HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT TEXAS HOUSE OF REPRESENTATIVES INTERIM REPORT 2006

A REPORT TO THE
HOUSE OF REPRESENTATIVES
80TH TEXAS LEGISLATURE

ALLAN RITTER
CHAIRMAN

COMMITTEE CLERK
SHERRI WALKER

Committee On
Economic Development

January 9, 2007

Allan Ritter
Chairman

P.O. Box 2910
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The Honorable Tom Craddick
Speaker, Texas House of Representatives
Members of the Texas House of Representatives
Texas State Capitol, Rm. 2W.13
Austin, Texas 78701

Dear Mr. Speaker and Fellow Members:

The Committee on Economic Development of the Seventy-Ninth Legislature hereby submits its interim report including recommendations and drafted legislation for consideration by the Eightieth Legislature.

Respectfully submitted,

Allan B Ritter

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Members: Lois Kolkhorst, Brian McCall, Joe Deshotel, Rafael Anchia, Gene Seaman

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INTRODUCTION

The Committee on Economic Development received seven interim charges from Speaker Tom Craddick. The issues were large in scope and demanded individual attention. Public hearings were conducted on each topic beginning in February, 2006 and ending in August, 2006. Individuals, communities, agencies, and associations participated in providing valuable information to the committee. We are grateful to all who took the time to testify and submit documentation to the committee. We would particularly like to thank the Texas Economic Development Division of the Governor's Office and their outstanding staff as well as the Texas Workforce Commission and their staff.

HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT

INTERIM STUDY CHARGES AND SUBCOMMITTEE ASSIGNMENTS

(The Chairman appointed the committee as a whole to serve as the subcommittee for all charges.)

CHARGE 1. Review the application of the Development Corporation Act of 1979 (Article 5109.6, VTCS) to determine the appropriateness of including limited funding ability for higher education projects supporting the development or expansion of specialized educational facilities at institutions of higher education.

SUBCOMMITTEE: Allan Ritter-Chair; Byron Cook-Vice-Chair; Lois Kolkhorst, Brian McCall, Joe Deshotel, Gene Seaman, Rafael Anchia

CHARGE 2. Study the use of the Skills Development Fund and the adequacy of the alternative funding mechanism created in House Bill 2421, 79th Legislature.

SUBCOMMITTEE: Allan Ritter-Chair; Byron Cook-Vice-Chair; Lois Kolkhorst, Brian McCall, Joe Deshotel, Gene Seaman, Rafael Anchia

CHARGE 3. Study the effectiveness of the Texas Enterprise Zone program and its contributions in creating economic development in this state.

SUBCOMMITTEE: Allan Ritter-Chair; Byron Cook-Vice-Chair; Lois Kolkhorst, Brian McCall, Joe Deshotel, Gene Seaman, Rafael Anchia

CHARGE 4. Study the utilization of the Unemployed Insurance Fund.

SUBCOMMITTEE: Allan Ritter, Chair; Byron Cook, Vice-Chair; Lois Kolkhorst, Brian McCall, Joe Deshotel, Gene Seaman, Rafael Anchia

CHARGE 5. Study the use of the Texas Economic Development Act since its enactment as House Bill 1200, 77th Legislature. Examine how successful the program has been in the promotion of economic development in this state, and its use by local government entities. Make recommendations for any statutory changes needed to the program, and consider whether the December 31, 2007, Sunset date should be extended.

SUBCOMMITTEE: Allan Ritter-Chair; Byron Cook-Vice-Chair; Lois Kolkhorst, Brian McCall, Joe Deshotel, Gene Seaman, Rafael Anchia

CHARGE 6. Study the use of the Texas Enterprise Fund and other economic development tools created by Senate Bill 275, 78th Legislature. Examine how successful the new programs have been in the promotion of economic development in this state, and recommend any statutory enhancements that could be made.

<u>SUBCOMMITTEE</u>: Allan Ritter-Chair; Byron Cook-Vice-Chair; Lois Kolkhorst, Brian McCall, Joe Deshotel, Gene Seaman, Rafael Anchia

CHARGE 7. Monitor the agencies and programs under the committee's jurisdiction.

<u>SUBCOMMITTEE</u>: Allan Ritter-Chair; Byron Cook-Vice-Chair; Lois Kolkhorst, Brian McCall, Joe Deshotel, Gene Seaman, Rafael Anchia

DEVELOPMENT CORPORATION ACT Of 1979

CHARGE 1. Review the application of the Development Corporation Act of 1979 (Article 5109.6, VTCS) to determine the appropriateness of including limited funding ability for higher education projects supporting the development or expansion of specialized educational facilities at institutions of higher education.

I. Background

Objective: The Development Corporation Act of 1979 (Act) allows voters in eligible cities to impose a local sales and use tax to help finance local economic development projects. The legislature authorized the tax to stimulate the economy and to provide smaller cities with a revenue source for economic development. The tax was also designed to give smaller Texas communities the opportunity to compete more successfully for business relocation and expansion projects. The Act also authorizes cities, counties, and special districts to create and use economic development corporations to promote new and expanded industry and manufacturing activity. The development corporations have the power to issue bonds on behalf of the sponsoring entity for the purpose of making loans or grants for economic development.

Participation: Cities that meet specific population and tax rate requirements are eligible to levy the sales and use tax under two sections of the Act -- sections 4A and 4B. A city is eligible to adopt the Section 4A tax, with voter approval, if the new, combined local sales tax rate would not exceed two percent and:

- the city is located in a county with a population of less than 500,000; or
- the city has a population of less than 50,000 and is located within two or more counties, one of which is Bexar, Dallas, El Paso, Harris, Hidalgo, Tarrant, or Travis county or
- the city has a population of less than 50,000 and is within the San Antonio or Dallas Rapid Transit Authority territorial limits but has not elected to become part of the transit authority.

A city may impose the Section 4B tax, with voter approval, if the new, combined local sales tax rate would not exceed two percent and:

- the city would be eligible to adopt a Section 4A tax (see above); or
- the city is located in a county with a population of 500,000 or more (Bexar, Dallas, El Paso, Harris, Hidalgo, Tarrant, or Travis county) and the combined state and local sales tax rate does not exceed 8.25 percent; or
- the city has a population of 400,000 or more and is located in more than one county, and the combined state and local sales tax rate does not exceed 8.25 percent.

Because Section 4B applies to every city that is located in a county with a population of less than 500,000 (eligible to adopt a Section 4A tax) as well as every city that is located in a county with a population of more than 500,000, in effect, every Texas city is eligible to adopt a Section 4B sales tax if the city's combined local sales tax rate does not exceed two percent. However, it should be noted that very few larger cities levy the Section 4B tax because the local sales tax rate is already at two percent because of the presence of multiple taxing jurisdictions such as transit authorities and special purpose districts. Smaller cities have more room in their local tax rate capacity, and many of them levy both the Section 4A and Section 4B sales tax.

As of August 31, 2005, 533 Texas cities levy an economic development sales tax. Of these cities, 122 have adopted a Section 4A tax, 319 have adopted a Section 4B tax, and 92 cities have adopted both sales taxes. The great majority of these cities have a population of less than 50,000. Larger cities that levy the Section 4A tax (because they are in a county with a population of less than 500,000) are Amarillo, Corpus Christi, and Lubbock; larger cities that levy the Section 4B tax are Brownsville, College Station, McAllen, and San Angelo.

Revenues: Section 4A tax proceeds can be used to fund 22 categories of expenditures. Some of the categories are defined in Section 4A, and others are included in the Section 2 definition of "project." The Section 4A categories, and the year they were added by the legislature, are:

- Transportation facilities, solid waste disposal facilities, sewage facilities, facilities for furnishing water to the general public, or air or water pollution control facilities if providing these facilities is not the primary purpose of the project (1989) (As explained below, these projects must also create or retain primary jobs.)

- A business airport that is an integral part of an industrial park (1991)

- Port-related facilities that support water-borne commerce (1991)

- Cleanup of contaminated property if the project is expressly approved by voters (2001)

- Airport-related facilities if the corporation is created by a city that is located within 25 miles of the border, has a population of less than 50,000, and has an unemployment rate greater than the state average (applies to most cities that have created a Section 4A economic development corporation in Cameron, Hidalgo, Starr, Webb, and Zavala counties) (2005)

The remaining categories of expenditures are authorized by Section 2 of the Act, which defines "project." Projects in the following categories must create or retain primary jobs. As added by the legislature in 2003, "primary job" is defined as a job that is "available at a company for which a majority of the products or services of that company are ultimately exported to regional, statewide, national, or international markets infusing new dollars into the local economy" and that is included in a list of sectors of the North American Industry Classification System. The sectors are listed in the Act and cover a wide range of industries, but notably missing is the retail sector. The expenditure categories, and the year they first appeared in the Act, are:

- Manufacturing and industrial facilities (1983)
- Transportation facilities, including, but not limited to, airports, ports, mass commuting facilities, and parking facilities (1983)
- Sewage or solid waste disposal facilities (1983)
- Air or water pollution control facilities (1983)
- Facilities for the furnishing of water to the general public (1983)
- Distribution centers (1983)
- Small warehouse facilities capable of serving as decentralized storage and distribution centers (1983)
- Recycling facilities (1993)
- Research and development facilities (2001)
- Primary job training facilities for use by institutions of higher education (2003)
- Regional or national corporate headquarters facilities (2003)
- Military facilities, including closed or realigned military bases (first added in 1997; removed in 2003; added again in 2005)
- Telephone call centers (added to the list of industry sectors under the North American Industry Classification System for the definition of "primary job") (2005)
- National security projects for military bases (added to the list of industry sectors under the North American Industry Classification System for the definition of "primary job") (2005)
- Projects that prevent the possible future closure or realignment of a military base in active use, attract new military missions to a military base in active use, or assist in redeveloping a military base that has been closed or realigned if the project creates or retains primary jobs that are included in North American Industry Classification System sector number 926120, Regulation and Administration of Transportation Programs, for the corresponding index entry for the Coast Guard, except the Coast Guard Academy (2005)

Categories of Section 4A and Section 4B expenditures authorized in Section 2 that are not required to create or retain primary jobs are:

- Job training required or suitable for the promotion of development and expansion of business enterprises and other enterprises described by this Act, with certain requirements described in Section 38 (1999)

- Infrastructure necessary to promote or develop new or expanded business enterprises limited to streets and roads, rail spurs, water and sewer utilities, electric utilities, gas utilities, drainage, site improvements, and related improvements, and telecommunications and Internet improvements (2003 and 2005)

- Beach remediation along the Gulf of Mexico that promotes or develops new or expanded business enterprises (2005)

- Career centers if the area to be benefited by the center is not located in the taxing jurisdiction of a junior college district (2005)

- Development or expansion of airport facilities if the corporation is created by a city located within 25 miles of the border or by a city with a population of less than 50,000 and an unemployment rate greater than the state average (2005)

- Airports, ports, sewer or solid waste disposal facilities, and other infrastructure projects that promote or develop new or expanded business enterprises if the corporation is created by a city wholly or partly located in a county that is bordered by the Rio Grande, has a population of at least 500,000, and has wholly or partly within its boundaries at least four cities that each have a population of at least 25,000 (applies to corporations in Hidalgo County) (2005)

The Act also allows Section 4A tax proceeds to be used for a purpose authorized under Section 4B with voter approval, a provision added in 1997.

