

By: Shine

H.B. No. 2246

A BILL TO BE ENTITLED

AN ACT

relating to companies in which employees have ownership interests through employee stock ownership plans.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 301.004, Business Organizations Code, is amended to read as follows:

Sec. 301.004. AUTHORIZED PERSON. For purposes of this title, a person is an authorized person with respect to:

(1) a professional association if the person is a professional individual; ~~and~~

(2) a ~~[professional corporation or a]~~ professional limited liability company if the person is a professional individual or professional organization; and

(3) a professional corporation if the person is:

(A) a professional individual;

(B) a professional organization; or

(C) an employee stock ownership plan, as described by Section 303.0015, established by the corporation.

SECTION 2. Chapter 303, Business Organizations Code, is amended by adding Section 303.0015 to read as follows:

Sec. 303.0015. AUTHORIZED PERSON. For purposes of this chapter, an employee stock ownership plan, as defined by Section 4975(e) of the Internal Revenue Code of 1986, established by a professional corporation, is an authorized person if:

1 (1) all of the voting trustees of the plan are
2 professional individuals who are licensed to provide at least one
3 category of the professional services described in the
4 corporation's certificate of formation; and

5 (2) the ownership interests in the plan are not
6 directly issued to any person other than the plan trust or a
7 professional individual licensed to provide at least one category
8 of the professional services described in the corporation's
9 certificate of formation.

10 SECTION 3. Chapter 481, Government Code, is amended by
11 adding Subchapter CC to read as follows:

12 SUBCHAPTER CC. EMPLOYEE OWNERSHIP ASSISTANCE OFFICE

13 Sec. 481.451. ESTABLISHMENT OF EMPLOYEE OWNERSHIP
14 ASSISTANCE OFFICE. The employee ownership assistance office is an
15 office within the Texas Economic Development and Tourism Office.

16 Sec. 481.452. DUTIES. (a) The employee ownership
17 assistance office shall establish and administer for businesses in
18 this state:

19 (1) an outreach and information dissemination program
20 to foster increased awareness of employee stock ownership plans;
21 and

22 (2) a technical assistance program to assist
23 businesses in determining the feasibility of establishing an
24 employee stock ownership plan.

25 (b) The employee ownership assistance office shall make
26 available to businesses in this state information relating to
27 obtaining assistance under the programs established under

1 Subsection (a).

2 SECTION 4. Subchapter H, Chapter 2155, Government Code, is
3 amended by adding Section 2155.454 to read as follows:

4 Sec. 2155.454. PREFERENCE TO TEXAS EMPLOYEE-OWNED
5 COMPANIES. (a) In this section, "employee-owned company" means a
6 corporation in which a majority of the stock is held by an employee
7 stock ownership plan, as defined by Section 4975(e), Internal
8 Revenue Code of 1986.

9 (b) The comptroller and all state agencies purchasing goods
10 or services may give preference to an employee-owned company
11 domiciled in this state if other considerations are equal.

12 SECTION 5. Section 2161.001, Government Code, is amended by
13 amending Subdivision (2) and adding Subdivisions (3-a) and (3-b) to
14 read as follows:

15 (2) "Historically underutilized business" means an
16 entity with its principal place of business in this state that is:

17 (A) a corporation formed for the purpose of
18 making a profit in which 51 percent or more of all classes of the
19 shares of stock or other equitable securities are owned by one or
20 more economically disadvantaged persons who have a proportionate
21 interest and actively participate in the corporation's control,
22 operation, and management;

23 (B) a sole proprietorship created for the purpose
24 of making a profit that is completely owned, operated, and
25 controlled by an economically disadvantaged person;

26 (C) a partnership formed for the purpose of
27 making a profit in which 51 percent or more of the assets and

1 interest in the partnership are owned by one or more economically
2 disadvantaged persons who have a proportionate interest and
3 actively participate in the partnership's control, operation, and
4 management;

5 (D) a joint venture in which each entity in the
6 venture is a historically underutilized business, as determined
7 under another paragraph of this subdivision; ~~[or]~~

8 (E) a supplier contract between a historically
9 underutilized business as determined under another paragraph of
10 this subdivision and a prime contractor under which the
11 historically underutilized business is directly involved in the
12 manufacture or distribution of the goods or otherwise warehouses
13 and ships the goods; or

14 (F) an employee-owned company in which 51 percent
15 or more of the ownership interests in the company, including
16 interests determined under Section 2161.0013, are held by
17 economically disadvantaged persons who have a proportionate
18 interest and actively participate in the company's control,
19 operation, and management, including as voting trustees of an
20 employee stock ownership plan of the company.

21 (3-a) "Employee-owned company" has the meaning
22 assigned by Section 2155.454.

23 (3-b) "Employee stock ownership plan" has the meaning
24 assigned by Section 4975(e), Internal Revenue Code of 1986.

25 SECTION 6. Subchapter A, Chapter 2161, Government Code, is
26 amended by adding Section 2161.0013 to read as follows:

27 Sec. 2161.0013. DETERMINING OWNERSHIP INTEREST IN

1 EMPLOYEE-OWNED COMPANY. For purposes of determining the ownership
2 interests in an employee-owned company, the allocated shares of
3 stock in the account of a plan participant of an employee stock
4 ownership plan of the company are considered to be owned by the plan
5 participant.

6 SECTION 7. Subchapter B, Chapter 2161, Government Code, is
7 amended by adding Section 2161.0611 to read as follows:

8 Sec. 2161.0611. RETENTION OF STATUS AS HISTORICALLY
9 UNDERUTILIZED BUSINESS. If a business described by Section
10 2161.001(2)(A), (B), (C), or (D) is certified as a historically
11 underutilized business and the business establishes an employee
12 stock ownership plan that causes the business to lose status as a
13 historically underutilized business or eligibility for
14 recertification as a historically underutilized business, the
15 business retains that status or eligibility for a period of not more
16 than five years after the date the business establishes the plan.

17 SECTION 8. Section 2161.125, Government Code, is amended to
18 read as follows:

19 Sec. 2161.125. CATEGORIZATION OF HISTORICALLY
20 UNDERUTILIZED BUSINESSES. The comptroller, in cooperation with
21 each state agency reporting under this subchapter, shall categorize
22 each historically underutilized business included in a report under
23 this subchapter by:

24 (1) sex, race, and ethnicity; and

25 (2) [by] whether the business qualifies as a
26 historically underutilized business;

27 (A) because it is owned or owned, operated, and

1 controlled, as applicable, wholly or partly by one or more veterans
2 as defined by 38 U.S.C. Section 101(2) who have suffered at least a
3 20 percent service-connected disability as defined by 38 U.S.C.
4 Section 101(16); or

5 (B) under Section 2161.001(2)(F).

6 SECTION 9. Subchapter Z, Chapter 271, Local Government
7 Code, is amended by adding Section 271.909 to read as follows:

8 Sec. 271.909. PREFERENCE TO TEXAS EMPLOYEE-OWNED
9 COMPANIES. (a) In this section:

10 (1) "Employee-owned company" has the meaning assigned
11 by Section 2155.454, Government Code.

12 (2) "Local government" means a municipality, a county,
13 or a special district.

14 (b) In purchasing goods or services, a local government may
15 give preference to an employee-owned company domiciled in this
16 state if other considerations are equal.

17 SECTION 10. This Act takes effect September 1, 2021.