

BILL ANALYSIS

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By: Nelson
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DIGEST AND PURPOSE

Currently, the Texas Department of Economic Development (department) has three primary missions: marketing Texas as a premier business location and tourist destination; providing financial, location, and export assistance to Texas businesses and communities; and serving as a central source of economic development information. However, the department is under Sunset review for 2003, and the Sunset Commission found that the lack of a direct link to the governor's office limits effective coordination and administration of the state's economic development efforts. As proposed, S.B. 275 abolishes the department and transfers its primary economic development functions to an economic development office within the office of the governor.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the governing board of the Texas Department of Economic Development is transferred to the executive director of the Texas Economic Development Office in SECTION 1.08 (Section 481.005, Government Code), SECTION 1.13 (Section 481.012, Government Code), SECTION 1.27 (Section 481.075, Government Code), and SECTION 1.39 (Section 481.174, Government Code) of this bill.

Rulemaking authority previously granted to the Texas Department of Economic Development is transferred to the Texas Economic Development Office in SECTION 1.15 (Section 481.021, Government Code) and SECTION 1.59 (Government Code) of this bill.

Rulemaking authority previously granted to the permit office of the Texas Department of Economic Development is transferred to the permit office of the Texas Economic Development Office in SECTION 1.30 (Section 481.123, Government Code) and SECTION 1.31 (Section 481.124, Government Code) of this bill.

Rulemaking authority previously granted to the policy board of the Texas Department of Economic Development is transferred to the executive director of the Texas Economic Development Office in SECTION 1.40 (Section 481.193, Government Code), and SECTION 1.49 (Section 481.406, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. ABOLITION OF TEXAS DEPARTMENT OF ECONOMIC DEVELOPMENT; TRANSFER OF CERTAIN FUNCTIONS TO TEXAS ECONOMIC DEVELOPMENT OFFICE

SECTION 1.01. Amends the heading to Chapter 481, Government Code, to read as follows:

CHAPTER 481. TEXAS ECONOMIC DEVELOPMENT OFFICE

SECTION 1.02. Amends Section 481.001, Government Code, by adding Subdivision (5) to define "office."

SECTION 1.03. Amends Section 481.002, Government Code, as follows:

Sec. 481.002. OFFICE. Renames the Texas Department of Economic Development as the Texas Economic Development Office (office) and provides that it is an office within the office of the governor, rather than an agency of the state.

SECTION 1.04. Amends Section 481.003, Government Code, as follows:

Sec. 481.003. SUNSET PROVISION. Provides that the office is subject to Chapter 325 (Texas Sunset Act). Provides that unless continued in existence as provided by that chapter, the office is abolished and this chapter expires September 1, 2012, rather than 2003.

SECTION 1.05. Amends Section 481.0042, Government Code, by amending Subsections (a), (b), (c), and (e) and adding Subsection (f), as follows:

(a) Prohibits a person from being the executive director or an employee of the office employed in a “bona fide executive, administrative, or professional capacity,” as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if the person qualifies under certain factors.

(b) Prohibits a person from being the executive director or an employee of the office if the person's spouse is in a certain group.

(c) Defines a “trade association.”

(e) Prohibits a person from being the executive director or an employee of the office if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a business entity that has an interest in a contract with the office or a profession related to the operation of the office.

(f) Prohibits a person from acting as the general counsel to the office if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the office.

SECTION 1.06. Amends Chapter 481A, Government Code, by adding Section 481.0045, as follows:

Sec. 481.0045. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION POLICY. (a) Requires the office to develop and implement a policy to encourage the use of certain procedures.

(b) Requires the office's procedures relating to alternative dispute resolution to conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) Requires the office to designate a trained person to perform certain tasks.

SECTION 1.07. Amends the heading to Section 481.005, Government Code, to read as follows:

Sec. 481.005. EXECUTIVE DIRECTOR; DUTIES.

SECTION 1.08. Amends Sections 481.005(a), (c), and (d), Government Code, as follows:

(a) Requires the governor, rather than governing board, to appoint an executive director of the

office, rather than department, who serves at the pleasure of the governor, rather than governing board.

