

GOVERNMENT CODE
CHAPTER 2303. ENTERPRISE ZONES
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2303.001. SHORT TITLE. This chapter may be cited as the Texas Enterprise Zone Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2303.002. PURPOSES. The purposes of this chapter are to establish a process that clearly identifies severely distressed areas of the state and provides incentives by state and local government to induce private investment in those areas by removing unnecessary governmental regulatory barriers to economic growth and to provide tax incentives and economic development program benefits.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2303.003. DEFINITIONS. In this chapter:

(1) "Bank" means the Texas Economic Development Bank established under Chapter 489.

(1-a) "Block group" has the meaning assigned by the Bureau of the Census of the United States Department of Commerce.

(1-b) "Day" means the period between 8 a.m. and 5 p. m. of a day other than a Saturday, Sunday, or state or federal holiday.

(1-c) "Distressed county" means a county:

(A) that has a poverty rate above 15.4 percent;

(B) in which at least 25.4 percent of the adult population does not hold a high school diploma or high school equivalency certificate; and

(C) that has an unemployment rate that has remained above 4.9 percent during the preceding five years.

(2) Repealed by Acts 2003, 78th Leg., ch. 814, Sec. 6.01(6).

(3) "Enterprise zone" means an area designated as an enterprise zone under this chapter.

(3-a) "Governing body of an enterprise zone" means the governing body of a municipality or county in which an enterprise zone is located.

(4) Repealed by Acts 2003, 78th Leg., ch. 814, Sec. 6.01(6).

(5) "Nominating body" means the governing body of a municipality or county that nominates a project or activity of a qualified business for designation as an enterprise project.

(5-a) "Office" means the Texas Economic Development and Tourism Office.

(6) "Qualified business" means a person certified as a qualified business under Section 2303.402.

(6-a) "Qualified business site" means the specific business site of an enterprise project.

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

(A) works for a qualified business; and

(B) performs at least 50 percent of the person's service for the business in the enterprise zone.

(8) "Qualified hotel project" means a hotel proposed to be constructed by a municipality or a nonprofit municipally sponsored local government corporation created under the Texas Transportation Corporation Act, Chapter 431, Transportation Code, that is within 1,000 feet of a convention center owned by a municipality having a population of 1,500,000 or more, including shops, parking facilities, and any other facilities ancillary to the hotel.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.50, 5.55, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1121, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 814, Sec. 3.01, 6.01(6), eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 1243, Sec. 1, eff. Sept. 1, 2005.

Sec. 2303.004. JURISDICTION OF MUNICIPALITY. For the purposes of this chapter, territory in the extraterritorial jurisdiction of a municipality is considered to be in the jurisdiction of the municipality.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER B. DEPARTMENT POWERS AND DUTIES RELATING TO ZONES

Sec. 2303.051. GENERAL POWERS AND DUTIES. (a) The bank shall administer and monitor the implementation of this chapter.

(a-1) The bank shall compile data identifying the block groups in this state that automatically qualify for designation as enterprise zones under this chapter using the poverty data available from the most recent federal decennial census. The bank

shall update the block group information as soon as practicable after the date on which the next federal decennial census is released. The bank shall make the information and updates available in an electronic format on the office's Internet website.

(a-2) The bank shall annually compile data identifying the distressed counties in this state that automatically qualify for designation as enterprise zones under this chapter.

(b) The bank shall establish criteria and procedures for designating a project or activity of a qualified business as an enterprise project.

(c) The office shall adopt rules necessary to carry out the purposes of this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.02, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 1243, Sec. 2, eff. Sept. 1, 2005.

Sec. 2303.052. EVALUATION; REPORT. (a) The bank shall conduct a continuing evaluation of the enterprise zone program.

(b) The bank shall develop data from available information demonstrating the relationship between the incentives provided under this chapter and the economy.

(c) The bank biennially shall review local incentives.

(d) On or before January 1 of each year the bank shall submit to the governor, the legislature, and the Legislative Budget Board a report that:

(1) evaluates the effectiveness of the enterprise zone program;

(2) describes the use of state and local incentives under this chapter and their effect on revenue; and

(3) suggests legislation.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 1121, Sec. 2, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 814, Sec. 3.02, eff. Sept. 1, 2003.

Sec. 2303.053. ASSISTANCE. (a) The bank shall assist:

(1) a qualified business in obtaining the benefits of any incentive or inducement program provided by law;

(2) a unit of local government in obtaining status as a federal zone designation that furthers the purpose of this chapter;

(3) a nominating body in obtaining assistance from another state agency, including training and technical assistance to qualified businesses in an enterprise zone; and

(4) a nominating body in developing small business incubators.

(b) The bank shall provide to persons desiring to locate and engage in business in an enterprise zone information and appropriate assistance relating to the required legal authorization, including a state license, permit, certificate, approval, registration, or charter, to engage in business in this state.

(c) The bank shall publicize existing tax incentives and economic development programs in enterprise zones.

(d) On request the bank shall offer to a unit of local government having an enterprise zone within its jurisdiction technical assistance relating to tax abatement and the development of alternative revenue sources.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.02, eff. Sept. 1, 2003.

