

SUBJECT: Creating the small business disaster recovery loan program and fund

COMMITTEE: International Relations and Economic Development — favorable, without amendment

VOTE: 5 ayes — Button, C. Morales, C. Bell, Hunter, Larson

1 nay — Metcalf

3 absent — Beckley, Canales, Ordaz Perez

SENATE VOTE: On final passage, April 28 — 24-7 (Creighton, Hall, Hancock, Hughes, Nichols, Paxton, Springer)

WITNESSES: For — Annie Spilman, NFIB; Martin Gutierrez, San Antonio Hispanic Chamber of Commerce; (*Registered, but did not testify:* Guadalupe Cuellar, City of El Paso; Georgia Keysor, Indivisible Rosedale Huddle; Jackie Hardee, Indivisible Rosedale Huddle and Indivisible Tex Lege; Christine Yanas, Methodist Healthcare Ministries of South Texas, Inc.; Leticia Van de Putte, San Antonio Chamber of Commerce; Megan Herring, Texas Association of Business; Kelsey Streufert, Texas Restaurant Association; and six individuals)

Against — None

BACKGROUND: Government Code sec. 481.001(10) defines “small business” as a corporation, partnership, sole proprietorship, or other legal entity that employs fewer than 100 full-time employees and is domiciled in Texas or has at least 51 percent of its employees located in the state, formed to make a profit, and independently owned and operated.

Some suggest that owners of small businesses impacted by statewide disasters have faced significant delays and burdensome requirements in receiving financial assistance to keep their businesses open. Some have called for the state to establish a revolving fund and loan program for small businesses adversely impacted by disasters.

DIGEST: SB 678 would establish the small business disaster recovery revolving fund and require the Texas Economic Development and Tourism Office (TEDTO) to establish a loan program to use money from the fund to provide financial assistance to small businesses affected by a disaster.

TEDTO could provide financial assistance from the fund only in the form of a loan to an eligible small business located in an area under a disaster declaration issued by the governor and during the period for which the disaster declaration was in effect. The office would have to credit to the fund all principal and interest payments on a loan from the fund.

Loan eligibility. TEDTO by rule would have to establish eligibility requirements for a loan to a small business under the program. The requirements would have to include that the small business:

- was in good standing under the laws of the state;
- did not owe delinquent taxes to a taxing unit in Texas;
- had suffered physical damage or economic injury as a result of the event leading to a disaster declaration by the governor; and
- had paid in full any previous loans received under the program.

Loan uses. An eligible small business could only use a loan received under the program to pay the business' payroll costs, including costs related to the continuation of health care benefits for the business' employees.

Revolving fund. The bill would establish the small business disaster revolving fund as a special fund outside of the state treasury to be used by TEDTO, without further legislative appropriation, for the purpose of providing financial assistance to small businesses in response to a disaster declaration. The fund would consist of:

- money transferred or deposited to the fund by law, including money from any source transferred or deposited to the fund at the office's discretion as authorized by law;

- the proceeds of any fee or tax imposed by the state that by statute was dedicated for deposit to the fund;
- any other revenue that the Legislature by statute dedicated for deposit to the fund; and
- investment earnings and interest earned on amounts in the fund.

Administration. The office would administer the fund and could establish separate accounts in the funds. The office would have legal title to money and investments in the fund until money was disbursed.

Management and investment. The fund and its accounts would be kept and held by the Texas Treasury Safekeeping Trust Company in escrow and in trust for and in the name of TEDTO. The trust company would hold and invest the fund, which could be co-invested with the state treasury pool.

The overall objective for the investment of the fund would be to maintain sufficient liquidity to meet the needs of the fund while striving to preserve its purchasing power.

The trust company would have any power necessary to accomplish the purposes of managing and investing the fund's assets and could take certain actions in managing the fund as specified in the bill. The trust company could recover the costs incurred in managing and investing the fund only from the fund's earnings.

The trust company annually would have to report to TEDTO with respect to the fund's investment. The trust company would have to contract with a certified public accountant to conduct an annual independent audit of the fund and present the results of each audit to the office. These provisions would not affect the state auditor's authority to audit the fund.

The trust company would have to adopt an investment policy that was appropriate for the fund and present the policy to the investment advisory board. The advisory board would have to submit recommendations to the trust company regarding the policy.

TEDTO annually would have to provide to the trust company a forecast of the cash flows into and out of the fund. The office would have to provide updates to the forecast as appropriate to ensure that the trust company was able to achieve the objectives stated in the bill. The trust company would disburse money from the fund as directed by the office.

Report. By December 1 of each even-numbered year, TEDTO would have to prepare and submit a report to the governor, the lieutenant governor, and each member of the Legislature that included:

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

Implementation. The office and the Texas Treasury Safekeeping Trust Company would be required to implement a provision of the bill only if the Legislature appropriated money specifically for that purpose. If the Legislature did not appropriate money, the office and the trust company could, but would not be required to, implement a provision of the bill using other appropriations that were available for that purpose.

TEDTO would have to adopt rules necessary to implement the bill.

The bill would take effect September 1, 2021.

NOTES:

According to the Legislative Budget Board, the bill would have an indeterminate cost to the state dependent on the funds transferred to the credit of the Small Business Disaster Recovery Revolving Fund as authorized by statute or law.