In addition to categories of expenditures in Section 2, Section 4B tax proceeds can be used to fund projects that are typically considered to be community development initiatives. Unless noted, the expenditures are not required to create or retain primary jobs. These Section 4B categories, and the year they were added by the legislature, are:

- Professional and amateur (including children's) sports and athletic facilities, including stadiums and ballparks (1991)

- Entertainment, tourist, and convention facilities, including auditoriums, concert halls, and museums (1991)

- Public parks, park facilities and events, and open space improvements (1991)

- Related store, restaurant, concession, and automobile parking facilities; related area transportation facilities; related roads, streets, and water and sewer facilities; other related improvements that enhance any of the above three categories (1991)

- Projects that promote or develop new or expanded business enterprises that create or retain primary jobs, including public safety facilities, streets and roads, drainage and related improvements, demolition of existing structures, and general municipally owned improvements (1993)

- Affordable housing as defined by federal law (1997)

- Water supply projects that are expressly approved by voters (2001)

- Water conservation projects that are expressly approved by voters (2001)

- Cleanup of contaminated property if the project is expressly approved by voters (2001)

- Projects that develop, retain, or expand business enterprises if the project is undertaken by a corporation that has not received more than $50,000 in revenues from Section 4B sales and use taxes for each of the preceding two fiscal years, with certain notice and approval requirements (2005)

- Projects found to promote new or expanded business development by the board of directors of a corporation created by a city with a population of 20,000 or less, with certain notice and approval requirements (2005)

- Projects found to be required to promote new or expanded business enterprises by the board of directors of a corporation created by a landlocked city that is wholly or partly located in a county with a population of 2 million or more and has within its city limits and extraterritorial jurisdiction less than 100 acres that can be used for the development of manufacturing or industrial facilities in accordance with the zoning laws or land use restrictions of the city, with certain notice and approval requirements (2005)

Administration: The tax is administered by an economic development corporation. Each corporation has a board of directors, the members of which are appointed by and serve at the pleasure of the city's governing body. In 2005, the legislature authorized city governing bodies to determine the number and term of office, up to six years, of Section 4A corporation directors; each board must have at least five directors, and there are no statutory criteria for their selection. A Section 4B board consists of seven members who, with limited exceptions for corporations created by cities with a population of less than 20,000, must be city residents. Not later than February 1 of each year, the board of directors of every corporation must submit a report to the comptroller of their activities and expenditures.

An economic development corporation is a nonprofit corporation that has the power to issue bonds on behalf of the sponsoring entity. If the corporation is eligible to levy a Section 4A or 4B tax with voter approval, then it can use the tax proceeds to back the bonds. While most development corporations in Texas were created by cities, counties also have created and used them. A county would back the bonds using other tax proceeds.

II. Legislative History

The Texas Legislature has amended Section 4A of the Act 27 times, while Section 4B has been amended 36 times. The major legislative changes to the Act are presented below:

SB 1275, 66th Legislature (1979) - Enacted the Development Corporation Act of 1979 (DCA) to allow cities, counties, and special districts to create development corporations to promote new and expanded industry and manufacturing activity. The bill authorized corporations to issue bonds on behalf of the sponsoring entity for a purpose of the entity.

HJR 5 and HB 49, 70th Legislature (1987) - As approved by a majority of statewide voters, enacted Section 52-a, Article III, Texas Constitution, which allows loans or grants of public money to be used for economic development

SB 971, 71st Legislature (1989) - Added Section 4A to the DCA to authorize a city located in a county with a population of 500,000 or fewer to create a development corporation and levy an economic development sales tax with voter approval

SB 376, 72nd Legislature (1991) - Added Section 4B to the DCA to authorize certain cities to create a development corporation and levy an economic development sales tax with voter approval

SB 124, 73rd Legislature (1993) - Amended the DCA to authorize additional cities to create a development corporation and levy the Section 4B tax with voter approval

74th Legislative Interim (1996)- Senate Economic Development Committee charged with reviewing economic development tax incentives, including the economic development sales tax

HB 1410, 75th Legislature (1997) - Added Section 4C to the DCA to require all Section 4A and Section 4B development corporations to file an annual report with the comptroller's office by February 1.

HB 1525, 75th Legislature - Amended the DCA to authorize Section 4A tax proceeds to be used for Section 4B projects with voter approval

HB 3029, 76th Legislature (1999) - Amended the DCA to add targeted infrastructure, job creation and retention, job training, and educational facilities to the definition of "project" for the purposes of allowable Section 4A and Section 4B expenditures

HB 1027, 77th Legislature (2001) - Amended Sections 4A and 4B of the DCA to allow development corporations to use tax proceeds for the cleanup of contaminated property if the project is authorized by a majority of voters

HB 1592, 77th Legislature - Amended the DCA to add research and development facilities to the definition of "project" for the purposes of allowable Section 4A and Section 4B expenditures

HB 2379, 77th Legislature - Amended Section 4B of the DCA to add water supply and water conservation projects that are expressly approved by voters to the definition of "project"

HB 3178, 77th Legislature - Amended the DCA to add a training requirement for certain officials of a city or county that has created a development corporation and the executive director of the corporation (This requirement was both abolished and enhanced by two bills passed in 2003, and the attorney general ruled that the requirement still existed.)

HB 2912, 78th Legislature (2003) - Amended the DCA to require most categories of expenditures under the definition of "project" in Section 2 to create or retain primary jobs in certain sectors, not including the retail sector, which had the effect of limiting expenditures for retail business development; the bill also removed "municipal buildings," "educational facilities," and "learning centers" from the definition of "project" and added regional or national corporate headquarters facilities and certain infrastructure to the definition

SB 252, 79th Legislature (2005) - Amended Section 2 of the DCA to add projects that prevent the possible future closure or realignment of a military base in active use, attract new military missions to a military base in active use, or assist in redeveloping a military base that has been closed or realigned if the project creates or retains primary jobs that are included in North American Industry Classification System sector number 926120, Regulation and Administration of Transportation Programs, for the corresponding index entry for the Coast Guard, except the Coast Guard Academy

HB 551, 79th Legislature - Amended Section 2 of the DCA to make telephone call centers eligible for expenditures of Section 4A and Section 4B tax proceeds

HB 1253, 79th Legislature - Amended Section 2 of the DCA to make career centers that are not in the taxing jurisdiction of a junior college district eligible for expenditures of Section 4A and Section 4B tax proceeds

HB 2755, 79th Legislature - Amended Section 4B of the DCA to add projects that are undertaken by a corporation created by an eligible city that has not for each of the preceding two fiscal years received more than $50,000 in revenues from the Section 4B tax and that has met certain notice requirements to the projects that are eligible for Section 4B tax proceeds

HB 2928, 79th Legislature - Amended Section 2 of the DCA to add the following projects that are eligible for expenditures of Section 4A and 4B tax proceeds: sewer utilities; site improvements; beach remediation along the Gulf of Mexico; airport facilities if the corporation is created by a city located within 25 miles of the border or by a city with a population of less than 50,000 and an unemployment rate greater than the state average; airports, ports, sewer or solid waste disposal facilities, and other infrastructure projects that promote or develop new or expanded business enterprises if the corporation is created by a city wholly or partly located in a county that is bordered by the Rio Grande, has a population of at least 500,000, and has wholly or partly within its boundaries at least four cities that each have a population of at least 25,000; the bill amended Section

4A to add the following project: airport-related facilities if the corporation is created by a city that is located within 25 miles of the border, has a population of less than 50,000, and has an unemployment rate greater than the state average; the bill amended Section 4B to add the following projects: projects found to promote new or expanded business development by the board of directors of a corporation created by a city with a population of 20,000 or less, if certain notice and approval requirements are met; and projects found to be required to promote new or expanded business enterprises by the board of directors of a corporation created by a landlocked city that is wholly or partly located in a county with a population of 2 million or more and has within its city limits and extraterritorial jurisdiction less than 100 acres that can be used for the development of manufacturing or industrial facilities in accordance with the zoning laws or land use restrictions of the city, if certain notice and approval requirements are met

III. Findings

The subcommittee met in a public hearing on June 13, 2006 to take up and consider interim charge number one. The charge was the result of a failed bill from the 79th Regular Session, HB 568. Representative Scott Campbell filed HB 568 on behalf of his constituency to address a local problem. San Angelo and the surrounding communities were experiencing a severe shortage of nurses. The community wanted to use 4A/4B tax money to start a nursing program within their community. HB 568 would have expanded the definition of the Development Corporation Act to include higher education facilities.

Howard College in San Angelo is a workforce training facility. A representative of the college as well as the Chamber of Commerce and Concho Valley Workforce Development Board testified during the 79th Regular Session in favor of passing HB 568 for this purpose. The opponents included various individuals and the Texas Economic Development Council. In questioning the various witnesses, the committee members concluded that the bill had statewide implications for a problem that was local. Concern was also expressed that the 4A/4B definition was being broadened beyond its intention. The bill sponsor and committee members agreed to work together and determine if another solution could be reached. An interim study was suggested and agreed upon.

When the subcommittee met in June, 2006 to examine the Development Corporation Act, the San Angelo Chamber of Commerce was contacted to participate in the study. The Chamber reported to no longer be interested in the matter and opted to not participate in the hearing. The Texas Economic Development Council and Economic Development Division of the Governor's Office did participate. The Economic Development Division gave resource testimony as to the Act's intent and purpose.

IV. Recommendation:

The Committee recommends that no action be taken at this time.

SKILLS DEVELOPMENT FUND

CHARGE 2. Study the use of the Skills Development Fund and the adequacy of the alternative funding mechanism created in House Bill 2421, 79th Legislature.

I. Background

The Skills Development Fund (SDF) has historically been funded from General Revenue in the amount of $25 million dollars for the biennium ($12.5 million each year). HB 2421 restructures the funding mechanism of the SDF, adds a funding component for the Texas Enterprise Fund (TEF), and creates the Training Stabilization Fund. Under the restructuring, new employers will have their Unemployment Insurance Tax reduced by one-tenth of one percent and an experience-rated employer will have the rate of the Replenishment Tax they pay reduced by one-tenth of one percent.

Beginning January 1, 2006 an Employment and Training Investment Assessment Contribution in the amount of one-tenth of one percent is required to be paid by all applicable employers and deposited into a special holding fund to be administered by the Comptroller. If the Unemployment Compensation Fund (UCF) becomes over-funded as determined by law, then the overage is to be placed in the special holding fund. From there the funds will be distributed between the SDF and the TEF. However, if the UCF falls below its lawful amount, then the special fund will be transferred into the UCF.

