

BILL ANALYSIS

Senate Research Center
87R175 SRA-D

S.B. 683
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Finance
4/13/2021
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Defense Economic Readjustment Zone (DERZ) Program, created in 1997 by the 75th Texas Legislature, was designed to provide assistance to Texas communities, businesses, and workers impacted by, or vulnerable to, the closure or realignment of military installations and the reduction of federal defense contracting expenditures. However, the program has been hamstrung by statutory limitations, resulting in significant underutilization. It has been over 10 years since a new DERZ project has been submitted and approved.

By streamlining the designation process of a defense adjustment zone, S.B. 683 makes it easier for communities and businesses to participate in the program and incentivizes capital investment, job creation, and job retention in military communities. It creates a tiered incentive program, modeled after the highly successful Texas Enterprise Zone program, that awards higher sales and use tax rebates to larger projects with higher investment and higher job creation. S.B. 683 allows military communities to use DERZ before a finding that a military community is adversely affected. This Act will help keep Texas military installations competitive in any upcoming federal base realignment and closures, ensuring these communities can continue to be strong multi-billion-dollar economic engines for Texas.

As proposed, S.B. 683 amends current law relating to defense economic readjustment zones.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2310.001, Government Code, by amending Subdivision (7) and adding Subdivision (8), to redefine "readjustment zone" and define "veteran" for Chapter 2310 (Defense Economic Readjustment Zone).

SECTION 2. Amends Section 2310.002, Government Code, as follows:

Sec. 2310.002. JURISDICTION OF MUNICIPALITY. (a) Creates this subsection from existing text. Provides that for the purposes of Chapter 2310, territory in the extraterritorial jurisdiction of a municipality is considered to be in the jurisdiction of the municipality.

(b) Authorizes the governing body of a county, notwithstanding Subsection (a), to apply to the Texas Economic Development Bank (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.

(c) Requires the applying county, before a county makes an application as provided by Subsection (b), to enter into an interlocal agreement with the municipality that has jurisdiction of the territory in which the project or activity described by Subsection (b) will be located. Requires that the interlocal agreement specify that either the applying county or the municipality that has jurisdiction of

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. Authorizes a county during any biennium, for purposes of this subsection, to use the maximum number of designations the county is permitted under Section 2310.306(e) within the territory described by this subsection.

SECTION 3. Amends Section 2310.051(b), Government Code, as follows:

(b) Requires the bank to establish criteria and procedures for designating a defense readjustment project. Deletes existing text requiring the bank to establish criteria and procedures for designating a qualified area as a readjustment zone.

SECTION 4. Amends Section 2310.052(b), Government Code, as follows:

(b) Requires the bank to include the following information regarding the defense readjustment zone program in the report required by Section 489.107 (Annual Report):

- (1) an evaluation of the effectiveness of the readjustment zone program;
- (2) a description of the use of state and local incentives under this chapter and their effect on revenue; and
- (3) suggestions for legislation for the program, as appropriate.

Deletes existing text requiring the Texas Economic Development and Tourism Office (office), on or before December 1 of each year, to submit to the governor, the legislature, and the Legislative Budget Board a report with certain information. Makes nonsubstantive changes.

SECTION 5. Amends Section 2310.101, Government Code, as follows:

Sec. 2310.101. New heading: **READJUSTMENT ZONE DESIGNATION**. (a) Provides that a municipality or county automatically qualifies for designation as a readjustment zone if the municipality or county is a defense-dependent community as described by Section 2310.102. Deletes existing text specifying requirements for an area to be designated a readjustment zone.

(b) Provides that a municipality or county designated 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 (Enterprise Zones). Makes nonsubstantive changes.

SECTION 6. Amends Section 2310.102, Government Code, as follows:

Sec. 2310.102. New heading: **DEFENSE-DEPENDENT COMMUNITY**. Provides that a municipality or county is a defense-dependent community if, as applicable, the municipality or county encompasses any part of a federally owned or operated military installation, facility, or mission that is functioning on May 19, 1997. Deletes existing text defining requirements for a municipality or county to be considered an adversely affected defense-dependent community.

SECTION 7. Amends Section 2310.109, Government Code, as follows:

Sec. 2310.109. **PERIOD OF DESIGNATION**. Provides that a readjustment zone designation remains in effect indefinitely, rather than for a maximum of seven years, so long as the municipality or county, as applicable, continues to qualify for designation as a readjustment zone under this chapter. Deletes existing text providing that a readjustment zone designation remains in effect until September 1 of the final year of the designation.

SECTION 8. Amends Section 2310.111(a), Government Code, as follows:

(a) Authorizes the bank to remove the designation of an area designated as a readjustment zone before September 1, 2021, if:

(1) the area no longer meets the criteria for designation under this chapter, as this chapter existed on January 1, 2021, or by rule of the office adopted under this chapter before September 1, 2021; or

(2) the bank determines that 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, 2021.