(c) Requires the executive director to manage the affairs of the office under the direction of the governor.

(d) Requires the executive director to direct the activities of the office and, in performing that duty, to establish policy, adopt rules, evaluate the implementation of new legislation that affects the office's duties, review and comment on the office's budget, prepare an annual report of the office's activities, conduct investigations and studies, and develop long-range plans for the future goals and needs of the office.

SECTION 1.09. Amends Section 481.0065(a), Government Code, to make a conforming change.

SECTION 1.10. Amends Section 481.008, Government Code, as follows:

Sec. 481.008. AUDIT. (a) Provides that the financial transactions of the office are subject to audit by certain entities.

(b) Requires the state auditor to inform the executive director when a financial audit of the office is not included in the audit plan for the state for a fiscal year. Requires the executive director to ensure that the department is audited under Subsection (a)(2) during those fiscal years.

SECTION 1.11. Section 481.010, Government Code, by amending Subsections (a), (b), (e), and (f), and adding Subsection (i) to read as follows:

(a) Makes conforming changes.

(b) Requires the executive director or the executive director's designee to provide to office employees, as often as necessary, information regarding their qualifications for employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state employees.

(e) Makes a conforming change.

(f) Makes conforming changes.

(i) Requires the executive director or the executive director's designee to provide to office employees information and training on the benefits and methods of participation in the State Employee Incentive Program.

SECTION 1.12. Amends Section 481.011, Government Code, as follows:

Sec. 481.011. FISCAL REPORT. Makes a conforming change.

SECTION 1.13. Amends Section 481.012, Government Code, as follows:

Sec. 481.012. PUBLIC INTEREST INFORMATION AND COMPLAINTS. (a) Makes conforming changes. Requires the office to provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the office's policies and procedures relating to complaint investigation and resolution.

(b) Makes conforming changes. Requires the complaint information file to include certain information.

(c) Makes conforming changes.

(d) Makes conforming changes.

(e) Requires the executive director by rule to establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the office for the purpose of directing complaints to the office.

SECTION 1.14. Amends the heading to Chapter 481B, Government Code, to read as follows:

SUBCHAPTER B. GENERAL POWERS AND DUTIES OF OFFICE

SECTION 1.15. Amends Section 481.021, Government Code, as follows:

Sec. 481.021. New heading: **GENERAL POWERS OF OFFICE.** (a) Makes conforming changes.

(b) Makes a conforming change.

(c) Makes conforming changes.

SECTION 1.16. Amends Section 481.022, Government Code, as follows:

Sec. 481.022. New heading: **GENERAL DUTIES OF OFFICE.** Requires the office to perform certain tasks.

SECTION 1.17. Amends Section 481.023, Government Code, as follows:

Sec. 481.023. **ADMINISTRATION OF OTHER STATUTES.** (a) Makes a conforming change.

(b) Requires the office to perform the administrative duties formerly assigned to the Texas Department of Economic Development, the Texas Economic Development Commission, and the Enterprise Zone Board under Chapter 2303.

(c) Makes a conforming change.

SECTION 1.18. Amends Sections 481.024(a), (e), and (f), Government Code, as follows:

(a) Makes conforming changes. Provides that the governor or the governor's designee and the executive director serve as nonvoting, ex officio members of the board.

(e) Makes a conforming change.

(f) Makes a nonsubstantive change.

SECTION 1.19. Amends Section 481.025, Government Code, as follows:

Sec. 481.025. **EMPOWERMENT ZONE AND ENTERPRISE COMMUNITY PROGRAM.** Makes conforming changes.

SECTION 1.20. Amends Chapter 481B, Government Code, by adding Section 481.026, as follows:

Sec. 481.026. **TECHNOLOGICAL SOLUTIONS.** Requires the office to develop and implement a policy that requires the executive director and the staff of the office to research and

propose appropriate technological solutions to improve the ability of the office to perform its mission. Requires the technological solutions to include measures to ensure that the public is able to easily find information about the office through the Internet and that persons who have a reason to use the office's services are able to use the Internet to interact with the office and to access any service that can be provided effectively through the Internet. Requires the policy to also ensure that the proposed technological solutions are cost effective and developed through the office's planning processes.