The bill creates a Training Stabilization Fund which is financed by the remaining amounts in the special holding fund after the prescribed amounts are transferred from the holding fund to the TEF, SDF or to the UCF. Provisions are made to transfer money from the Stabilization Fund to the TEF and SDF should either of those funds become legislatively insufficient. HB 2421 also directs the Texas Workforce Commission (TWC) to consider giving priority to small businesses for training incentives when awarding grants.

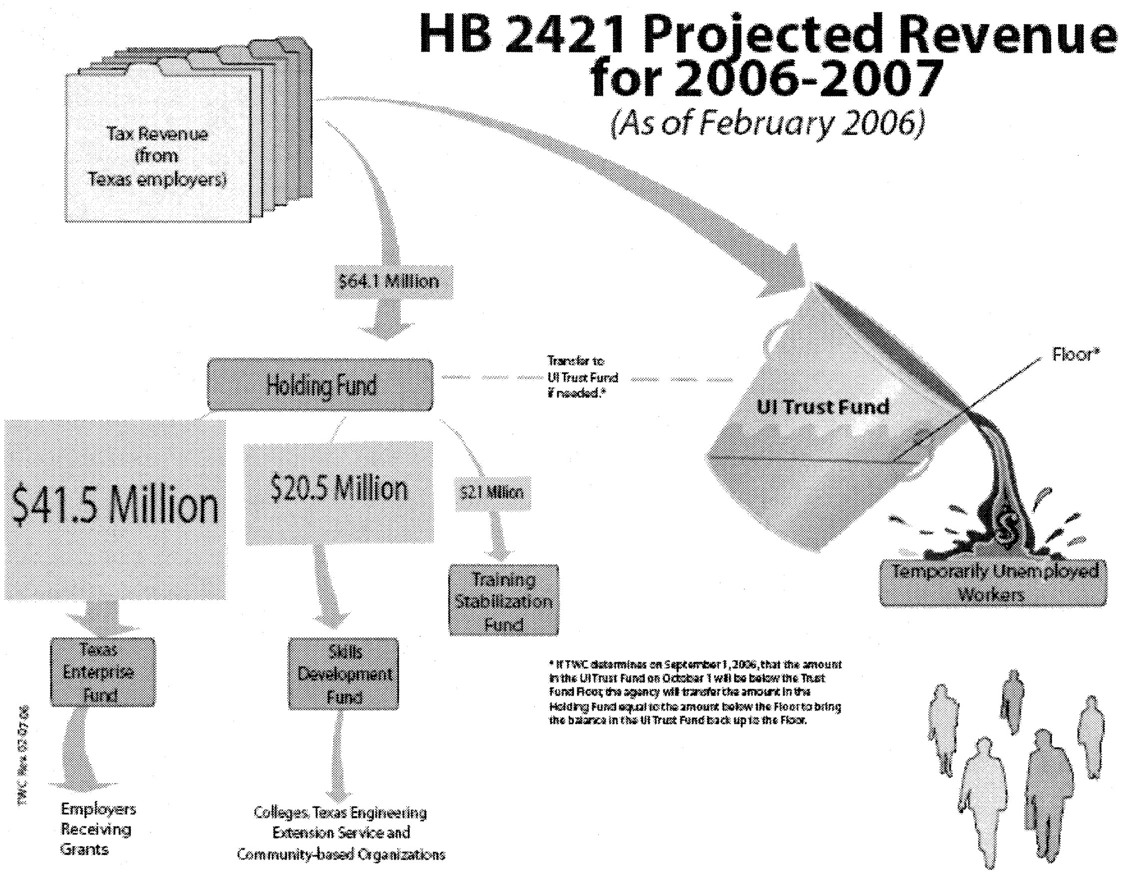
II. Findings

The Committee on Economic Development held a public hearing on February 8, 2006 to follow up on the implementation of HB 2421. The new funding mechanism had not had time to culminate in any numerical percentage results, therefore, the TWC gave projections they anticipated. The TWC reported that SB 1 appropriated $10 million to the SDF for the biennium. Also, $10.2 million from the abolished "Smart Jobs" program was now given to the SDF. This transfer of funds was a one-time option and not a recurring funding mechanism. The combination of the $10 million appropriated and the $10.2 from Smart Jobs will fund the SDF for this biennium with a total of $40.2 million. Subsequent years will be funded with the anticipated $10 million from General Revenue for the biennium and the percentage of UCF dollars distributed.

The TWC expressed concern that the new funding mechanism may cause a shortage in funding for the SDF. They testified that the program had grown in the number of applications received and they anticipated even more applications this next biennium. When asked if they felt the growth in applications was due to the fact that there was more money in the program, the TWC answered, yes, and that more people were aware of the program.

III. Recommendation

It is the Committee's opinion that the funding mechanism has not had sufficient time to develop, therefore, no action should be taken at this time. The program should continued to be monitored and reevaluated next biennium.


HB 2421 Projected Revenue for 2006-2007
(As of February 2006)
Tax Revenue (from Texas employers)
$64.1 Million
Holding Fund
Transfer to UI Trust Fund if needed.*
UI Trust Fund
Floor*
$41.5 Million
$20.5 Million
$2.1 Million
Training Stabilization Fund
Temporarily Unemployed Workers
Texas Enterprise Fund
Skills Development Fund
* If TWC determines on September 1, 2006, that the amount in the UI Trust Fund on October 1 will be below the Trust Fund Floor, the agency will transfer the amount in the Holding Fund equal to the amount below the Floor to bring the balance in the UI Trust Fund back up to the Floor.
Employers Receiving Grants
Colleges, Texas Engineering Extension Service and Community-based Organizations

TEXAS ENTERPRISE ZONE

CHARGE 3. Study the effectiveness of the Texas Enterprise Zone program and its contributions in creating economic development in this state.

I. Background

Objective: This economic development tool provides refunds of the 6.25 percent state sales and use tax on the qualified expenditures of businesses that provide a capital investment of at least $40,000, create or retain at least 10 jobs, and have a certain percentage of new employees, either in new jobs or in jobs with turnover, who are either economically disadvantaged individuals or residents of an area that automatically qualifies as an enterprise zone based on its poverty level and other factors. If the business is located within an enterprise zone, 25 percent of new employees must be economically disadvantaged individuals or residents of any enterprise zone in the state to qualify for the tax benefit. If the business is located outside of an enterprise zone, the qualifying percentage of new employees meeting either criterion increases to 35 percent. The legislature enacted the program to clearly identify economically distressed areas of the state and to provide state and local incentives to businesses that hire economically disadvantaged persons. The program is governed by Chapter 2303, Government Code.

Administration: The Texas Enterprise Zone Program is administered by the Texas Economic Development Bank in the Texas Economic Development and Tourism Office, Office of the Governor. Established in 2003 by the Sunset Bill for the Texas Department of Economic Development, the Economic Development Bank administers state and federal financial incentives for economic development. Enterprise Zone Program activities performed at the bank include compiling data identifying the distressed counties in the state, helping cities and counties prepare enterprise project applications, scoring project applications, and monitoring projects to determine if the businesses are entitled to a refund of state sales and use taxes. The Comptroller of Public Accounts certifies hiring commitments and eligible purchases before a tax refund is issued.

Participation: An area automatically qualifies for designation as an enterprise zone if the area is: (1) a block group, as defined by the most recent federal decennial census, in which at least 20 percent of the residents have an income at or below 100 percent of the federal poverty level; (2) an area designated by the federal government as a renewal community, federal empowerment zone, or federal enterprise community; or (3) an area located in a distressed county, which is defined as a county that has a poverty rate above 15.4 percent, in which at least 25.4 percent of the adult population does not hold a high school diploma or high school equivalency certificate, and that has an unemployment rate that has remained above 4.9 percent during the preceding five years.

As of October 2006, there are 64 counties that fit the criteria of a distressed county as described in section (3) above, according to the Economic Development Bank. The criteria became effective with the passage of HB 1659, Chapter 1243, Acts of the 79th Legislature, Regular Session, 2005.

A qualified business may not participate in the Texas Enterprise Zone Program unless a city or county nominates it as an enterprise project. The Economic Development Bank designates enterprise projects on a competitive basis through quarterly application rounds. Cities and counties with a population of 250,000 or more are eligible for up to six enterprise project designations during a state biennium; cities and counties with a population of less than 250,000 are eligible for up to four designations. Once a city or county with a population of less than 250,000 has received four enterprise project designations during a biennium, the nominating body may submit up to two bonus project nominations if designations are available. State law limits the number of enterprise project designations to 85 during any biennium.

Among the 157 enterprise projects that are active as of October 2006, Austin has one project, Corpus Christi has three projects, and San Antonio has nine. Smaller cities that have projects include Corsicana with four, Mission with two, and Plainview with one. There are only seven enterprise projects that were nominated by counties. Two of the Corpus Christi projects are classified as "triple jumbo enterprise projects" defined in law as projects with a capital investment of $250,000,000 or more that create or retain 500 jobs. A triple jumbo enterprise project counts as three project designations for purposes of the designation limits described above and is eligible for a maximum state sales and use tax refund of $750,000 in each fiscal year. A double jumbo enterprise project counts as two project designations and is eligible for a maximum refund of $500,000 in each fiscal year. It is defined as a project with a capital investment of $150,000,000 to $249,999,999 that creates or retains 500 jobs.

The qualifying business in Austin is Home Depot. By law, if an enterprise project designation is for a franchise or subsidiary, separate books and records must be maintained for the business activity conducted at the qualified business site.

Most enterprise project designations are for manufacturers. For example, Brownwood received an enterprise project designation for a 3M plant that manufactures reflective sheeting. Of Brenham's four currently designated projects, two were received on behalf of Blue Bell Creameries. Other categories of business that are represented by enterprise project designations are warehouse and distribution, service/retail, lodging, oil and gas production, and food processing.

The majority of enterprise projects have a five-year designation period. The designation period is set by the Economic Development Bank and may not be for a period of less than one year nor exceed five years from the date on which the designation is made. The first designation for Blue Bell Creameries, for example, was made in 2002 and expires in 2007.

Qualification: To qualify for state incentives, a business must provide a capital investment at a qualified business site and create or retain jobs that are filled or held by economically disadvantaged persons or residents of an enterprise zone. The guideline in use at the Economic Development Bank reflects the statutory requirement for a minimum capital investment for participation of $40,000 and a minimum of 10 jobs created or retained. State law provides that if the business is located within an enterprise zone, 25 percent of new employees, either in new jobs or in jobs with turnover, must be economically disadvantaged persons or residents of any enterprise zone in the state. If the business is located outside of an enterprise zone, 35 percent of new employees must be residents of an enterprise zone or economically disadvantaged individuals. The Economic Development Bank reported in its FY2005 Annual Report that more than 68 percent of the 85 enterprise project designations made in 2004-2005 were located outside of an enterprise zone.

