

## **BILL ANALYSIS**

Senate Research Center  
78R9012 ATP-D

C.S.S.B. 275  
By: Nelson  
Government Organization  
3/21/2003  
Committee Report (Substituted)

### **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. C.S.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 8 (Section 481.005, Government Code), SECTION 14 (Section 481.012, Government Code), SECTION 29 (Section 481.075, Government Code), and SECTION 41 (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 16 (Section 481.021, Government Code) and SECTION 61 (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 32 (Section 481.123, Government Code) and SECTION 33 (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 42 (Section 481.193, Government Code) and SECTION 51 (Section 481.406, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends the heading to Chapter 481, Government Code, to read as follows:

CHAPTER 481. TEXAS ECONOMIC DEVELOPMENT OFFICE

SECTION 2. Amends Section 481.001, Government Code, by adding Subdivisions (5) and (6) to define "industry cluster" and "office."

SECTION 3. Amends Section 481.002, Government Code, as follows:

Sec. 481.002. New heading: 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 4. 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, 2015, rather than 2003.

SECTION 5. 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 6. 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 7. Amends the heading to Section 481.005, Government Code, to read as follows:

Sec. 481.005. EXECUTIVE DIRECTOR; DUTIES.

SECTION 8. 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 9. Amends Section 481.0065(a), Government Code, to make a conforming change.

SECTION 10. Amends Chapter 481A, Government Code, by adding Section 481.066, as follows:

Sec. 481.066. AEROSPACE OFFICE. (a) Requires the office to establish and maintain an aerospace office.

(b) Authorizes the office to hire a director of the aerospace office and staff as necessary to perform the duties of the aerospace office under this section.

(c) Requires the aerospace office to encourage economic development in this state by fostering the development of aerospace and aviation industries in Texas.

(d) Requires the aerospace office to perform certain functions.

SECTION 11. 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 office, rather than department, is audited under Subsection (a)(2) during those fiscal years.

SECTION 12. 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. Amends Section 481.011, Government Code, as follows:

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

SECTION 14. 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 15. Amends the heading to Chapter 481B, Government Code, to read as follows:

#### SUBCHAPTER B. GENERAL POWERS AND DUTIES OF OFFICE

SECTION 16. 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 17. Amends Section 481.022, Government Code, as follows:

Sec. 481.022. New heading: GENERAL DUTIES OF OFFICE. Requires the office to perform certain tasks, including establishing a statewide strategy to address economic growth and quality of life issues, a component of which is based on the identification and development of industry clusters.

SECTION 18. 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 19. 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 20. Amends Section 481.025, Government Code, as follows:

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

SECTION 21. 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 22. 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 23. Amends Section 481.029, Government Code, to make a conforming change.

SECTION 24. Amends Chapter 481B, Government Code, by adding Section 481.030, as follows:

Sec. 481.030. IDENTIFICATION OF INDUSTRY CLUSTERS. (a) Requires the office to work with industry associations and organizations to identify regional and statewide industry clusters.

(b) Authorizes the activities of the office in identifying industry clusters to include certain acts.

(c) Requires the office to identify an industry cluster as a targeted sector if the office determines that the development of the industry cluster is a high priority.

(d) Requires the office to work with targeted sectors, private sector organizations, local governments, local economic development organizations, and higher education and training institutions to develop strategies to strengthen the competitiveness of industry clusters. Requires the strategies to be designed to meet certain goals.

(e) Authorizes the activities of the office to assist the development of a targeted sector to include certain acts.

(f) Requires the office, on a continuing basis as determined by the office, to evaluate certain factors.

(g) Requires the office to use information gathered in each region for which the office identifies industry clusters to meet certain goals.

SECTION 25. Amends Section 481.043, Government Code, to make a conforming change.

SECTION 26. Amends Section 481.047, Government Code, to make a conforming change.

SECTION 27. Amends Section 481.0725, Government Code, as follows:

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

SECTION 28. Amends Section 481.073(c), Government Code, to make conforming changes.

SECTION 29. 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 30. Amends Section 481.121(2), Government Code, to define “permit office.”

SECTION 31. 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 32. Amends Section 481.123, Government Code, as follows:

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

SECTION 33. Amends Sections 481.124(a), (b), (c), (d), (f), and (h), Government Code, to make conforming changes.

SECTION 34. Amends Sections 481.125(a), (b), (d), and (e), Government Code, to make conforming changes.

SECTION 35. Amends Section 481.126, Government Code, to make conforming changes.

SECTION 36. Amends Sections 481.127(a), (c), and (d), Government Code, to make conforming changes.

SECTION 37. Amends Section 481.128, Government Code, to make a conforming change.

SECTION 38. Amends Section 481.129, Government Code, to make conforming changes.

