

House Bill 1982
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

SENATE VERSION (IE)

CONFERENCE

SECTION __. Section 2303.003, Government Code, is amended by amending Subdivision (7) and adding Subdivision (9) to read as follows:

(7) "Qualified employee" means a person who:

(A) works for a qualified business; ~~and~~

(B) receives wages from the qualified business from which employment taxes are deducted; and

(C) performs at least 50 percent of the person's service for the business at the qualified business site, or if the person engages in the transportation of goods or services, the person reports to the qualified business site and resides within 50 miles of the qualified business site.

(9) "Veteran" means a person who:

(A) has served in:

(i) the army, navy, air force, coast guard, or marine corps of the United States;

(ii) the state military forces as defined by Section 431.001; or

(iii) an auxiliary service of one of those branches of the armed forces; and

(B) has been honorably discharged from the branch of the service in which the person served. [FA1(9)]

SECTION 1. Section 2303.004, Government Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Notwithstanding Subsection (a), the governing body of a county ~~[with a population of one million or more]~~ may nominate for designation as an enterprise project a project or activity of a qualified business that is located within the jurisdiction of a municipality located in the county. ~~[For purposes of this subsection, a county during any biennium~~

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~~may not use in any one municipality more than three of the maximum number of designations the county is permitted under Section 2303.406(d)(2).]~~

(c) Before a county makes a nomination under Subsection (b), the nominating county must enter into an interlocal agreement with the municipality that has jurisdiction of the territory in which the nominated project or activity will be located. The interlocal agreement must specify that either the nominating county or the municipality that has jurisdiction of the territory in which the nominated project or activity will be located is the governmental body having administration authority under Section 2303.201 and that both the nominating county and municipality approve the nomination. For purposes of this subsection, a county during any biennium may use the maximum number of designations the county is permitted under Section 2303.406(d) within the territory described by this subsection.

SECTION 2. Section 2303.201, Government Code, is amended to read as follows:

Sec. 2303.201. ADMINISTRATION BY GOVERNING BODY. (a) The governing body of an enterprise zone is the governing body of the municipality or county with jurisdiction over the area designated as an enterprise zone, except as provided by Subsection (b).

(b) The governing body with administration authority over an enterprise project nominated under Section 2303.004(c) is determined under the terms of an interlocal agreement required by that subsection.

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SECTION 2. Same as House version.

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SECTION 3. Section 2303.4052, Government Code, is amended to read as follows:
Sec. 2303.4052. **REQUIRED INFORMATION FROM NOMINATING BODY.** Before nominating the project or activity of a qualified business for designation as an enterprise project, the nominating body must submit to the bank:
(1) a certified copy of the ordinance or order, as appropriate,

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SECTION __. Section 2303.402(a), Government Code, is amended to read as follows:
(a) A person is a qualified business if the bank, for the purpose of state benefits under this chapter, or the nominating body of a project or activity of the person under this chapter, for the purpose of local incentives, certifies that:
(1) the person is engaged in or has provided substantial commitment to initiate the active conduct of a trade or business in an enterprise zone, and at least 25 percent of the person's new permanent jobs [~~employees~~] in the enterprise zone are held by:
(A) residents of any enterprise zone in this state; [~~or~~]
(B) economically disadvantaged individuals; or
(C) veterans; or
(2) the person is engaged in or has provided substantial commitment to initiate the active conduct of a trade or business in an area of this state that does not qualify as an enterprise zone, and at least 35 percent of the person's new permanent jobs [~~employees~~] at the qualified business site are held by:
(A) residents of any enterprise zone in this state; [~~or~~]
(B) individuals who are economically disadvantaged; or
(C) veterans. [FA1(9)]

SECTION 3. Section 2303.4052, Government Code, is amended to read as follows:
Sec. 2303.4052. **REQUIRED INFORMATION FROM NOMINATING BODY.** Before nominating the project or activity of a qualified business for designation as an enterprise project, the nominating body must submit to the bank:
(1) a certified copy of the ordinance or order, as appropriate,

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or reference to an ordinance or order as required by Section 2303.4051;

(2) a transcript of all public hearings conducted with respect to local incentives available to qualified businesses within the jurisdiction of the governmental entity nominating the project or activity, regardless of whether those businesses are located in an enterprise zone;

(3) the name, title, address, telephone number, and electronic mail address of the nominating body's liaison designated under Section 2303.204;

(4) if the business is seeking job retention benefits, documentation showing the number of employment positions at the qualified business site; ~~and~~

(5) any interlocal agreement required under Section 2303.004(c) that states:

(A) which governing body has the administration authority under Section 2303.201; and

(B) that both the county in which the project or activity is located and the municipality in whose jurisdiction the project or activity is located approve the nomination of the project or activity; and

(6) any additional information the bank may require.