As defined by Section 2303.402, Government Code, and by the Economic Development Bank for purposes of determining a qualified enterprise project, an economically disadvantaged person is a person who at the time of hire meets any one or more of the following criteria:

- was unemployed for at least three months before obtaining employment with the qualified business;

- receives public assistance benefits, including welfare payments or food stamps, or has an immediate family member receiving Supplemental Security Income or Temporary Assistance for Needy Families payments (NOTE: Food stamps must be received by the employee, and not by a member of the employee's immediate family, for the employee to qualify as an economically disadvantaged person.);

- has a physical or mental disability that constitutes or results in a substantial barrier to employment and who can reasonably be expected to benefit in terms of employability from vocational rehabilitation services (NOTE: The disability must be certified by an authorized agency or doctor.);

- is homeless, meaning the person lacks a fixed or regular nighttime residence, or the person's residence is a supervised public or private shelter providing temporary living accommodations;

- is a foster child, meaning that state or local government payments are made on the person's behalf, and a court order exists to remove the person from the custody of the parent and specify a manager-conservator;

- is on parole or entering the workplace after being confined in a unit or correctional facility of the institution division of the Texas Department of Criminal Justice or the Texas Youth Commission; or

- is an individual whose total family income meets the low income or moderate income limits developed under Section 8, United States Housing Act of 1937. (NOTE: The Act defines low income as 50 to 80 percent of the area median income and defines moderate income as not more than $5,500 above the low-income limit. The income limit applies to all income by the employee, employee's spouse and dependents, and family members living with the employee on the employment date.)

<u>Incentives</u>: Qualifying businesses are eligible to apply for refunds of the 6.25 percent state sales and use tax on the expenditures listed below. The 6.25 percent sales tax is collected on taxable items sold in the State of Texas. The 6.25 percent use tax is collected on taxable items that are sold

outside of Texas where the tax is not assessed. The use tax is self-assessed; once a business purchases taxable items from an out-of-state vendor for use in Texas, the business is required to complete a form prescribed by the Comptroller of Public Accounts and submit the tax. The expenditures that qualify for a refund of the state sales and use tax under the Texas Enterprise Program are:

- equipment and machinery sold to an enterprise project *for use at the qualified business site*, including office equipment, machinery or equipment used to maintain or store the product, intraplant transportation equipment such as forklifts, and machinery and equipment used for manufacturing support (The Comptroller of Public Accounts makes the final determination of eligibility.);
- building materials sold to an enterprise project for use in remodeling, rehabilitating, or constructing a structure at the qualified business site;
- labor for remodeling, rehabilitating, or constructing a structure by an enterprise project at the qualified business site;
- electricity and natural gas purchased and consumed in the normal course of business at the qualified business site;

The following items are *already exempt* from the 6.25 percent state sales and use tax and are also exempt from the two percent local sales and use tax under the manufacturing exemption in Chapter 151, Tax Code:

- equipment and machinery used in the manufacturing, processing, or fabricating processes that causes a physical or chemical change in a product to make it saleable; and
- natural gas and electricity used in manufacturing, processing, or fabricating processes if at least 50 percent of the consumption is used directly to cause a physical change in a product.

NOTE: A manufacturer is not allowed to take the Enterprise Zone Program sales tax refund *and* the manufacturing sales tax exemption for equipment and machinery used in the manufacturing, processing, or fabricating processes.

The following items are not eligible for a state sales and use tax refund under the Enterprise Zone Program:

- telecommunications services and other taxable services;
- sales, transportation, and distribution equipment that is used off site; and
- machinery and equipment that is rented or leased.

The maximum tax refund is set in statute. An enterprise project may not receive a refund of more than $250,000 in each fiscal year; the yearly limit is $500,000 for a double jumbo enterprise project and $750,000 for a triple jumbo enterprise project. The maximum number of jobs that are eligible for a tax refund is also set in statute and is related to the level of capital investment. A capital investment in a project of:

- $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;
- $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 10 jobs;
- $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;
- $5,000,000 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;
- $150,000,000 to $249,999,999 will result in a refund of up to $5,000 per job with a maximum refund of $2,500,000 for the creation or retention of 500 jobs; or
- $250,000,000 or more will result in a refund of up to $7,500 per job with a maximum refund of $3,750,000 for the creation or retention of 500 jobs.

To obtain the tax refund, the qualified business must be certified as eligible for the refund by the local governing body sponsoring the enterprise zone and by the Economic Development Bank. The qualified business then applies to the Comptroller of Public Accounts for the refund. As required by law, the comptroller completes an audit to certify hiring commitments and eligible purchases before the refund is issued. Once the jobs are certified by the comptroller, they must be maintained for three years or the company is subject to recapture of the benefit plus penalty and interest. The penalty is 10 percent of the refund, and the interest is equal to one percent over the prime interest rate as published by the *Wall Street Journal* on the first business day of the year in which the benefit was issued. Comptroller staff report that the Enterprise Zone Program's first recapture process is underway in FY2006.

Local communities also must offer incentives such as tax abatements and tax increment financing to participants of the Enterprise Zone Program. Property tax abatements, which are full or partial tax exemptions on real or personal property, cannot be issued unless cities and counties first designate the area in which the property is located as a reinvestment zone. The Tax Code provides that an enterprise zone is automatically a reinvestment zone without further action by a local government. This automatic designation is also important to tax increment financing, which forwards all or a portion of property taxes in a reinvestment zone to a tax increment fund to pay for infrastructure improvements in the zone. Other examples of local incentives are local sales and use tax refunds, reduced or eliminated fees, permitting preferences, job training grants, and low interest loans.

II. Economic Impact

The Economic Development Bank provided the following economic impact figures for the Texas Enterprise Zone Program:

- Number of enterprise projects designated in FY2006: 44*
- Number of enterprise projects designated since the program's inception in 1988: 590

- Capital investment generated by the program in FY2006: $3.79 billion

- Capital investment generated since 1988: $22.85 billion

- Number of permanent new jobs created by the program in FY2006: 8,717
- Number of permanent new jobs created since 1988: 113,348

- Number of jobs retained by the program in FY2006: 13,305
- Number of jobs retained since 1988: 33,724

- Number of total jobs created or retained by the program in FY2006: 22,022
- Number of total jobs created or retained since 1988: 147,072

- Amount of sales taxes refunded in FY2005: $3.7 million
- Amount of sales taxes refunded since FY1990: $39.8 million

* There are 85 project designations available statutorily in the FY2006-2007 biennium. In FY2006 the bank designated 44 enterprise projects, leaving 41 designations available for FY2007.

III. Legislative History

HB 1125, Chapter 841, Acts of the 68th Legislature, Regular Session, 1983, enacted the Texas Enterprise Zone Act as Article 5190.7, Vernon's Texas Civil Statutes. In addition to providing for the designation of local enterprise zones, the act provided for establishment of joint state-federal enterprise zones; the act was revised by the Texas Legislature in 1987 after the U.S. Congress failed to pass legislation to create a federal enterprise zone program.

SB 752, Chapter 765, Acts of the 70th Legislature, Regular Session, 1987, revised the Texas Enterprise Zone Act in Article 5190.7, Vernon's Texas Civil Statutes, effective August 31, 1987; 1988 is considered to be the inception of the current Enterprise Zone Program. The act provided for the program's administration by the Texas Economic Development Commission and entitled an enterprise project to a refund of state sales and use taxes. The act established requirements for designating an enterprise project and revised the criteria and procedures for designating an enterprise zone. It also retained the requirement for a qualifying business to be located in an enterprise zone and at least 25 percent of the business's employees to be residents of the zone or economically disadvantaged individuals.

SB 1205, Chapter 1106, Acts of the 71st Legislature, Regular Session, 1989, transferred administration of the Enterprise Zone Program to the Texas Department of Commerce. The act provided that an enterprise project is also entitled to franchise tax deductions and that a qualified business is entitled to franchise tax refunds for job creation in an enterprise zone as well as a onetime refund of state sales and use taxes for job retention. The act authorized a certain number of enterprise project designations in the biennium.

SB 41, Chapter 11, Acts of the 72nd Legislature, 2nd Called Session, 1991, provided that only qualified businesses are eligible for a franchise tax deduction and capped the maximum number of new permanent jobs that may be allocated among all enterprise projects designated in the biennium at 10,000. The act also set a job ceiling number to be allocated to an individual enterprise project for the purpose of calculating a tax refund for that project.

SB 405, Chapter 986, Acts of the 73rd Legislature, Regular Session, 1993, added a requirement for an annual cost-benefit analysis of the Enterprise Zone Program by the Department of Commerce and for a one-time report by the state auditor regarding the economic impact of the program. The state auditor report (Report Number 95-005) concluded that the program had had minimal impact on unemployment, tax bases and per capita property wealth, and business decisions to locate in the zones.

SB 959, Chapter 76, Acts of the 74th Legislature, Regular Session, 1995, recodified the Enterprise Zone Program as Chapter 2303, Government Code.

HB 2065, Chapter 985, Acts of the 74th Legislature, Regular Session, 1995, capped at 65 the number of enterprise project designations during any biennium and limited to $8 million the total amount of state sales and use taxes refunded to enterprise projects designated during the biennium. The act also required the Department of Commerce to prepare a cost-benefit analysis of the program every two years.

HB 2906, Chapter 1122, Acts of the 75th Legislature, Regular Session, 1997, deleted the provision requiring an biennial cost-benefit analysis of the Enterprise Zone Program. The current requirement is an annual report by the Economic Development Bank that describes the effectiveness of the program.

HB 3658, Chapter 1121, Acts of the 76th Legislature, Regular Session, 1999, transferred administration of the Enterprise Zone Program to the Texas Department of Economic Development and provided that only enterprise zone projects are eligible for franchise tax deductions. The act also eliminated the five-year cap on an enterprise project designation.

HB 820, Chapter 813, Acts of the 77th Legislature, Regular Session, 2001, raised the cap on the number of enterprise project designations during any biennium from 65 to 85 and established the maximum number of enterprise projects that the Department of Economic Development could designate for a city or county during a biennium.

HB 2686, Chapter 1134, Acts of the 77th Legislature, Regular Session, 2001, established that an enterprise project is entitled to franchise tax credits, rather than franchise tax deductions.

SB 275, Chapter 814, Acts of the 78th Legislature, Regular Session, 2003, transferred administration of the Enterprise Zone Program to the Economic Development Bank at the Texas Economic Development and Tourism Office in the Office of the Governor. The act provided that an area automatically qualifies as an enterprise zone if it meets certain criteria and authorized enterprise projects to be located outside of an enterprise zone if 35 percent of new employees at the qualified business site are residents of any enterprise zone in the state or individuals who are economically disadvantaged. The act prohibited the designation period for an enterprise project from exceeding five years and added capital investment requirements for receiving a sales and use tax refund under the program. The act also revised the maximum number of jobs that are eligible for a tax refund and eliminated franchise tax refunds for qualified businesses that create jobs in an enterprise zone. The act eliminated onetime sales and use tax refunds for qualified businesses that retain jobs in an enterprise zone and required three percent of the amount of a tax benefit received by a qualified business to be transferred to the economic development bank fund to defray administration costs of the program.

