

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 21, 2021

TO: Honorable Angie Chen Button, Chair, House Committee on International Relations & Economic Development

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB2964 by Thierry (Relating to certain requirements for a qualified business or enterprise project under the enterprise zone program and to the definition of qualified employee for purposes of the program.), **As Introduced**

Provisions of the bill expanding the definition of a qualified employee would increase the number of qualified employees counted in the determination of refund claims and could increase the amount of refunds paid an indeterminate amount.

Provisions of the bill redefining new permanent jobs and retained jobs to mean any employment position regardless of job function could result in refund claims being supported that would not be supported under current administrative policy.

Provisions of the bill waiving minimum number of annual employment hours and maintenance of level of employment requirements would result in continued payment of sales tax refunds to businesses with enterprise zone project designations that would have failed to remain eligible for the refunds or whose entitlement to refunds would have been reduced for 2020 and 2021 due to interruptions of employment between March 1, 2020 and December 31, 2021, including businesses that might not have any employment at the project site during that period. The number of affected enterprise zone businesses and extent of their employment interruptions during the specified period is unknown and consequently the effect of the proposed waivers on their refund claim amounts cannot be estimated.

The bill would amend Chapter 2303 of the Government Code and Section 151.429 of the Tax Code, regarding enterprise zones.

The bill would amend the definition of "qualified employee" in Section 2303.003(7) to include employees who perform services for the qualified business pursuant to a telecommute agreement and reside in this state.

Section 2303.401 would be amended to redefine "new permanent job" as any new employment position regardless of job function. The definition of "retained job" would be amended to mean any employment position regardless of job function.

Section 2303.402(a) would be amended to add residents of any area in this state designated as a qualified opportunity zone under Section 1400Z-1 of the Internal Revenue Code of 1986, and individuals who are members of a minority group as it is defined in Section 2306.6734(c) of the Government Code, to the list of individuals who may hold a new permanent job counting towards the 25 percent new job requirement of a qualified business in the enterprise zone, and the 35 percent new job requirement for outside the enterprise zone.

The bill would add Section 2303.409, Government Code and Section 151.429(g-1), Tax Code to provide for waiver of the minimum requirement of annual employment hours for new permanent jobs or retained jobs and of the level of employment maintenance requirement for any annual period that includes any period beginning March 1, 2020, and ending December 31, 2021.

The expansion of the definition of qualified employee to include one employed pursuant to a telecommute arrangement would increase the number of qualified employees counted in the determination of refund claims and could increase the amounts of refunds paid to qualified businesses in amounts that cannot be determined.

The bill's provisions redefining new permanent jobs and retained jobs to mean any employment position regardless of job function could allow for supplantation of higher wage jobs with lower wage jobs without consequence for the level of employment maintenance requirement and thus support refund claims that would not be supported under current administrative policy.

The provisions expanding the categories of persons by which new permanent jobs of a qualified business must be held to include residents of qualified opportunity zones and members of minority groups could ease the ability of some businesses to qualify for project designation but would not increase the total number of designations allowed to be made and thus would not have significant fiscal implications.

The waivers of minimum number of annual employment hours and maintenance of level of employment requirements proposed by the bill would result in continued payment of sales tax refunds to businesses with enterprise zone project designations that would have failed to remain eligible for the refunds or whose entitlement to refunds would have been reduced for 2020 and 2021 due to interruptions of employment between March 1, 2020 and December 31, 2021, including businesses that might not have any employment at the project site during that period. The number of affected enterprise zone businesses and extent of their employment interruptions during the specified period is unknown and consequently the effect of the proposed waivers on their refund claim amounts cannot be estimated.

The bill would take effect immediately upon enactment, assuming it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2021.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JMc, SZ, SD, BRI