

BILL ANALYSIS

Senate Research Center

C.S.H.B. 2001
By: Oliveira (Sibley)
Economic Development
5-18-97
Committee Report (Substituted)

DIGEST

Currently, the Texas Enterprise Zone Program (program) offers tax and other incentives to eligible businesses that locate in economically distressed areas. C.S.H.B. 2001 would make several changes to the program including making program benefits available for job retention, modifying the criteria used to designate "enterprise zones" and "enterprise projects," modifying the utility rate incentive, and expanding the list of items eligible for sales tax refunds. This bill would also authorize the Texas Department of Commerce to designate 65 enterprise projects during each of the the next two biennia.

PURPOSE

As proposed, C.S.H.B. 2001 makes several changes to the Texas Enterprise Zone Program (program) including making program benefits available for job retention, modifying the criteria used to designate "enterprise zones" and "enterprise projects," modifying the utility rate incentive, and expanding the list of items eligible for sales tax refunds. Additionally, this bill authorizes the Texas Department of Commerce to designate 65 enterprise projects during each of the next two biennia.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2303.052(d), Government Code, to require the Department of Commerce (department), on or before December 15, rather than December 1, of each year to submit to certain high government officials a report relating to enterprise zones.

SECTION 2. Amends Section 2303.0525(a), Government Code, to require the department, on or before December 15, rather than December 1, of each even-numbered year, to prepare a cost-benefit analysis of the enterprise zone program.

SECTION 3. Amends Sections 2303.104(b) and (c), Government Code, to prohibit at least three, rather than one, of the incentives summarized under Subsection (a)(3) from applying through the governmental entity or entities nominating the area as an enterprise zone. Requires at least two of the incentives summarized under Subsection (a)(3) to be financial incentives. Provides that this section does not prohibit a municipality or county from extending additional incentives for business enterprises in an enterprise zone by a written agreement, among other items.

SECTION 4. Amends Section 2303.401, Government Code, as follows:

Sec. 2303.401. New heading: DEFINITIONS. Defines "retained job." Makes conforming changes.

SECTION 5. Amends Section 2303.403, Government Code, to prohibit the department from designating more than 65 businesses as enterprise projects during the biennium beginning September 1, 1997 or September 1, 1999. Authorizes the department in its discretion to withhold up to five project slots from designation. Makes a conforming change.

SECTION 6. Amends Sections 2303.406(a) and (b), Government Code, to authorize the department to designate a business as an enterprise project only if the department determines that the business is a qualified business under Section 2303.402 that, among other conditions, has made a commitment to create or retain certain number of jobs dependant upon the population of the enterprise zone. Requires the department to establish a minimum scoring threshold that must be met by the qualified business applying for a project designation and make its designation decisions using a weighted scale in which 40, rather than 50, percent of the evaluation depends on the economic distress of the enterprise zone in which a proposed enterprise project is located, and the area within the enterprise zone where the project is located; 15, rather than 25, percent of the evaluation depends on the local public effort used for the project to achieve development and revitalization of the enterprise zone; 20, percent of the evaluation depends on the level of cooperation and support the project applicant commits to the revitalization goals of the zone; rather than 25 percent of the evaluation depends on the evaluation criteria as determined by the department, which must include the level of cooperation and support the project applicant commits to the revitalization goals of the zone; 10 percent of the evaluation depends on the amount of capital investment; and 15 percent of the evaluation depends on the type and wage level in relation to the prevailing wage for that occupation in the local labor market area of the jobs to be created or retained by the business. Makes conforming changes.

SECTION 7. Amends Section 2303.5055(e), Government Code, to provide that "eligible taxable proceeds" means taxable proceeds generated, paid, or collected by a qualified hotel project or a business at a qualified hotel project, including hotel occupancy taxes, ad valorem taxes, sales and use taxes, and mixed beverage taxes payable to a county or municipality under Section 183.051.

SECTION 8. Amends Section 2303.511(b), Government Code, to authorize certain utility rates to be reduced up to but not more than five percent below the lowest rate allowable for that customer class, rather than five percent below the lowest rate offered to any customer located in the enterprise zone. Authorizes a qualified enterprise project or the governing body of the enterprise zone to petition the appropriate utility and the appropriate regulatory authority to receive a reduced rate under this section, and the regulatory authority may order that rates be reduced.

SECTION 9. Amends Sections 151.429(a) and (g), Tax Code, to provide that an enterprise project is eligible for a refund in the amount provided by this section of the taxes imposed by this chapter on purchase of, among other items, equipment or machinery sold to, repaired for, or rented by an enterprise project for use in an enterprise zone; and electricity and natural gas purchased and consumed in the normal course of business in the enterprise zone, including electricity and natural gas used in leased or rented facilities where the utility account is in the name of the landlord who meters and directly passes through the itemized charges, including sales tax, for the electricity and natural gas used by the project to the owner of the enterprise project. Deletes text in reference to the Legislative Budget Board in Subsection (g).

SECTION 10. Amends Section 171.1015(g), Tax Code, to authorize only enterprise projects, rather than qualified businesses, that have been certified as eligible for a tax deduction under this section by the department to the comptroller to apply for the tax deduction. Makes a conforming change.

SECTION 11. Repealers: Sections 2303.0525(b) and (c), Government Code (Cost-benefit Analysis); Section 2303.110(d), Government Code (Amending Boundaries); and Section 171.501, Tax Code (Refund for Job Creation in Enterprise Zone).

SECTION 12. (a) Prohibits an enterprise project designated under Chapter 2303, Government Code, after August 31, 1997, from receiving a tax refund under Section 151.429, Tax Code, as amended by this Act, or a tax reduction under Section 171.1015, Tax Code, before September 1, 1999.

(b) Prohibits an enterprise projected designated under Chapter 2303, Government Code, after August 31, 1999, from receiving a tax refund under Section 151.429, Tax Code, as amended by this Act, or a tax reduction under Section 171.1015, Tax Code, before September 1, 2001.

(c) Provides that no more than \$8 million in state sales and use taxes may be refunded to enterprise projects during any biennium.

(d) Provides that the changes made by Section 7 of this Act do not impact a qualified hotel project designated by the Texas Department of Commerce before the effective date of this Act.

SECTION 13. Effective date: September 1, 1997.

SECTION 14. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 6.

Amends Section 2303.406, Government Code, to revise proposed percentage changes set forth in Subdivisions (b)(1) and (2).

SECTION 7.

Amends Section 2303.5055(e), Government Code, to revise the definition of "eligible tax proceeds." Omits amendments to Section 2303.407, Government Code, relating to allocation of jobs eligible for tax refund.

SECTION 9.

Amends Section 151.429, Tax Code, to set forth proposed changes to Subdivision (a)(4).

SECTION 11.

Adds Sections 2303.0525(b) and (c), to repeal provisions.

SECTION 12.

Adds proposed Subsections (c) and (d) to session law relating to enterprise projects and changes made by SECTION 7 of this Act.

SECTIONS 13-14.

Sets forth effective date and emergency clause originally set forth in SECTIONS 17 and 18. Omits SECTIONS 13-16: SECTIONS 13 and 15 related to proposed changes to Section 151.429, Tax Code, and Section 2303.5055, Government Code; SECTION 14 proposed Section 151.4295 to Chapter 151I, Tax Code, relating to the collection of certain taxes; and SECTION 16 set forth proposed session law relating to SECTIONS 13-15.