistance and the lack of state resources have threatened the viability of Texas small businesses during the pandemic and may threaten that viability again in future disasters. These issues jeopardize employment for thousands of hardworking Texans and undermine short-term and long-term prospects for economic recovery. S.B. 678 seeks to address these concerns by establishing the small business disaster recovery loan program and the small business disaster recovery revolving fund under the administration of the Texas Economic Development and Tourism Office.

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 Texas Economic Development and Tourism Office in SECTION 1 of this bill.

ANALYSIS

S.B. 678 amends the Government Code to require the Texas Economic Development and Tourism Office (TEDTO) by rule to establish a small business disaster recovery loan program to use money from the small business disaster recovery revolving fund established under the bill's provisions to provide financial assistance to small businesses affected by a disaster. The bill defines "small business" by reference as a corporation, partnership, sole proprietorship, or other legal entity that has the following characteristics:

- is domiciled in Texas or has at least 51 percent of its employees located in Texas;
- is formed to make a profit;
- is independently owned and operated; and
- employs fewer than 100 full-time employees.

S.B. 678 authorizes TEDTO to provide financial assistance from the fund only in the form of a loan to an eligible small business located in an area under a governor's disaster declaration and only during the period for which the disaster declaration is in effect. The bill requires TEDTO to credit to the fund all principal and interest payments on a loan from the fund.

S.B. 678 requires TEDTO by rule to establish the eligibility requirements for a loan to a small business, which must include the following criteria:

- the small business is in good standing under the laws of the state;
- the small business does not owe delinquent taxes to a taxing unit of the state;
- the small business has suffered physical damage or economic injury as a result of the event leading to the disaster declaration; and
- the small business has paid in full any previous loans received under the program.

S.B. 678 restricts the use of a loan by an eligible small business to the payment of the small business's payroll costs, including costs related to the continuation of health care benefits for the small business's employees. The bill requires TEDTO to develop and implement an application process for the loan.

S.B. 678 establishes the small business disaster recovery revolving fund as a special fund outside the state treasury to be used and administered by TEDTO, without further legislative appropriation, for the purpose established by the bill. The bill authorizes TEDTO to establish separate accounts in the fund and establishes that TEDTO has legal title to money and investments in the fund until that money is disbursed according to the bill's provisions and TEDTO rules. The bill sets out the fund's composition and provides for the following regarding its management:

- the duty of the Texas Treasury Safekeeping Trust Company to keep, hold, and invest the fund and its accounts for and in the name of TEDTO, taking the fund's purposes into account, and to disburse fund money as directed by TEDTO;
- the stated objective that the fund's investment maintain sufficient liquidity to meet the fund's needs while striving to preserve its purchasing power;
- legislative intent that the fund remain available in perpetuity for the bill's purposes;
- the powers of the trust company with respect to managing and investing the fund under a prudent investor standard;
- authority for the fund's co-investment with the state treasury pool;
- recovery by the trust company of applicable incurred costs only from fund earnings;
- provision by TEDTO to the trust company of annual cash flow forecasts;
- a required annual report by the trust company to TEDTO regarding the fund's investment;
- an annual independent audit of the fund; and
- adoption by the trust company of an investment policy.

S.B. 678 requires TEDTO to adopt rules necessary to implement the bill's provisions and, 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 the following:

- the fund's balance as of the reporting date;
- the total dollar amount of disbursements from the fund during the preceding two-year period; and
- a general description of each small business for which an applicant was awarded a loan during that period.

Implementation of a provision of this bill by TEDTO and the trust company is mandatory only if a specific appropriation is made for that purpose.

EFFECTIVE DATE

September 1, 2021.