SECTION 9. Amends, Section 2310.201, Government Code, as follows:

Sec. 2310.201. ADMINISTRATION BY GOVERNING BODY. (a) Creates this subsection from existing text. Provides that the governing body of a readjustment zone is the governing body of the municipality or county designated as a readjustment zone. Deletes existing text providing that the governing bodies of the combination of municipalities or counties that applied to have the area designated as a readjustment zone are the governing bodies of the readjustment zone.

(b) Provides that the governing body with administration authority over a defense readjustment project for which a designation is sought under Section 2310.002(c) is determined under the terms of an interlocal agreement required by that subsection.

SECTION 10. Amends Section 2310.204(c), Government Code, to delete existing text requiring that the report include for the year preceding the date of the report the use of local incentives for which the governing body provided in the ordinance or order nominating the readjustment zone.

SECTION 11. Amends Section 2310.301, Government Code, as follows:

Sec. 2310.301. New heading: DEFINITIONS. Defines "retained job" for Subchapter E (Qualified Businesses and Defense Readjustment Projects). Makes nonsubstantive changes.

SECTION 12. Amends Section 2310.302(a), Government Code, to provide that a person is a qualified business if the bank, for the purpose of state benefits under this chapter, or the governing body of a readjustment zone, for the purpose of local benefits, certifies that at least 25 percent of the person's new employees in the readjustment zone are certain categories of workers, including veterans. Makes nonsubstantive changes.

SECTION 13. Amends Section 2310.303, Government Code, to delete existing text prohibiting the bank from designating more than two defense readjustment projects in a single readjustment zone.

SECTION 14 Amends Section 2310.305(b), Government Code, as follows:

(b) Requires that an application:

(1) describe the procedures and efforts of the governmental entity or entities, rather than entities that applied to have the area designated as a readjustment zone, to facilitate and encourage participation by and negotiation among affected entities in the zone in which the qualified business is located;

(2) contain an economic analysis of the plans of the qualified business for expansion, revitalization, or other activity in the readjustment zone, including:

(A) the number of anticipated new permanent jobs the business will create during the designation period presented in the form of a tabular listing of the classification titles of those jobs, and the number of jobs and salary range for each classification title;

(B) the anticipated number of permanent jobs the business will retain during the designation period presented in the form of a tabular listing of the classification titles of those jobs and the number of jobs and salary range for each classification title;

(C) the amount of investment to be made in the zone;

(D) other information the bank requires;

(E) the number of employment positions in existence at the qualified business site on the 91st day before the application deadline; and

(F) 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; and

Makes nonsubstantive changes.

(3) describe the local effort made by the governmental entity or entities, rather than the governmental entity or entities that applied to have the area designated as a readjustment zone, the administrative authority, if one exists, the qualified business, and other affected entities to develop and revitalize the zone.

SECTION 15. Amends Section 2310.306, Government Code, by amending Subsection (a) and adding Subsection (e), as follows:

(a) Authorizes the bank to designate a qualified business as a defense readjustment project only if:

(1) - (3) makes conforming and nonsubstantive changes to these subdivisions; and

(4) the Comptroller of Public Accounts of the State of Texas determines that revenue to the state from the project will be greater than the sales and use tax refund to the qualified business under Section 151.4291 (Tax Refunds for Defense Readjustment Projects), Tax Code.

(e) Provides that the maximum number of defense readjustment projects that the bank is authorized to designate for each readjustment zone during any biennium is:

(1) six, if the readjustment zone is a municipality or county with a population of less than 250,000; or

(2) nine, if the readjustment zone is a municipality or county with a population of 250,000 or more.

SECTION 16. Amends Section 2310.307, Government Code, as follows:

Sec. 2310.307. ALLOCATION OF JOBS ELIGIBLE FOR TAX REFUND. (a) Creates this subsection from existing text. Requires the bank to allocate to a defense readjustment project the maximum number of new permanent jobs or retained jobs eligible 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 be included in a computation of a tax refund for the project. Makes conforming changes.

(b) Provides that a capital investment in a project of:

(1) \$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;

(2) \$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;

(3) \$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;

(4) \$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, except as provided by Subdivision (5) or (6);

(5) \$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; or

(6) \$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.

(c) Provides that a defense readjustment project for which a commitment for a capital investment in the range amount and the creation of the number of new permanent jobs specified by Subsection (b)(5) is made is considered a "double jumbo defense readjustment project" if the project is so designated by the bank.

(d) Provides that a defense readjustment project for which a commitment for a capital investment in the range amount and the creation of the number of new permanent jobs specified by Subsection (b)(6) is made is considered a "triple jumbo defense readjustment project" if the project is so designated by the bank. Deletes existing text prohibiting the number of jobs from exceeding 500 or a number equal to 110 percent of the number of anticipated new permanent jobs or retained jobs specified in the application for designation of the business as a defense readjustment project under Section 2310.305, whichever is less.

SECTION 17. Amends Subchapter E, Chapter 2310, Government Code, by adding Section 2310.3071, as follows:

Sec. 2310.3071. MAXIMUM TAX REFUND. (a) Defines "double jumbo defense readjustment project" and "triple jumbo defense readjustment project."

(b) Provides that a defense readjustment project is eligible for a maximum refund of \$250,000 in each state fiscal year.