SECTION 39. Amends Sections 481.167(a), (d), and (e), Government Code, to make conforming changes.

SECTION 40. Amends Section 481.172, Government Code, as amended by Chapters 1041 and 1275, Acts of the 75th Legislature, Regular Session, 1997, as follows:

Sec. 481.172. DUTIES. (a) Requires the office, as the sole state governmental entity responsible for out-of-state tourism marketing and promotion efforts, to perform certain acts.

(b) Requires a memorandum of understanding entered into under Subsection (a) (8) to provide that the office may perform certain acts.

SECTION 41. 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 42. Amends Sections 481.193(a), (b), (d), (e), (f), and (h), Government Code, to make conforming changes.

SECTION 43. Amends Section 481.194, Government Code, to make conforming changes.

SECTION 44. Amends Section 481.198, Government Code, to make conforming changes.

SECTION 45. Amends Section 481.211, Government Code, to make conforming changes.

SECTION 46. Amends Section 481.212, Government Code, to make conforming changes.

SECTION 47. Amends Section 481.401(9), Government Code, to redefine "reserve account."

SECTION 48. Amends Section 481.402(c), Government Code, to make a conforming change.

SECTION 49. 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 50. Amends Sections 481.405(a)-(d), Government Code, to make conforming changes.

SECTION 51. Amends Section 481.406(a), Government Code, to make a conforming change.

SECTION 52. Amends Sections 481.407(a) and (d), to make conforming changes.

SECTION 53. Amends Sections 481.408(a), (c), and (d), Government Code, to make conforming changes.

SECTION 54. Amends Section 481.409, Government Code, to make conforming changes.

SECTION 55. Amends Sections 481.410(b)-(d), Government Code, to make conforming changes.

SECTION 56. Amends Section 481.411, Government Code, to make conforming changes.

SECTION 57. Amends Section 481.412(a), Government Code, to make a conforming change.

SECTION 58. Amends Section 481.414, Government Code, to make a conforming change.

SECTION 59. 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 60. (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 61. 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 62. (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 63. Provides that a function or activity performed by TDED is transferred to the office as provided by this Act.

SECTION 64. Requires TDED or the office, as applicable, to establish a transition plan for the transfer described in Section 60 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 65. (a) On September 1, 2003 the functions performed by TAC are transferred to the aerospace office of TEDO and the executive director of the TAC becomes the director of the



aerospace office of the TEDO.

(b) Requires the governor to determine the manner in which employees of the TAC, if any, are transferred to the aerospace office of the TEDO.

SECTION 66. 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; Chapters 482 (Texas Aerospace Commission) and 484 (Texas Manufacturing Institute), Government Code; and Section 39, Development Corporation Act of 1979 (Article 5190.6, V.T.C.S.).

SECTION 67. Effective date: September 1, 2003.

### **SUMMARY OF COMMITTEE CHANGES**

Differs from original in the relating clause by deleting text that includes the “consolidation of tourism promotion functions by agencies of this state.”

Article 1. Deletes entire text of Article 1.

SECTIONS 1 - SECTION 67. Differs from original by renumbering SECTION 1.01 as SECTION 1 and renumbering the other sections accordingly.

SECTION 2. Differs from original by adding the definition of “industrial cluster.”

SECTION 4. Differs from original by changing the Sunset date from September 1, 2012, to 2015.

SECTION 9. Differs from original by changing “department” to “office.”

SECTION 10. New section added to amend Chapter 481A by adding Section 481.0066.

SECTION 15. New section added to amend Chapter 481B by adding Section 481.030.

SECTION 17. Differs from original by adding language that requires the office to perform certain tasks, including establishing a statewide strategy to address economic growth and quality of life issues, a component of which is based on the identification and development of industry clusters.

SECTION 40. Amends Section 481.172, Government Code, as amended by Chapters 1041 and 1275, Acts of the 75th Legislature, Regular Session, 1997, by amending Section 481.172(a) to require the office, as the sole state governmental entity responsible for out-of-state tourism marketing and promotion efforts, to perform certain acts, including to enter into a memorandum of understanding with certain state agencies to direct the efforts of these agencies in all matters relating to promotion of tourism. Differs from original by adding Section 481.172(b).

SECTION 56. Makes a conforming change in subdivision (2).

SECTION 59. Makes a conforming change.

SECTION 64. Differs from original by making a conforming change relating to the different numbering system used in this substitute.

SECTION 65. Differs from original by adding text regarding the transfer of functions from the Texas

Aerospace Commission to the Texas Economic Development Office.

SECTION 66. Differs from original by adding Section 482, Government Code, to the list of repealers.

SECTION 67. Differs from original by providing for the effective date, which was Article 3 in the As filed.

Differs from original by deleting Article 2 (Consolidation of Tourism Functions) and Article 3 (Effective Date).