Sec. 2303.054. COORDINATION WITH OTHER GOVERNMENTAL ENTITIES. (a) In cooperation with the appropriate units of local government and other state agencies, the bank shall coordinate and streamline state business assistance programs and permit or license application procedures for businesses in enterprise zones.

(b) The bank shall:

(1) work with the responsible state and federal agencies to coordinate enterprise zone programs with other programs carried out in an enterprise zone, including housing, community and economic development, small business, banking, financial assistance, transportation, and employment training programs;

(2) work to expedite, to the greatest extent possible, the consideration of applications for those programs by consolidating forms or by other means; and

(3) work, when possible, for the consolidation of periodic reports required under those programs into one summary report.

(c) The bank shall encourage other state agencies in

awarding grants, loans, or services to give priority to businesses in enterprise zones.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.02, eff. Sept. 1, 2003.

SUBCHAPTER C. DESIGNATION OF ENTERPRISE ZONE

Sec. 2303.101. QUALIFICATION FOR ENTERPRISE ZONE DESIGNATION. 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 available at the time of designation, in which at least 20 percent of the residents of the block group 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, a federal empowerment zone, or a federal enterprise community, including any developable area approved by the federal agency responsible for making that designation; or

(3) an area located in a distressed county.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.03, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 1243, Sec. 3, eff. Sept. 1, 2005.

Sec. 2303.109. PERIOD OF DESIGNATION. (a) An enterprise zone designation remains in effect indefinitely so long as the area continues to qualify for designation as an enterprise zone under this chapter. If an area described by Section 2303.101(1) no longer qualifies for enterprise zone designation following the release of a subsequent federal decennial census, the area's designation remains in effect until the date on which the bank makes the updated information for that subsequent census available to the public as required by Section 2303.051.

(b) Notwithstanding Subsection (a), an area designated by the federal government as a renewal community, a federal empowerment zone, or a federal enterprise community may be designated as an enterprise zone without further qualification for not longer than the period permitted for the respective designation by federal law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 985, Sec. 3, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 814, Sec. 3.04, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 1243, Sec. 4, eff. Sept. 1, 2005.

SUBCHAPTER D. ADMINISTRATION

Sec. 2303.201. ADMINISTRATION BY GOVERNING BODY. The governing body of an enterprise zone is the governing body of the municipality or county with jurisdiction over the area designated as an enterprise zone.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.06, eff. Sept. 1, 2003.

Sec. 2303.204. LIAISON. A nominating body shall designate a liaison to oversee enterprise projects it has nominated under this chapter and to communicate and negotiate with:

(1) the bank or the office;

(2) an enterprise project; and

(3) other entities in an enterprise zone or affected by an enterprise project, including a qualified business, within the jurisdiction of the nominating governmental entity.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.07, eff. Sept. 1, 2003.

Sec. 2303.205. ANNUAL REPORT. (a) Not later than October 1 of each year, the nominating body of a project or activity designated as an enterprise project shall submit to the bank a report in the form required by the bank.

(b) Repealed by Acts 2003, 78th Leg., ch. 814, Sec. 6.01(6).

(c) The report must include for the year preceding the date of the report:

(1) a list of local incentives for community development available in the jurisdiction of the governmental entity nominating the enterprise project;

(2) the use of local incentives described by the nominating body in the ordinance or order nominating the enterprise project and the effect of those incentives on revenue;

(3) the number of businesses assisted, located, and retained in the jurisdiction of the governmental entity nominating the enterprise project due to the existence of the enterprise zone

program; and

(4) a summary of all industrial revenue bonds issued to finance enterprise projects located in the jurisdiction of the governmental entity nominating the enterprise project.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 985, Sec. 4, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 814, Sec. 3.08, 6.01(6), eff. Sept. 1, 2003.

SUBCHAPTER F. QUALIFIED BUSINESSES AND ENTERPRISE PROJECTS

Sec. 2303.401. DEFINITIONS. In this subchapter:

(1) "New permanent job" means a new employment position created by a qualified business as described by Section 2303.402 that:

(A) has provided at least 1,820 hours of employment a year to a qualified employee; and

(B) is intended to exist at the qualified business site for at least three years after the date on which a state benefit is received as authorized by this chapter.

(2) "Retained job" means a job that existed with a qualified business before designation of the business's project or activity as an enterprise project that:

(A) has provided employment to a qualified employee of at least 1,820 hours annually; and

(B) is intended to be an employment position for at least three years after the date on which a state benefit is received as authorized by this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.52(a), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 985, Sec. 6, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1121, Sec. 3, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 814, Sec. 3.09, eff. Sept. 1, 2003.

Sec. 2303.402. QUALIFIED BUSINESS. (a) A person is a qualified business if the bank, for the purpose of state benefits under this chapter, or the nominating body of a project or activity of the person under this chapter, for the purpose of local incentives, certifies that:

(1) the person is engaged in or has provided substantial commitment to initiate the active conduct of a trade or business in an enterprise zone, and at least 25 percent of the person's new employees in the enterprise zone are:

(A) residents of any enterprise zone in this state; or

(B) economically disadvantaged individuals; or

(2) the person is engaged in or has provided substantial commitment to initiate the active conduct of a trade or business in an area of this state that does not qualify as an enterprise zone, and at least 35 percent of the person's new employees at the qualified business site are:

(A) residents of any enterprise zone in this state; or

(B) individuals who are economically disadvantaged.