(c) Provides that a double jumbo defense readjustment project is eligible for a maximum refund of \$500,000 in each state fiscal year.

(d) Provides that a triple jumbo defense readjustment project is eligible for a maximum refund of \$750,000 in each state fiscal year.

SECTION 18. Amends Section 2310.405(a), Government Code, as follows:

(a) Authorizes the governing body of a municipality designated as a readjustment zone under this chapter, to encourage economic development in the municipality, 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.

Deletes existing text specifying certain types of qualified expenses. Makes nonsubstantive changes.

SECTION 19. Amends Section 2310.409, Government Code, as follows:

Sec. 2310.409. OTHER LOCAL INCENTIVES. (a) Authorizes the governing body of a municipality or county that is the governing body of a readjustment zone to:

- (1) makes no changes to this subdivision;
- (2) amend the zoning ordinances of the municipality or county, as appropriate, to promote economic development in the zone; or
- (3) - (10) makes nonsubstantive changes to these subdivisions.

Deletes existing text authorizing the governing body of a municipality or county that is the governing body of a readjustment zone to give priority to the zone for the receipt of certain funds and to adopt and implement a plan for police protection in the zone.

(b) Makes a conforming change to this subsection.

SECTION 20. Amends Section 151.4291, Tax Code, by amending Subsections (a), (b), (c), and (e) and adding Subsection (i), as follows:

(a) Provides that a defense readjustment project is eligible for a refund in the amount provided by this section of the taxes imposed by this chapter on purchases of all taxable items purchased for use at the qualified business site related to the project or activity. Deletes existing text specifying the types of expenses for which a defense readjustment project is eligible for refund.

(b) Provides that subject to the limitations provided by Subsection (c), rather than of Section 151.4291 (Tax Refunds for Defense Readjustment Projects), a defense readjustment project qualifies for a refund of taxes under this section 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. Provides that a capital investment at the qualified business site of:

- (1) \$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;
- (2) \$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;
- (3) \$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;
- (4) \$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, except as provided by Subdivision (5) or (6);
- (5) \$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; or
- (6) \$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.

Deletes existing text specifying that a defense readjustment project qualifies for a refund under this section of \$2,500 for each new permanent job or job that has been retained by the defense readjustment project for a qualified employee.

(c) Provides that the total amount of tax refund that a defense readjustment project is authorized to apply for in a state fiscal year is prohibited from exceeding \$250,000, at not more than \$2,500 per job. Provides that the total amount of tax refund that a double jumbo defense readjustment project is authorized to apply for in a state fiscal year is prohibited from exceeding \$500,000, at not more than \$5,000 per new permanent job. Provides that the total amount of tax refund that a triple jumbo defense readjustment project is authorized to apply for in a state fiscal year is prohibited from exceeding \$750,000, at not more than \$7,500 per new permanent job. Authorizes a defense readjustment project, double jumbo defense readjustment project, or triple jumbo defense readjustment project that qualifies in a state fiscal year for a refund of taxes in an amount in excess of the applicable limitation provided by this subsection to apply for a refund of those taxes in a subsequent year, subject to the applicable limitation for each year. Provides that the total amount authorized to be refunded to:

(1) a defense readjustment project under this section is prohibited from exceeding 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;

(2) a double jumbo defense readjustment project under this section is prohibited from exceeding 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 jobs for qualified employees; or

(3) a triple jumbo defense readjustment project under this section is prohibited from exceeding 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.

Deletes existing text authorizing a defense readjustment project that qualifies in a state fiscal year for a refund of taxes in an amount in excess of the limitation provided by this subsection to apply for a refund in a subsequent year under certain conditions.

(e) Defines "retained job," "double jumbo defense readjustment project," and "triple jumbo defense readjustment project."

(i) Provides that, as provided by Subsection (c), a double jumbo defense readjustment project is eligible for a maximum refund of \$500,000 and a triple jumbo defense readjustment project is eligible for a maximum refund of \$750,000 in each state fiscal year.

SECTION 21. Repealer: Section 2310.001(4) (relating to the definition of "nominating body"), Government Code.

Repealer: Section 2310.053(d) (relating to the requirement of the bank to offer technical assistance relating to tax abatement and development of alternative revenue sources), Government Code.

Repealer: Section 2310.103 (Nomination of Readjustment Zone), Government Code.

Repealer: Section 2310.104 (Nominating Ordinance or Order), Government Code.

Repealer: Section 2310.105 (Application for Designation), Government Code.

Repealer: Section 2310.106 (Review of Application), Government Code.

Repealer: Section 2310.107 (Designation Agreement), Government Code.

Repealer: Section 2310.108 (Denial of Application; Notice), Government Code.

Repealer: Section 2310.110 (Amending Boundaries), Government Code.

Repealer: Section 2310.407 (Tax Increment Financing and Abatement), Government Code.

SECTION 22. Makes application of Chapter 2310, Government Code, as amended by this Act, prospective.

SECTION 23. Makes application of Section 151.4291, Tax Code, as amended by this Act, prospective.

SECTION 24. Effective date: September 1, 2021.