HB 2424, Chapter 209, Acts of the 78th Legislature, Regular Session, 2003, repealed the franchise tax credit for a corporation that has been designated as an enterprise project.

HB 1659, Chapter 1243, Acts of the 79th Legislature, Regular Session, 2005, added a definition of "distressed county" for purposes of automatically designating an area as an enterprise zone.

IV. Recommendation:

It is the committee's opinion that no action be taken at this time.

OFFICE OF THE GOVERNOR

ECONOMIC DEVELOPMENT & TOURISM

RICK PERRY
GOVERNOR

TEXAS ENTERPRISE ZONE PROGRAM
FREQUENTLY ASKED QUESTIONS

What is an enterprise zone?

Any block group within the State of Texas that has a poverty rate of 20% or more, as determined by the U.S. Census Bureau during each decennial census is a state enterprise zone. The block group will remain an enterprise zone until it no longer qualifies, as a result of a subsequent decennial census.

Any distressed county in Texas is an enterprise zone. A county is considered to be a distressed county if it has a poverty rate above 15.4 percent based on the most recent decennial census; in which at least 25.4 percent of the adult population does not hold a high school diploma or high school equivalency certificate based on the most recent decennial census; and that has an unemployment rate that has remained above 4.9 percent during the preceding five years, based on Texas Workforce Commission data.

Any federally designated empowerment zone, enterprise community or renewal community is also a State enterprise zone, for the duration of the federal designation.

It is the purpose of the Texas Enterprise Zone Act to establish a process that clearly identifies distressed areas and provides incentives by both local and state government to induce private investment in those areas by the provision of tax incentives and economic development program benefits. Under this program, economic development is encouraged by allowing enterprise projects to be designated outside of an enterprise zone, with a higher threshold of hiring economically disadvantaged or enterprise zone residents. The purpose of these sections is to provide standards of eligibility and procedures for designation of applications for qualified businesses as enterprise projects.

Who may participate in the program?

Any municipality or county in the State of Texas may participate in the program, wither they have an enterprise zone within their jurisdiction or not.

How do I determine in what block group I am located?

You can access the U.S. Census Bureau web site to determine what block group a particular address is in. The web address is http://factfinder.census.gov/servlet/ReferenceMapFramesetServlet?_bm=y&-_lang=en.

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How do I determine if my block group qualifies as an enterprise zone?

The OOGEDT, through the Economic Development Bank, has published on its website the areas that qualify as an enterprise zone as either a qualifying block group or a distressed county. The website can be accessed at http://www.bidc.state.tx.us/BIDC_Maps/TxED_Maps/EZone_maps.html. If your block group is not listed, it does not qualify as an enterprise zone.

How does a municipality or county participate in the program?

The municipality or county must nominate a qualified business as an enterprise project by an ordinance or order as applicable. The ordinance or order must establish the local incentives being offered to the business seeking enterprise project designation. Local incentives may be established for all zone areas separately or individually, as well as areas of the jurisdiction outside of a zone area. The ordinance or order must state by position, who will act as liaison for the local program with the state, and nominate the qualified business for enterprise project status. Subsequent project nominations may be done by resolution, if the local incentives offered are substantially the same as outline in the ordinance or order.

Can a community offer local incentives without an enterprise zone?

Yes. A community can offer certain incentives as allowed by state law. Enterprise zones, however, are simply a means of packaging a number of state and local incentives together to help revitalize a distressed area.

What local incentives are available in an enterprise zone?

Local incentives that may be offered to an expanding or locating business vary among enterprise zones. Examples of local incentives that may be offered include tax abatement, a refund of local sales and use taxes, waiver of permitting fees, tax increment financing, transfer of publicly owned buildings at below market cost, and low interest loans.

According to the Tax Code, an enterprise zone is automatically a reinvestment zone without further action. Why is this significant?

A municipality or county can create a reinvestment zone, which allows them to offer tax abatement on real and/or personal property to new or existing businesses. In a regular reinvestment zone, all businesses given tax abatement in the same zone must be given the same terms. Further, all taxing entities must give each business the same terms and conditions. In an enterprise zone, all of the businesses that are given tax abatement do not have to receive the same deal, nor does each taxing entity have to give them the same terms and conditions.

What is a qualified business?

A qualified business is a person, including a corporation or other entity, that has been certified by the Bank, for purposes of state benefits under the Act, or a governing body for purposes of local benefits, to have met the following criteria:

(A) the person is engaged in, or has provided substantial commitment to initiate the active conduct of a trade or business at a qualified business site; and

(B) at least 25% of the business' new employees are either economically disadvantaged or enterprise zone residents (ED/EZR) if the qualified business site is located in an enterprise zone, or at least 35% of the business' new employees are ED/EZR if the qualified business site is located outside of an enterprise zone; and

(C) a franchise or subsidiary of a new or existing business may be certified by the governing jurisdiction as a qualified business if the franchise or subsidiary is located entirely at the qualified business site and maintains separate books and records of the business activity conducted at the qualified business site.

What is the definition of economically disadvantaged?

An individual who at the time of hire:

(A) was unemployed for at least three months before obtaining employment with a qualified business; or

(B) receives public assistance benefits, such as welfare or food stamp payments, or a member of an employee's immediate family receiving Supplemental Security Income or Aid to Families with Dependent Children payments. (Food Stamps must be received by the employee only, not a member of the employee's immediate family.); or

(C) has a physical or mental disability (a disability that constitutes or results in a substantial barrier to employment and can reasonably be expected to benefit in terms of employability from vocational rehabilitation services. NOTE: Individuals must be certified by an authorized agency or doctor.); or

(D) is homeless (lacks a fixed or regular nighttime residence or whose residence is a supervised public or private shelter providing temporary living accommodations); or

(E) is a foster child (an individual on behalf of whom state or local government payments are made and for whom a court order removing the child from the custody of the parent and specifying a manager conservator exists); or

(F) is on parole or entering the workplace after being confined in a unit or correctional facility of the institution division of the Texas Department of Criminal Justice or the Texas Youth Commission; or

(G) is an individual whose total family income meets the low income or moderate income limits developed under Section 8, United States Housing Act of 1937. Includes all income by employee, spouse, all dependents, and family members living with employee as of the employment date.

What is an enterprise project?

An enterprise project is a business that is nominated by a municipality or county and approved by the bank for state and local benefits. State incentives include state sales and use tax benefits based on capital investment and jobs created and/or retained during the designation period. The State may designate up to 85 enterprise projects each biennium.

How many enterprise projects can we have?

Municipalities or counties with a population of 250,000 or more, based on the most recent decennial census, are eligible for up to six enterprise project designations during a state biennium based upon availability.

Municipalities or counties with a population of less than 250,000 based on the most recent decennial census are eligible for up to four enterprise project designations with the possibility of up to two bonus project designations during a state biennium based upon availability.

How long is an enterprise project designation?

The enterprise project designation is for an expansion or relocation from out-of-state, an expansion, renovation, or new construction, or other property to be undertaken by a qualified business. The designation period is a predetermined period approved by the bank, with beginning and ending dates for each proposed project or activity. The designation period for an enterprise project may not be for a period of less than one year, nor exceed five years from the date on which the designation is made.

What state incentives are available to enterprise projects?

Designated enterprise projects are eligible to apply for state sales and use tax refund on qualified expenditures. The level and amount of refund is related to the capital investment and jobs created at the site.

Level of Capital Investment	Maximum number of jobs allocated	Maximum potential refund	Maximum refund per job allocated
$40,000 to $399,999	10	$25,000	$2,500
$400,000 to $999,999	25	$62,500	$2,500
$1,000,000 to $4,999,999	125	$312,500	$2,500
$5,000,000 to $149,999,999	500	$1,250,000	$2,500
Double Jumbo Project $150,000,000 to $249,999,999	500	$2,500,000	$5,000
Triple Jumbo Project $250,000,000 or more	500	$3,750,000	$7,500

Each project is limited to a maximum refund of $250,000 per year for five years for a regular enterprise project designation, $500,000 per year for five years for a double jumbo enterprise project and $750,000 per year for five years for a triple jumbo enterprise project. NOTE: a qualified business making a capital investment eligible to apply for a double jumbo enterprise project or a triple jumbo enterprise project must be nominated by the governing jurisdiction for the elevated designation in the nominating ordinance, order or resolution, as applicable, or the designation will automatically be for a regular enterprise project designation. A double jumbo enterprise project will count as two enterprise project designations against the 85 projects designations allowed statewide and against the four or six allowed for the governing jurisdiction. A triple jumbo enterprise project will count as three project designations for the state as well as the governing jurisdiction.

What is a qualified employee?

A qualified employee is an employee that works at least 50% of his or her time for the qualified business at the qualified business site.

What is a new permanent job?

A new permanent job is a new employment position created over and above the business' current baseline that provides a qualified employee of a qualified business with employment of at least 1,820 hours of work annually and exists at the qualified business site for at least three years after the date on which a state benefit is received. Seasonal, temporary or part-time jobs are not considered to be new permanent jobs, and therefore are not eligible for state benefit through the program.

What is a retained job?

A retained job is a position that existed with a qualified business that has provided employment to a qualified employee of at least 1,820 hours annually and is retained for at least three years after the date on which a state benefit is received.

What is a job retention project?

Job retention projects are available under limited circumstances. To qualify for a job retention project, a business must present documentation to the applicant jurisdiction supporting any one of the following circumstances:

(A) that permanent employees will be permanently laid off;
(B) the business will permanently close down;
(C) the business will relocate out of state;
(D) a 10% increase in production capacity will occur;
(E) a 10% decrease in overall cost per unit produced will occur;

(F) the business facility has been legitimately destroyed or impaired due to fire, flood, tornado, hurricane, or any other natural disaster; or

(G) the business facility is both adding a new business line or product and deleting or decreasing an existing business line or product, and the designation will prevent the facility's net production capacity from decreasing.

All of the retained jobs must be certified by the Comptroller of Public Accounts before any benefits for jobs can be obtained.

What is an existing job?

An existing job is a full-time position that has existed with a qualified business, which does not qualify for benefit. The currently number of existing jobs is used to determine the baseline level of employment at the time of project designation. New jobs which are created 90 days prior to the application deadline through the end of the project designation period qualify for benefit if the baseline jobs are maintained.

Do leased, contract or construction employees qualify for benefit?

No. All employees occupying the new or retained jobs for benefit must be under the direct, full-time and permanent employment of the enterprise project that has received the designation.

How long does it take to obtain an enterprise project designation?

Projects are designated typically eight to ten weeks after the project application deadline, depending on the number of applications received in that quarterly round.