SECTION 4. Section 2303.406, Government Code, is amended by adding Subsection (d-1) to read as follows:

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or reference to an ordinance or order as required by Section 2303.4051;

(2) a ~~certified copy of the minutes transcript~~ of all public hearings conducted with respect to local incentives available to qualified businesses within the jurisdiction of the governmental entity nominating the project or activity, regardless of whether those businesses are located in an enterprise zone; [FA1(1)]

(3) the name, title, address, telephone number, and electronic mail address of the nominating body's liaison designated under Section 2303.204;

(4) if the business is seeking job retention benefits, documentation showing the number of employment positions at the qualified business site; ~~and~~

(5) any interlocal agreement required under Section 2303.004(c) that states:

(A) which governing body has the administration authority under Section 2303.201; and

(B) that both the county in which the project or activity is located and the municipality in whose jurisdiction the project or activity is located approve the nomination of the project or activity; and

(6) any additional information the bank may require.

SECTION 4. Section 2303.406, Government Code, is amended by amending Subsections (b) and (e) and adding Subsection (d-1) to read as follows: [FA1(2)]

(b) ~~[This subsection does not apply to a qualified business located in a federally designated zone, as described by Section 2303.101(2), which will receive priority designation in~~

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~~allocating the number of enterprise projects allowed statewide per biennium as provided by Section 2303.403.]~~ The bank shall designate qualified businesses as enterprise projects on a competitive basis. The bank shall make its designation decisions using a weighted scale in which:

- (1) 40 percent of the evaluation depends on the economic distress of the block group or distressed county in which a proposed enterprise project is located;
- (2) 25 percent of the evaluation depends on the local effort to achieve development and revitalization of the block group or distressed county in which a proposed enterprise project is located; and
- (3) 35 percent of the evaluation depends on the evaluation criteria as determined by the bank, which must include:
 - (A) with respect to a proposed enterprise project located in a block group, the level of cooperation and support the project applicant commits to the revitalization goals of all of the enterprise zone block groups within the jurisdiction of the nominating governmental entity;
 - (B) with respect to a proposed enterprise project located in a distressed county, the level of cooperation and support the project applicant commits to the revitalization of the distressed county; and
 - (C) the type and wage level of the jobs to be created or retained by the business. [FA1(3)]

(d-1) An enterprise project designation may be split into two half designations. A half designation uses one-half of one of the enterprise project designations allowed to a nominating body under Subsection (d) and to the bank under Section 2303.403.

(d-1) An enterprise project designation may be split into two half designations. A half designation uses one-half of one of the enterprise project designations allowed to a nominating body under Subsection (d) and to the bank under Section 2303.403.

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SECTION 5. Section 2303.407, Government Code, is amended by adding Subsection (e) to read as follows:

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(e) The office may not~~[, during any biennium,]~~ designate multiple concurrent enterprise projects to a qualified business located at a qualified business site. [FA1(4)]

SECTION 5. Section 2303.407, Government Code, is amended by amending Subsections (b), (c), and (d) and adding Subsections (e) and (f) to read as follows: [FA1(5)]

(b) A capital investment in a project of:

(1) \$40,000 to \$399,999 will result in a refund of up to \$2,500 per job with a maximum refund of \$25,000 for the creation or retention of 10 jobs;

(2) \$400,000 to \$999,999 will result in a refund of up to \$2,500 per job with a maximum refund of \$62,500 for the creation or retention of 25 jobs;

(3) \$1,000,000 to \$4,999,999 will result in a refund of up to \$2,500 per job with a maximum refund of \$312,500 for the creation or retention of 125 jobs;