SECTION 1.21. Amends Sections 481.027(a)-(e), Government Code, as follows:

- (a) Makes conforming changes.
- (b) Requires the foreign offices to be accessible to Texas-based institutions of higher education and their nonprofit affiliates for the purposes of fostering Texas science, technology, and research development, international trade and investment, and cultural exchange. Makes a conforming change.
- (c) Makes a conforming change.
- (d) Makes conforming changes.
- (e) Makes conforming changes.

SECTION 1.22. Amends Section 481.029, Government Code, to make a conforming change.

SECTION 1.23. Amends Section 481.043, Government Code, to make a conforming change.

SECTION 1.24. Amends Section 481.047, Government Code, to make a conforming change.

SECTION 1.25. Amends Section 481.0725, Government Code, as follows:

Sec. 481.0725. GENERAL POWERS AND DUTIES. Deletes a certain required office duty.

SECTION 1.26. Amends Section 481.073(c), Government Code, to make conforming changes.

SECTION 1.27. Amends Section 481.075, Government Code, as follows:

Sec. 481.075. PROGRAM RULES. (a) Makes conforming changes. Deletes the provision authorizing the governing board to delegate approval authority to the executive board.

- (b) Makes a conforming change.

SECTION 1.28. Amends Section 481.121(2), Government Code, to define "permit office."

SECTION 1.29. Amends Section 481.122, Government Code, as follows:

Sec. 481.122. CREATION. Provides that the business permit office is an office within the Texas Economic Development Office.

SECTION 1.30. Amends Section 481.123, Government Code, as follows:

Sec. 481.123. DUTIES. Requires the permit office to perform certain tasks.

SECTION 1.31. Amends Sections 481.124(a), (b), (c), (d), (f), and (h), Government Code, to make

conforming changes.

SECTION 1.32. Amends Sections 481.125(a), (b), (d), and (e), Government Code, to make conforming changes.

SECTION 1.33. Amends Section 481.126, Government Code, to make conforming changes.

SECTION 1.34. Amends Sections 481.127(a), (c), and (d), Government Code, to make conforming changes.

SECTION 1.35. Amends Section 481.128, Government Code, to make a conforming change.

SECTION 1.36. Amends Section 481.129, Government Code, to make conforming changes.

SECTION 1.37. Amends Sections 481.167(a), (d), and (e), Government Code, to make conforming changes.

SECTION 1.38. Amends Section 481.172, Government Code, to make conforming changes.

SECTION 1.39. Amends Section 481.174, Government Code, as follows:

Sec. 481.174. ADVERTISEMENTS IN TOURISM PROMOTIONS. (a) Makes a conforming change.

(b) Makes a conforming change.

(c) Makes a conforming change.

(d) Provides that the office is not required to follow the purchasing goals and procedures prescribed by Section 2161.181 and Chapter 2161F, for purchases made in connection with out-of-state tourism advertising, including advertising placement services.

SECTION 1.40. Amends Sections 481.193(a), (b), (d), (e), (f), and (h), Government Code, to make conforming changes.

SECTION 1.41. Amends Section 481.194, Government Code, to make conforming changes.

SECTION 1.42. Amends Section 481.198, Government Code, to make conforming changes.

SECTION 1.43. Amends Section 481.211, Government Code, to make conforming changes.

SECTION 1.44. Amends Section 481.212, Government Code, to make conforming changes.

SECTION 1.45. Amends Section 481.401(9), Government Code, to redefine “reserve account.”

SECTION 1.46. Amends Section 481.402(c), Government Code, to make a conforming change.

SECTION 1.47. Amends Section 481.404, Government Code, as follows:

Sec. 481.404. New heading: POWERS OF OFFICE IN ADMINISTERING CAPITAL ACCESS FUND. Makes conforming changes.

SECTION 1.48. Amends Sections 481.405(a)-(d), Government Code, to make conforming changes.