Texas Enterprise Zone Program

Enterprise Project Process

(Est. 6 – 7 Year Timeline)

(Jurisdiction on behalf of Business Applicant) — Jurisdiction meets with Potential Project

Begin Preparation of Application

Prepare Backup Documentation to Accompany Application

Notice Given 7 Days Prior to Public Hearing

Hold Public Hearing / Nominate Project

Application Finalized

(Bank) — Bank Receives Application / Review for Compliance with Statute

Application Complete / Project Approved

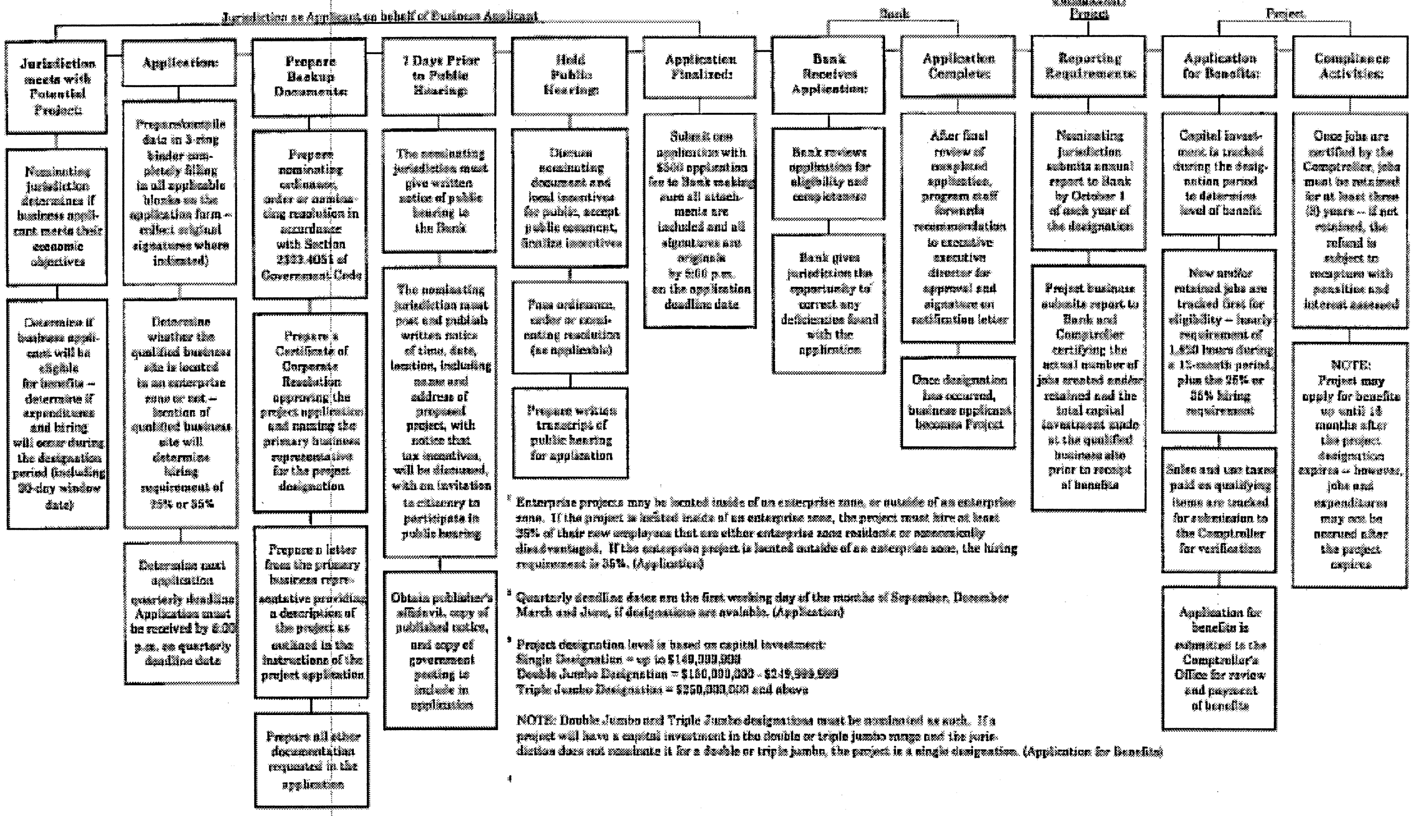
(Jurisdiction / Project) — Reporting Requirements

(Project) — Application for Benefits

Compliance Activities

Texas Enterprise Zone Program

Enterprise Project Process (Est. 6 - 7 Year Timeline)



[1] Enterprise projects may be located inside of an enterprise zone, or outside of an enterprise zone. If the project is located inside of an enterprise zone, the project must hire at least 25% of their new employees that are either enterprise zone residents or economically disadvantaged. If the enterprise project is located outside of an enterprise zone, the hiring requirement is 35%. (Application)

[2] Quarterly deadline dates are the first working day of the months of September, December March and June, if designations are available. (Application)

[3] Project designation level is based on capital investment:
Single Designation = up to $149,999,999
Double Jumbo Designation = $150,000,000 - $249,999,999
Triple Jumbo Designation = $250,000,000 and above

NOTE: Double Jumbo and Triple Jumbo designations must be nominated as such. If a project will have a capital investment in the double or triple jumbo range and the jurisdiction does not nominate it for a double or triple jumbo, the project is a single designation. (Application for Benefits)

[4]

Project Timeline:

90-Day Window Date: Period of time before designation date where expenditures made and jobs created may be used toward benefits received.

Quarterly Deadline Date: Date application must be received by, as well as the approval date of the application, once application has been deemed complete and in compliance with statute.

Designation Period: Period of time beginning at the designation date, and ending on the date as described in the nominating document. The designation period may be no less than one (1) year, and no more than five (5) years.

Certification Period: 12-Month period for which jobs are tracked for benefit. Certification period can only occur between the 90-day window date and the end of the designation period. Each job position must accrue at least 1,820 hours during the 12-month period.

Retention Period: Three-year period after the jobs have been certified. The jobs must be maintained during this time, or the project is liable for recapture of the refund, as well as penalty and interest.

Texas Economic Development Bank
Rev.04/06

TEXAS ENTERPRISE ZONE PROGRAM

Eligibility and Requirements

Program Objective

The Texas Enterprise Zone program is an economic development tool to establish a process that clearly identifies distressed areas and provides incentives by both local and state government to induce private investment in those areas by the provision of tax incentives and economic development program benefits for the creation and retention of high quality jobs. Under this program economic development is encouraged by allowing enterprise projects to be designated outside of an enterprise zone, with a higher threshold of hiring economically disadvantaged or enterprise zone residents.

Participation

For a business to receive state tax incentives under the Texas Enterprise Zone Program, the local community must nominate it for enterprise project designation. Each local community has a limited number of projects allocated and the state has a maximum number of 85 that can be awarded per biennium. Applications are accepted quarterly with the deadlines on the first working day of March, June, September, and December. Applications received **after 5:00 p.m** for each quarterly application deadline date **will not** be considered for that current round.

Quarterly Application Deadline	90-Day window	Designation Expiration
09/01/05	04/26/05	09/01/10
12/01/05	07/21/05	12/01/10
03/01/06	10/17/05	03/01/11
06/01/06	01/20/06	06/01/11
09/01/06	04/25/06	09/01/11
12/01/06	07/24/06	12/01/11
03/01/07	10/16/06	03/01/12
06/01/07	01/23/07	06/01/12

Participation Requirements

- Enterprise project designation is up to a five year period, in addition to a 90-day window prior to the quarterly deadline application/designation date as outlined above. Employment and capital investment commitments must be incurred and met within the 90-day window to the designation expiration date.
- Projects may be physically located in or outside of an Enterprise Zone.
- If located within a zone, the company commits that 25% of their new employees will meet economically disadvantaged or enterprise zone residency requirements.
- If located outside of a zone, the company commits that 35% of their new employees will meet economically disadvantaged or enterprise zone residency requirements.
- Jobs must provide employment of at least 1,820 hours annually.
- Jobs must exist at least three years after the date on which a state benefit is received.

Benefits to Participation

Designated projects are eligible to apply for state sales and use tax refund on qualified expenditures. The level and amount of refund is related to the capital investment and jobs created at the site.

Level of Capital Investment	Maximum number of jobs allocated	Maximum potential refund	Maximum refund per job allocated
$40,000 to $399,999	10	$25,000	$2,500
$400,000 to $999,999	25	$62,500	$2,500
$1,000,000 to $4,999,999	125	$312,500	$2,500
$5,000,000 to $149,999,999	500	$1,250,000	$2,500
Double Jumbo Project $150,000,000 to $249,999,999	500	$2,500,000	$5,000
Triple Jumbo Project $250,000,000 or more	500	$3,750,000	$7,500

Qualifying expenditures for sales and use tax refunds are currently identified in Tax Code 151.429 and are stated as:

"Text of subsec. (a) An enterprise project is eligible for a refund in the amount provided by this section of the taxes imposed by this chapter on purchases of:

(1) equipment or machinery sold to an enterprise project for use at the qualified business site;
(2) building materials sold to an enterprise project for use in remodeling, rehabilitating, or constructing a structure at the qualified business site;
(3) labor for remodeling, rehabilitating, or constructing a structure by an enterprise project at the qualified business site; and
(4) electricity and natural gas purchased and consumed in the normal course of business at the qualified business site."

Local communities may offer benefits to participants under the enterprise zone program as well. These may include tax abatement, tax increment financing, one-stop permitting and others.

Enterprise Zone

An enterprise zone is a census tract block group that has 20% or more poverty rate based upon the decennial census federal poverty level information, a distressed county, a federally designated zone or renewal community.

Fee

There is a $500 non-refundable application fee for consideration of an enterprise project designation. Enterprise projects will be assessed 3% on the amount of any refund benefit received under the state enterprise zone program.

Contact Information

For additional information on the Texas Enterprise Zone Program, or to find out who the local community contact is, call (512) 936-0100.