(4) \$5,000,000 or more ~~[to \$149,999,999]~~ will result in a refund of up to \$2,500 per job with a maximum refund of \$1,250,000 for the creation or retention of 500 jobs, except as provided by Subdivision (5) or (6);

(5) \$150,000,000 to \$249,999,999 will result in a refund of up to \$5,000 per new permanent job with a maximum refund of \$2,500,000 for the creation ~~[or retention]~~ of 500 new permanent jobs if the bank designates the project as a double jumbo enterprise project; or

(6) \$250,000,000 or more will result in a refund of up to \$7,500 per new permanent job with a maximum refund of \$3,750,000 for the creation ~~[or retention]~~ of at least 500 new permanent jobs if the bank designates the project as a triple jumbo enterprise project.

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No equivalent provision.

(c) An enterprise project for which a commitment for a capital investment in the range amount and the creation [~~or retention~~] of the number of new permanent jobs specified by Subsection (b)(5) is made is considered a double jumbo enterprise project if the project is so designated by the bank. The bank may not designate a project as a double jumbo enterprise project after the initial designation period approved by the bank under Section 2303.404(b).

No equivalent provision.

(d) An enterprise project for which a commitment for a capital investment in the range amount and the creation [~~or retention~~] of the number of new permanent jobs specified by Subsection (b)(6) is made is considered a triple jumbo enterprise project if the project is so designated by the bank. The bank may not designate a project as a triple jumbo enterprise project after the initial designation period approved by the bank under Section 2303.404(b).

No equivalent provision.

(e) A state-mandated or federally mandated capital investment, including an investment in pollution abatement equipment, does not qualify as a committed capital investment in an enterprise project under this chapter. [FA1(6)]

(e) The maximum number of jobs that the bank may allocate to an enterprise project split into two half designations as provided by Section 2303.406(d-1) is 250.

(f) The maximum number of jobs that the bank may allocate to an enterprise project split into two half designations as provided by Section 2303.406(d-1) is 250. [FA1(7)]

SECTION 6. Section 2303.4071, Government Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

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(a) In this section:

(1) "Double [~~,"double~~] jumbo enterprise project" and "triple jumbo enterprise project" have the meanings assigned by Section 2303.407.

(2) "Half enterprise project" means an enterprise project split into two half designations as provided by Section 2303.406(d-1).

(e) A half enterprise project is eligible for a maximum refund not to exceed \$125,000 in each state fiscal year and is subject to the capital investment and job allocation requirements under Section 2303.407(b)(1), (2), or (3).

No equivalent provision.

SECTION __. Section 2303.504, Government Code, is amended to read as follows:

Sec. 2303.504. STATE TAX REFUNDS [~~AND CREDITS~~]; REPORT. (a) Subject to Section 2303.516, an enterprise project is entitled to[~~:~~

[~~(1)~~] a refund of state taxes under Section 151.429, Tax Code[~~; and~~

[~~(2)~~] ~~a franchise tax credit under Subchapter Q-1, Chapter 171, Tax Code~~].

(b) At the time of receipt of any tax benefit available as a result of participating in the enterprise zone program, including a state sales and use tax refund [~~or franchise tax credit~~], three percent of the amount of the tax benefit shall be transferred to the Texas economic development bank fund under Subchapter B, Chapter 489, to defray the cost of administering this chapter.

(c) Not later than the 60th day after the last day of each fiscal year, the comptroller shall report to the bank the statewide total of actual jobs created, actual jobs retained, and the tax

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refunds [~~and credits~~] made under this section during that fiscal year. [FA1(9)]

No equivalent provision.

SECTION __. Section 2303.516(b), Government Code, is amended to read as follows:

(b) The comptroller may determine that the business or project is not entitled to a refund [~~or credit~~] of state taxes under Section 2303.504 if the comptroller finds that:

- (1) the business or project is not willing to cooperate with the comptroller in providing the comptroller with the information the comptroller needs to determine the state benefits; or
- (2) the business or project has substantially failed to follow through on any commitments made by it or on its behalf under this chapter. [FA1(9)]

No equivalent provision.