SECTION 1.49. Amends Section 481.406(a), Government Code, to make a conforming change.

SECTION 1.50. Amends Sections 481.407(a) and (d), to make conforming changes.

SECTION 1.51. Amends Sections 481.408(a), (c), and (d), Government Code, to make conforming changes.

SECTION 1.52. Amends Section 481.409, Government Code, to make conforming changes.

SECTION 1.53. Amends Sections 481.410(b)-(d), Government Code, to make conforming changes.

SECTION 1.54. Amends Section 481.411, Government Code, to make conforming changes.

SECTION 1.55. Amends Section 481.412(a), Government Code, to make a conforming change.

SECTION 1.56. Amends Section 481.414, Government Code, to make a conforming change.

SECTION 1.57. Amends Sections 4(b) and (d), Development Corporation Act of 1979 (Article 5190.6, V.T.C.S.), as follows:

(b) Deletes text stating that the Texas Department of Economic Development shall be considered the governing body of the Texas Small Business Industrial Development Corporation.

(d) Requires the governor to appoint the board of directors of the Texas Small Business Industrial Development Corporation. Provides that the governor or the governor's designee and the executive director of the Texas Economic Development Office serve as nonvoting ex officio members of the board.

SECTION 1.58. (a) Provides that the Texas Department of Economic Development (TDED) is abolished and the offices of the members of the governing board of the department serving on the effective date of this Act are abolished.

(b) Provides that the validity of an action taken by TDED or its governing board before it is abolished under Subsection (a) of this section is not affected by the abolishment.

SECTION 1.59. Provides that on September 1, 2003, a rule, standard, or form adopted by TDED or the department's governing board is a rule, standard, or form of the Texas Economic Development Office (office) and remains in effect until changed by the executive director of the office; a reference in law to TDED or its governing board means the office; a proceeding involving TDED is transferred without change in status to the office, and the office assumes, without a change in status, the position of TDED in a proceeding to which TDED is a party; all money, contracts, leases, rights, and obligations of TDED are transferred to the office; all property, including records, in the custody of TDED becomes the property of the office; and all funds appropriated by the legislature to TDED are transferred to the office.

SECTION 1.60. (a) Provides that the executive director of TDED serving on the effective date of this Act does not automatically become the executive director of the office. Requires a person, to become the executive director of the office, to apply for the position and requires the person's employment in that capacity to be approved by the governor.

(b) Provides that an employee of TDED employed on the effective date of this Act does not automatically become an employee of the office. Requires a person, to become an employee of the office, to apply for a position at the office and requires the person's employment in that capacity to be approved by the governor or the executive director of the office.

SECTION 1.61. Provides that a function or activity performed by TDED is transferred to the office as

provided by this Act.

SECTION 1.62. Requires TDED or the office, as applicable, to establish a transition plan for the transfer described in Section 1.59 of this Act. Requires the plan to include a reasonable timetable for the effective reconstruction of the department's mission, strategies, performance measures, functions, and staff, as they relate to key economic clusters in this state.

SECTION 1.63. Repealer: Chapter 146 (Texas-Mexico Development Fund Program), Education Code; Sections 481.001(1), (3), and (4), 481.004, 481.0041, 481.0043, 481.0044, 481.005(b), 481.006, 481.0068, 481.007, 481.010(c), 481.0231, 481.028, 481.041, 481.045, 481.059, 481.071, 481.073(a) and (b), 481.077, 481.084, 481.087, 481.1665, 481.168, 481.171, 481.201, and 481.403, Government Code; Subchapters G and CC, Chapter 481 (Texas Department of Economic Development), Government Code; Chapter 484 (Texas Manufacturing Institute), Government Code; and Section 39, Development Corporation Act of 1979 (Article 5190.6, V.T.C.S.).

ARTICLE 2. CONSOLIDATION OF TOURISM FUNCTIONS

SECTION 2.01. Amends Chapter 12, Agriculture Code, by adding Section 12.039, as follows:

Sec. 12.039. **TOURISM-RELATED ACTIVITIES PROHIBITED.** Prohibits the Department of Agriculture from promoting tourism, conducting activities related to tourism, or making expenditures related to tourism, notwithstanding any other provision of this chapter.