TEXAS ENTERPRISE ZONE PROGRAM

Enterprise Projects Approved – State Fiscal Year 2006 to Date (9/1/05 – 2/28/06)

East ($224.1M)

Kilgore – Southern Plastics, $10.8M
Longview – Trinity Tank Car, $11.9M
Marshall – Quality Culvert, $11.5M
Mount Pleasant – Newly Weds Foods, $27.3M
Nacogdoches – East Texas Lee Container, $5.6M
Paris – Kimberly-Clark Corporation, $152M
Paris – We Pack Logistics, $5M

Gulf Coast ($1.2B)

Lake Jackson – The Dow Chemical Co., $316.6M
Port Arthur – BASF Corporation, $263.9M
Port Arthur – The Premcor Refining Group, $498.7M
Texas City – Union Carbide Corporation, 158M

North ($438.4M)

Cleburne – Lowe's Home Centers, $15.8M
Corsicana – Guardian Industries Corp., $49.4M
Denison – Ruiz Food Products, $48.4M
Ennis – ASMO, $28.6M
Farmers Branch – Essilor of America, $36.5M
Forney – Lowe's Home Centers, $19.3M
Fort Worth – ATC Logistics & Electronics, $6.5M
Fort Worth – LG Electronics Alabama, $11.8M
Fort Worth – Omni Fort Worth Partnership, $105M
Fort Worth – Target Corporation, $16M
Grand Prairie – Hampson Aerospace, $3.2M
Sherman – Tyson Fresh Meats, $97.8M

South ($888.8M)

Buda – Cabela's Retail Texas, $10.6M
Calhoun County – Seadrift Coke, $23M
San Antonio – Futaba Industrial Texas Corp., $45M
San Antonio – Toyoda Gosei Texas, $25M
San Marcos – CFAN Company, $29M
San Marcos – Genlyte Thomas Group, $10M
San Patricio County – Corpus Christi Interests, $746.2M

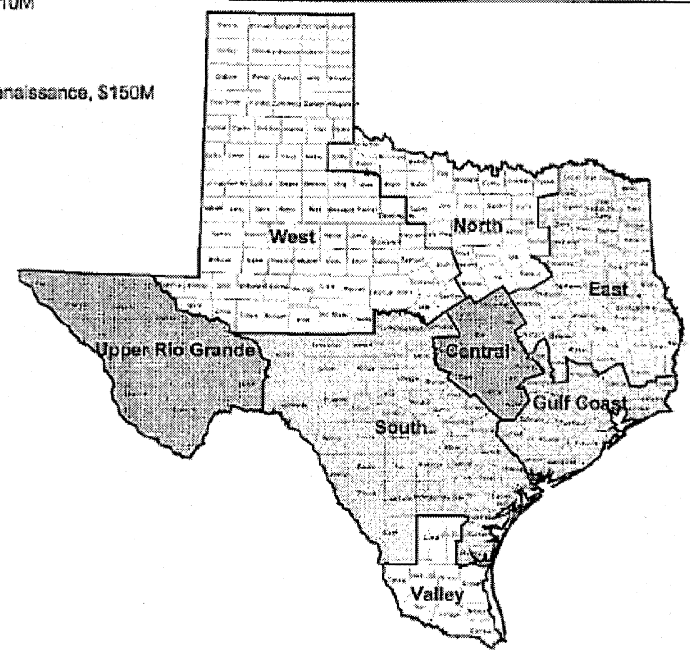
Upper Rio Grande ($10M)

Fort Stockton – Stockton Plaza, $10M

Valley ($150M)

Edinburg – Doctors Hospital at Renaissance, $150M

Number of Projects Approved	32
Number of Designations Used	41
Projected Capital Investment	$2,948,995,950
Projected New Jobs	7,644
Projected Retained Jobs	8,073



Texas Enterprise Projects with projected capital investment - $2.9B

TEXAS ENTERPRISE ZONE PROGRAM

Enterprise Projects Approved – State Fiscal Year 2005*

Central ($349M)

Austin – Home Depot U.S.A., $331.5M
Georgetown – TASUS Texas Corp., $15M
Snook – Slovacek Foods, $2.5M

East ($39.9M)

Smith County – JLC Technologies, $9M
Smith County – John Soules Foods, $28.7M
Tyler – Howe-Baker Engineers, $2.2M

Gulf Coast ($1.2B)

Baytown – Bayer MaterialScience, $385.4M
Brenham – Lowe's Home Centers, $15.8M
Cleveland – Cleveland Imaging / Surgical Hosp., $9.5M
Lake Jackson – BASF Corporation, $316M
Texas City – ISP Technologies, $28M
Texas City – Valero Refining – Texas, $460M

North ($314.6M)

Dallas – Vought Aircraft Industries, $215M
Ennis – Koyo Steering Systems of Texas, $30M
Little Elm – Lowe's Home Centers, $15.8M
Weatherford – Lowe's Home Centers, $15.8M
Wichita Falls – PPG Industries, $38M

South ($885.5M)

San Antonio – Avanzar Interior Technologies, $41M
San Antonio – Toyota Motor Manufacturing Texas, $573M
San Antonio – Vutex, $12M
Three Rivers – Diamond Shamrock Refining, $259.5M

Upper Rio Grande ($151.4M)

El Paso - Western Refining Company, $151.4M

West ($408.9M)

Moore County – Diamond Shamrock, $408.9M

Number of Projects Approved	23
Number of Designations Used	38
Projected Capital Investment	$3,364,399,000
Projected New Jobs	4,831
Projected Retained Jobs	4,142

Texas Enterprise Projects with projected capital investment - $3.3B

*Represents only two quarters, as there were no designations available after the December round.

TEXAS ENTERPRISE ZONE PROGRAM
Enterprise Projects Approved – State Fiscal Year 2004

East ($116.6M)

Gun Barrel City – Lowe's Home Centers, $15.8M
Livingston – Lowe's Home Centers, $9.1M
Marshall – Lowe's Home Centers, $15.8M
Marshall – Weatherford Artificial Lift Sys., $12M
Mount Pleasant – Lowe's Home Centers, $15.8M
Palestine – Lowe's Home Centers, $15.8M
Sulphur Springs – Lowe's Home Centers, $15.8M
Sulphur Springs – Owens County Sausage, $16.5M

Gulf Coast ($425.8M)

Baytown – ExxonMobil Corporation, $331.8M
Brenham – Blue Bell Creameries, $1.8M
Brenham – Engineered Storage Solutions, $40,000
Port Neches – ISP Synthetic Elastomers, $37.2M
Sealy – Wal-Mart Stores East, $55M

North ($584.8M)

Dallas – Lavoi Corporation, $5.3M
Decatur – Weatherford Artificial Lift Systems, $14M
Farmers Branch – Sport Supply Group, $500,000
Fort Worth – Bank One N.A., $60.2M
Fort Worth – Miramar Designs, $4.3M
Fort Worth - Pier 1 Services Company, $100M
Fort Worth – RadioShack Corporation, $190M
Hutchins – FedEx Ground Package System, $61.8M
McKinney – Encore Wire Limited, $20M
Midlothian – Kehe Food Distributors – Texas, $24.8M
Roanoke – Behr Process Corporation, $23.8M
Roanoke – Honeywell International, $1.1M
Sherman – CertainTeed Corporation, $13.8M
Terrell – Venus Initiatives, $55.7M
Waco – Wal-Mart Stores East, $9M
Wichita Falls – Chavez Contracting, $500,000

South ($1.2B)

Corpus Christi – CITGO Refining and Chemicals Co., $458M
Corpus Christi – Valero Refining – Texas, $611.9M
Kingsville – Lowe's Home Centers, $9.1M
Point Comfort – Alcoa World Alumina, $28M
Point Comfort – Formosa Plastics Corp., $167M

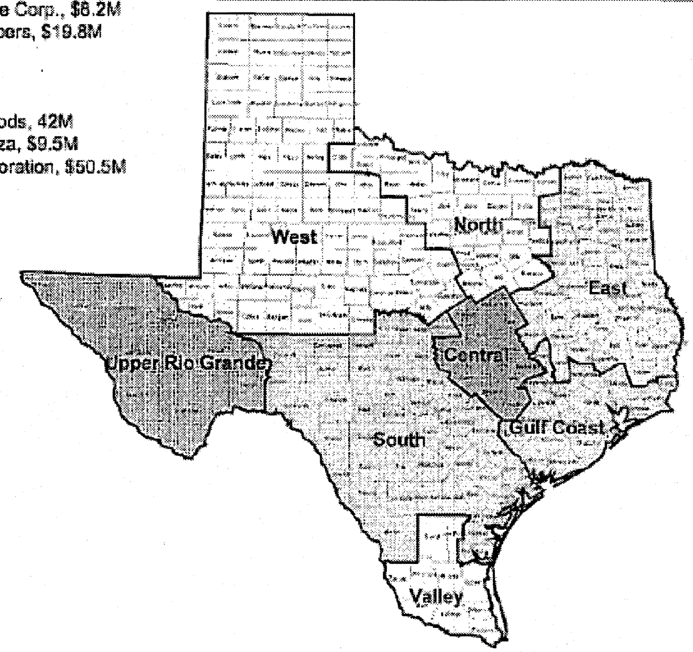
Valley ($45.2M)

Alice – The Grease Rack, $1M
Alice - Weatherford Artificial Lift Systems, $16.2M
Harlingen – EchoStar Satellite Corp., $8.2M
McAllen – Freedom Newspapers, $19.8M

West ($102M)

Erath County – Schreiber Foods, 42M
Midland – Hilton Midland Plaza, $9.5M
Parmer County – Excel Corporation, $50.5M

Number of Projects Approved	41
Number of Designations Used	47
Projected Capital Investment	$2,549,220,016
Projected New Jobs	4,904
Projected Retained Jobs	6,490



Texas Enterprise Projects with projected capital investment - $2.5B

UNEMPLOYED INSURANCE FUND

CHARGE 4. Study the utilization of the Unemployed Insurance Fund.

I. Background

The Committee met in a public hearing on March 9, 2006 and heard testimony from the Texas Workforce Commission (TWC) and the AFL-CIO. The TWC reports that the Unemployment Insurance Trust Fund balance is in good standing and the employer tax rates continue to decline. The projections indicate that the October 1, 2006 balance for the Trust Fund will be approximately $1.8 billion which is $125 million more than the statutory ceiling. The $125 million above the ceiling may only be used to pay for Unemployment Insurance (UI) benefits or rebate excess taxes to employers, should the excess remain after October 1, 2006.

The TWC was given the authority to obtain commercial bonds during the 2003 Legislative Session to assist in the financing of the Trust Fund. They worked together with the Texas Public Finance Authority and issued $1.4 billion in bonds. This financing option has proven to be positive for the TWC. They have begun an aggressive prepayment schedule that will reduce their interest liability and that is to be completed by 2009. At present, no general revenue has been required for the repayment of these bonds. As of September 30, 2005 the total amount of benefits paid by the UI program is $1.3 billion. This dollar amount represents a 40 percent decrease over the past two years.

The unemployed worker, state and community all benefit from the UI program. Congress created the UI program to act as a stabilizer for the economy. If an employer has to lay off employees, the UI provides the employee with the option of staying in the area to seek other employment. The community benefits because they retain their skilled worker. The unemployed worker can use the UI benefit to assist in paying for food, rent and other necessities which, in turn, generates business for the local economy. In order for the program to work properly, the TWC stressed that all parties have to do their part; the agency, the employers and the claimants. If any participant slacks in their responsibilities, the integrity of the program suffers.

The TWC has an *Office of Program Integrity* responsible for combating overpayments and fraud. The creation of this office combined TWC's Investigations, Statistical Sampling, Fraud Detection, Performance Analysis, and Sub-Recipient Monitoring divisions. This was done in an effort to improve information sharing, cooperation and employee morale. TWC reports that since September 2003, the overpayment rate has been reduced by more than 14%. They also have increased their ability to pinpoint and predict overpayments.

II Duration

Duration is a measure of how long it takes an UI claimant to re-enter suitable employment. This is calculated by dividing the number of weeks the claimant was compensated (for the year) by the number of payments received. These statistics are based on fiscal years which begin each October 1st. For fiscal year 2003, the average duration period was 16.7 weeks. Duration dropped in fiscal year 2005 to 15 weeks. This reflects that unemployed Texans were returning to work at a rate 10 percent faster than the two prior years.