SECTION __. Section 151.429, Tax Code, is amended by amending Subsections (b) and (c) and adding Subsection (k) to read as follows:

(b) Subject to the limitations provided by Subsection (c) of this section, an enterprise project qualifies for a refund of taxes under this section based on the amount of capital investment made at the qualified business site, the project's designation level, and the refund per job with a maximum refund to be included in a computation of a tax refund for the project. A capital investment at the qualified business site of:

- (1) \$40,000 to \$399,999 will result in a refund of up to \$2,500 per job with a maximum refund of \$25,000 for the creation or retention of 10 jobs;
- (2) \$400,000 to \$999,999 will result in a refund of up to \$2,500 per job with a maximum refund of \$62,500 for the

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creation or retention of 25 jobs;

(3) \$1,000,000 to \$4,999,999 will result in a refund of up to \$2,500 per job with a maximum refund of \$312,500 for the creation or retention of 125 jobs;

(4) \$5,000,000 or more [~~to \$149,999,999~~] will result in a refund of up to \$2,500 per job with a maximum refund of \$1,250,000 for the creation or retention of 500 jobs, except as provided by Subdivision (5) or (6);

(5) \$150,000,000 to \$249,999,999 will result in a refund of up to \$5,000 per new permanent job with a maximum refund of \$2,500,000 for the creation [~~or retention~~] of 500 new permanent jobs if the Texas Economic Development Bank designates the project as a double jumbo enterprise project; or

(6) \$250,000,000 or more will result in a refund of up to \$7,500 per new permanent job with a maximum refund of \$3,750,000 for the creation [~~or retention~~] of at least 500 new permanent jobs if the Texas Economic Development Bank designates the project as a triple jumbo enterprise project.

(c) The total amount of tax refund that an enterprise project may apply for in a state fiscal year may not exceed \$250,000, at not more than \$2,500 per job. The total amount of tax refund that a double jumbo enterprise project may apply for in a state fiscal year may not exceed \$500,000, at not more than \$5,000 per new permanent job. The total amount of tax refund that a triple jumbo enterprise project may apply for in a state fiscal year may not exceed \$750,000, at not more than \$7,500 per new permanent job. If an enterprise project, double jumbo enterprise project, or triple jumbo enterprise project qualifies in a state fiscal year for a refund of taxes in an amount in excess of the applicable limitation provided by this subsection, it may apply for a refund of those taxes in a subsequent year, subject to the applicable limitation for each

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year. The total amount that may be refunded to:

(1) an enterprise project under this section may not exceed the amount determined by multiplying \$250,000 by the number of state fiscal years during which the enterprise project created or retained one or more jobs for qualified employees;

(2) a double jumbo enterprise project under this section may not exceed the amount determined by multiplying \$500,000 by the number of state fiscal years during which the double jumbo enterprise project created ~~or retained~~ one or more new permanent jobs for qualified employees; or

(3) a triple jumbo enterprise project under this section may not exceed the amount determined by multiplying \$750,000 by the number of state fiscal years during which the triple jumbo enterprise project created ~~or retained~~ one or more new permanent jobs for qualified employees.

(k) A half enterprise project is eligible for a maximum refund not to exceed \$125,000 in each state fiscal year and is subject to the capital investment and job allocation requirements under Subsection (b)(1), (2), or (3). [FA1(9)]

No equivalent provision.

SECTION __. Section 151.429(e), Tax Code, is amended by adding Subdivision (6) to read as follows:

(6) "Half enterprise project" means an enterprise project split into two half designations as provided by Section 2303.406(d-1), Government Code. [FA1(9)]

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SECTION __. Section 2303.109(b), Government Code, is repealed. [FA1(9)]

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No equivalent provision.

SECTION 7. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

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SECTION __. (a) The changes in law made by this Act to Section 2303.402(a), Government Code, apply only to an application for a designation of an enterprise project under the enterprise zone program under Chapter 2303, Government Code, as amended by this Act, filed on or after the effective date of this Act. An application for designation of an enterprise project under the enterprise zone program filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(b) The changes in law made by this Act to Section 2303.407, Government Code, and Section 151.429, Tax Code, apply only to an enterprise project designation made on or after the effective date of this Act. An enterprise project designation made before the effective date of this Act is governed by the law in effect when the designation was made, and the former law is continued in effect for that purpose. [FA1(9)]

SECTION __. This Act takes effect September 1, 2013. [FA1(8)]

CONFERENCE