SECTION 2.02. Amends Chapter 86B, Education Code, by adding Section 86.025, as follows:

Sec. 86.025. **TOURISM-RELATED ACTIVITIES PROHIBITED.** (a) Prohibits the board of directors of the Texas A&M University System or the Texas A&M University from promoting tourism, conducting activities related to tourism, or making expenditures related to tourism, notwithstanding any other provision of this chapter.

(b) Provides that this section does not prohibit the board or the university from promoting the university or attracting visitors to the university.

SECTION 2.03. Amends Chapter 88A, Education Code, by adding Section 88.003, as follows:

Sec. 88.003. **TOURISM-RELATED ACTIVITIES PROHIBITED.** Prohibits an agency or service of The Texas A&M University System from promoting tourism, conducting activities related to tourism, or making expenditures related to tourism, notwithstanding any other provision of this chapter.

SECTION 2.04. Amends Chapter 411A, Government Code, by adding Section 411.0203, as follows:

Sec. 411.0203. **TOURISM-RELATED ACTIVITIES PROHIBITED.** Prohibits the Department of Public Safety of the State of Texas from promoting tourism, conducting activities related to tourism, or making expenditures related to tourism, notwithstanding any other provision of this chapter.

SECTION 2.05. Amends Chapter 443, Government Code, by adding Section 443.029, as follows:

Sec. 443.029. **TOURISM-RELATED ACTIVITIES PROHIBITED.** Prohibits the State Preservation Board from promoting tourism, conducting activities related to tourism, or making expenditures related to tourism, notwithstanding any other provision of this chapter.

SECTION 2.06. Amends Chapter 455, Government Code, by adding Section 445.014, as follows:

Sec. 445.014. TOURISM-RELATED ACTIVITIES PROHIBITED. (a) Prohibits the Bob Bullock Texas State History Museum (museum) or the State Preservation Board from promoting tourism, conducting activities related to tourism, or making expenditures related to tourism, notwithstanding any other provision of this chapter.

(b) Provides that this section does not prohibit the museum or the State Preservation Board from promoting the museum or attracting visitors to the museum.

SECTION 2.07. Amends Chapter 485, Government Code, by adding Section 485.008, as follows:

Sec. 485.008. TOURISM-RELATED ACTIVITIES PROHIBITED. Prohibits the Music, Film, Television, and Multimedia Office from promoting tourism, conducting activities related to tourism, or making expenditures related to tourism, notwithstanding any other provision of this chapter.

SECTION 2.08. Amends Chapter 31C, Natural Resources Code, by adding Section 31.069, as follows:

Sec. 31.069. TOURISM-RELATED ACTIVITIES PROHIBITED. Prohibits the General Land Office from promoting tourism, conducting activities related to tourism, or making expenditures related to tourism, notwithstanding any other provision of this chapter.

SECTION 2.09. (a) Provides that on September 1, 2003, all functions performed by the Department of Agriculture, Texas A&M University, The Texas A&M University System, the Department of Public Safety of the State of Texas, the State Preservation Board, the Music, Film, Television, and Multimedia Office, and the General Land Office relating to tourism are transferred to the Texas Economic Development Office, the Texas Department of Transportation, the Parks and Wildlife Department, the Texas Historical Commission, or the Texas Commission on the Arts; and all employees of the Department of Agriculture, Texas A&M University, The Texas A&M University System, the Department of Public Safety of the State of Texas, the State Preservation Board, the Music, Film, Television, and Multimedia Office, and the General Land Office that primarily perform functions relating to tourism are transferred to the Texas Economic Development Office, the Texas Department of Transportation, the Parks and Wildlife Department, the Texas Historical Commission, or the Texas Commission on the Arts.

(b) Requires the governor to determine the manner in which the functions and employees are transferred under Subsection (a) of this section.

ARTICLE 3. EFFECTIVE DATE

SECTION 3.01. Effective date: September 1, 2003.