III. Exhaustion Rate

Exhaustion is defined by the TWC as the comparison of the number of UI claimants who have drawn their final payment of UI benefits against their original claim to the number of claimants receiving their first payment of UI benefits. In other words, Exhaustion reflects a person who has used all of his eligible unemployment benefits before finding suitable work. The TWC calculates the exhaustion rate by dividing the average monthly exhaustions by the average monthly payments from 26 weeks earlier. During the recession in 2002, the exhaustion rate peaked at 64.1 percent. The average exhaustion rate dropped from 52.7 percent in 2003 to 39.6 percent last year. Both the duration and exhaustion rates are comparable to neighboring states and states with like populations.

IV. Work Searches

TWC has a standard work search requirement of three per week. This can be increased which has been done by some boards with low unemployment areas. These changes meant that the claimants, on average, are performing an additional 10 work searches during their unemployment. The committee inquired about making the added work searches a standard statewide, but it was determined that Texas being so diversely populated, and needs being different, it would prove difficult and possibly unfair.

V. Reemployment and Employer Engagement Measures

The TWC developed a program called the Reemployment and Employer Engagement Measures (REEMS) to address the lack of system performance measures that mattered to employers. TWC reports that in the past, workforce system measures were almost exclusively tied to the job seeker. Two of the measures focus on reemployment of UI claimants to quickly return them to work. Three of the measures focus on engaging employers in the system. No other state has performance measures for employers. These measures include Market Share (the percentage of employers utilizing the workforce system), Sustainability (the percentage of employers served who are repeat customers), and Job Openings Filled (the percent of openings filled).

Chairwoman Rath testified to the following, "By actively engaging employers, the workforce system can better understand their needs and market the system's services. While helping employers find employees is an important service that the system provides, we have a number of other services for employers and the Market Share measure focuses on all of them. When the employer places a job order in the system and the system fills the order, it shows up in the Job Openings Filled measure. To that degree the employer is satisfied with the service, the employer is likely to come back as a repeat customer and show up in Sustainability. If the system can timely place UI claimants in employer job openings, then that reemployment shows up in the claimant placement measures. So these measures reinforce one another."

The TWC manages the website "WorkInTexas.com" which is a job-matching tool to help the unemployed reconnect to employment. When the claimant files for unemployment, they have three business days to register with WorkInTexas.com. If the claimant fails to register, their unemployment benefits will be denied or delayed. All claimants are instructed that they must be willing to accept a job that offers 90% of their previous wages. If unemployment continues after 8 weeks, TWC instructs them to reduce their earning expectations to 75% of their previous wages, and TWC expands the array of jobs that come across the persons' screens to reflect that.

VI. Overpayments

Overpayments occur for different reasons, some caused by the employer some caused by the unemployed worker. The claimant causes overpayments if they misreport their earnings, days and hours of work, or if claimants aren't up front with TWC about their receipt of wages in lieu of notice. Overpayments can happen when claimants fail to maintain an active work search, make themselves available for work, accept a suitable job offer, or otherwise comply with the requirements of the program. Claimant errors account for half of all overpayments resulting in $109.4 million of total UI benefits paid.

Overpayments are caused by employers when they do not respond to TWC's request for information until being notified that their account would be charged. They then provide details during the appeals process that establishes that the claimant should not have been paid or eligible for UI benefits. In 2004, employers caused $17.4 million in overpayments.

VII. Recommendations

It is the committee's recommendation that the Texas Workforce Commission continue its efforts to monitor and improve misuse and negligence on the part of the State, employee and employer regarding the UI program and its components.

TEXAS ECONOMIC DEVELOPMENT ACT

CHARGE 5. Study the use of the Texas Economic Development Act since its enactment as House Bill 1200, 77th Legislature. Examine how successful the program has been in the promotion of economic development in this state, and its use by local government entities. Make recommendations for any statutory changes needed to the program, and consider whether the December 31, 2007, Sunset date should be extended.

I. Background

Objective: This tool is often referred to as a "deal closing fund," providing financial resources for various economic development projects, including infrastructure development, community development, job training programs, and business incentives. The funds are used primarily to attract new businesses to the state or support substantial expansion of an existing business.

Participation: As of August 31, 2006, the Texas Enterprise Fund (TEF) had contracted with 30 entities. For fiscal years 2004-2006, TEF has committed nearly $309 million in grants to these projects with disbursements totaling more than $264 million.

To be eligible for a TEF grant, an applicant is required to be in good standing under the laws of the state in which the applicant was formed or organized and can not owe delinquent taxes to any taxing unit in Texas. Additionally, applicants are required to demonstrate local support for the venture as well as a significant return on the state's investment. Applications are submitted to the Economic Development and Tourism division of the Office of the Governor for review. Consideration is given for the number of jobs to be created, the wages for those jobs, the amount of capital investment, the financial strength of the applicant, an analysis of the relevant industry sector, and the amount of public and private financial support for the endeavor.

Administration: Section 481.078, Government Code, provides that the TEF is a trusteed program within the office of the governor and authorizes the governor to negotiate grants on behalf of the state. Grants can be awarded only with the express written prior approval of the lieutenant governor and speaker of the house of representatives. Section 481.078 also stipulates terms required to be included in a contract with a grant recipient and requires the governor, in consultation with the lieutenant governor and the speaker, to determine certain performance targets to be contained within the contract.

II. Economic Impact

The governor's office reports that projects receiving TEF grants have created 146,882 jobs and resulted in an annual gross state product impact of just under $11 billion (fiscal years 2004-2006).

III. Legislative History

SB 1771, Acts of the 78th Legislature, Regular Session, 2003, created the Texas Enterprise Fund.

HB 7, Acts of the 78th Legislature, Regular Session, 2003, authorized an initial appropriation of $295 million to the TEF out of the Economic Stabilization Fund.

HB 3318, Acts of the 78th Legislature, Regular Session, 2003, exempted the TEF from the "funds sweep" accounting mechanism under the Government Code that abolishes certain funds and accounts.

HB 1938, Acts of the 79th Legislature, Regular Session, 2005, established certain requirements for an entity to be eligible for a grant under the TEF and required the governor to specify certain conditions in writing before awarding a grant from the fund. The bill authorized a grant agreement to include a provision for the withholding of grant money until specified performance targets are met. The bill requires an entity entering into a grant agreement to submit to the governor, lieutenant governor, and speaker an annual progress report regarding the attainment of performance targets and stipulates that repayment of a grant for nonattainment of those targets may be prorated to reflect partial attainment. The bill also requires the Texas Economic Development and Tourism Office to prepare a detailed statement of a grant's economic and fiscal impact before the governor awards the grant.

HB 2421, Acts of the 79th Legislature, Regular Session, 2005, imposed an employment and training investment assessment of one-tenth of one percent of wages paid by employers subject to the Texas Unemployment Compensation Act and required the revenue to be deposited in a special holding fund administered by the comptroller. The bill required prescribed amounts of the holding fund to be transferred to the TEF if the unemployment compensation fund exceeds a specified level. In addition, House Bill 2421 established a training stabilization fund and authorized money in the stabilization fund to be used when amounts in the holding fund are insufficient to meet the legislative appropriation for that fiscal year for the TEF.

IV. Findings

The committee scheduled a public hearing during May, 2006 that was to be held during the 3rd Called Session of the 79th Texas Legislature. Both House and Senate were working on a plan to fund public schools and ease the property tax burden on Texans. Part of the legislative package that accomplished this goal was House Bill 3. In House Bill 3, issues regarding the Texas Economic Development Act that had been addressed in the committee's charge and needed review were legislatively changed and no longer required the committee's attention. Therefore, the public hearing was cancelled.

V. Recommendations

It is the committee's opinion that no action be taken at this time.

TEXAS ENTERPRISE FUND

CHARGE 6. Study the use of the Texas Enterprise Fund and other economic development tools created by Senate Bill 275, 78th Legislature. Examine how successful the new programs have been in the promotion of economic development in this state, and recommend any statutory enhancements that could be made.

I. Background

The Texas Enterprise Fund (TEF) serves as a model for the rest of the nation by being at the forefront of emerging markets and industries, and by attracting new jobs, industries and opportunities to benefit Texas citizens. It is the deal-closing recruitment program for new job creation in Texas' tool box of business incentives. For an entity to participate in the TEF program, they must first submit an application which requires the explanation of how the proposed project meets the program practices. The guidelines used in consideration of the project are:

- Number of new jobs created and relative wages
- Leveraged capital investment
- Level of community involvement
- Secured financing
- Competing against another location outside of Texas

The next step is for the Office of the Governor staff to conduct a review that includes an 11-step due diligence process that includes:

- an assessment of project considerations
- a review of company management
- an investigation on business climate and industry status
- an economic impact assessment based on independent reports
- a financial statement analysis and credit assessment
- a summary of local and state level economic incentives
- a project cost benefit analysis and
- penalty and clawback requirements

In order for funds to be awarded, the Governor, Lieutenant Governor and Speaker of the House have to unanimously agree to support the TEF project. A panel of trustees review the project analysis before the decision of the three. The trustees evaluate not only who will receive the grants, but also how much of an award to grant, terms of the agreement and a disbursement schedule. The final agreement will include performance targets and penalties for not reaching these targets. The TEF agreement also includes what economic benefits the state expects, including a plainly stated expectation for the return of state tax dollars.

Funds are allocated based upon the project criteria and the results of the review process. Geography is not a determining factor. All areas and communities of the state have the opportunity to benefit from the fund equally. Projects that do not qualify for the TEF are looked at for possible funding by other economic development tools. The state uses the TEF in competitive situations to sweeten the offer when state and local incentives are not enough to lure business to Texas. It has proven very successful

An accountability feature is built into plan to review the projects. These reviews can take from 4 - 6 weeks to complete. The reviews reinforce that the Texas taxpayer's money is being used in the most efficient manner and that the greatest return on their investment is being achieved. The Economic Development and Tourism Division has a designated compliance officer to monitor and review compliance with all TEF contracts.

II. Findings

The committee met in a public hearing on August 9, 2006 and heard testimony from the Governor's Economic Development and Tourism Division. As of June, 2006, $308,764,000 has been allocated from the Texas Enterprise Fund. Thirty projects have been awarded and will create 42,072 jobs and generate $9.3 billion in capital investment over the next 10 - 20 years. The direct net-worth of the TEF projects already under contract represents the equivalent of buying a 10 - 20 year money market account that has a rate of return of 276% (this rate of return is based on figures as of 06/30/06).

In looking at the program as a whole, the overall return is the equivalent of a 35 x the annual amount when projects are in full implementation and more than 146,000 total jobs in Texas. This return on investment, coupled with the increased tax revenues, will generate significant state revenue in Texas. Business recruitment is a highly competitive endeavor that is market-driven. Texas is outpacing the nation in terms of the number of companies locating, and the size of these projects in terms of job creation and investment in the state. This can only be attributed to the added incentive of the TEF. Texas is one of only a few states to have such a tool.

III. Recommendation:

It is the committee's opinion that the Texas Enterprise Fund should continue to be monitored and no action be taken at this time.