(b) Repealed by Acts 2003, 78th Leg., ch. 814, Sec. 6.01(6).

(c) For the purposes of this section, an economically disadvantaged individual is an individual who:

(1) was unemployed for at least three months before obtaining employment with the qualified business;

(2) receives public assistance benefits, including welfare payments or food stamps, based on need and intended to alleviate poverty;

(3) is an economically disadvantaged individual, as defined by Section 4(8), Job Training Partnership Act (29 U.S.C. Section 1503(8));

(4) is an individual with handicaps, as defined by 29 U.S.C. Section 706(8);

(5) is an inmate, as defined by Section 498.001;

(6) is entering the workplace after being confined in a facility operated by the institutional division of the Texas Department of Criminal Justice or under contract with the Texas Department of Criminal Justice;

(7) has been released by the Texas Youth Commission and is on parole, if state law provides for such a person to be on parole; or

(8) meets the current low income or moderate income limits developed under Section 8, United States Housing Act of 1937

(42 U.S.C. Section 1437f et seq.).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Renumbered from V.T.C.A., Government Code Sec. 2303.401 and amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.52(a) and Acts 1995, 74th Leg., ch. 985, Sec. 6, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 814, Sec. 3.10, 6.01(6), eff. Sept. 1, 2003.

Sec. 2303.403. PROHIBITION ON QUALIFIED BUSINESS CERTIFICATION; LIMIT ON ENTERPRISE PROJECT DESIGNATIONS. If the bank determines that the governing body eligible to nominate an enterprise project is not complying with this chapter, the bank shall prohibit the certification of a qualified business until the bank determines that the governing body is complying with this chapter. The bank may not designate more than 85 enterprise projects during any biennium.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Renumbered from V.T.C.A., Government Code Sec. 2303.402 by Acts 1995, 74th Leg., ch. 76, Sec. 5.52(a), eff. Sept. 1, 1995, and Acts 1995, 74th Leg., ch. 985, Sec. 6, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 813, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 814, Sec. 3.11, eff. Sept. 1, 2003.

Sec. 2303.404. REQUEST FOR APPLICATION FOR ENTERPRISE PROJECT DESIGNATION. (a) A qualified business may request that the governing body of a municipality or county in which the qualified business is located apply to the bank for designation of a project or activity of the business as an enterprise project.

(b) The enterprise project designation must be for:

(1) an expansion or relocation from out-of-state, an expansion, renovation, or new construction, or other property to be undertaken by a qualified business; and

(2) a predetermined designation period approved by the bank, with beginning and ending dates for each proposed project or activity.

(c) The designation period for an enterprise project may not exceed five years from the date on which the designation is made.

(d) 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.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.52(a), eff. Sept. 1, 1995, and Acts 1995, 74th Leg., ch. 985, Sec. 6, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.11, eff. Sept. 1, 2003.

Sec. 2303.405. APPLICATION FOR ENTERPRISE PROJECT DESIGNATION. (a) If the governing body approves a request made under Section 2303.404, the governing body may apply to the bank for the designation of the qualified business as an enterprise project only after it submits to the bank the order or ordinance and other information that complies with the requirements of Sections 2303.4051 and 2303.4052.

(b) An application must contain an economic analysis of the plans of the qualified business for expansion, revitalization, or other activity with regard to the enterprise project, including:

(1) the number of anticipated new permanent jobs the enterprise project will create during the designation period;

(2) the anticipated number of permanent jobs the enterprise project will retain during the designation period;

(3) the amount of investment to be made by the enterprise project;

(4) a complete description of the projected schedule for completion of the specific activity described by Section 2303.404(b) to be undertaken by the enterprise project;

(5) other information the bank requires;

(6) a description of the local effort made by the nominating body, the qualified business, and other affected entities to develop and revitalize the jurisdiction of the governmental entity nominating the project or activity; and

(7) if the nominating body is applying for a double or triple jumbo enterprise project, as defined by Section 2303.407, an indication of which of those types of designations is being sought.

(c) For the purposes of this section, local effort to develop and revitalize a municipality or county is:

(1) the willingness of public entities in the municipality or county to provide services, incentives, and regulatory relief authorized by this chapter and to negotiate with the qualified business for which application is made and with other local groups or businesses to achieve the public purposes of this

chapter; and

(2) the effort of the qualified business and other affected entities to cooperate in achieving those public purposes.

(d) Factors to be considered in evaluating the local effort of a public entity include:

(1) tax abatement, deferral, refunds, or other tax incentives;

(2) regulatory relief, including:
(A) zoning changes or variances;
(B) exemptions from unnecessary building code requirements, impact fees, or inspection fees; and
(C) streamlined permitting;

(3) enhanced municipal services, including:
(A) improved police and fire protection;
(B) institution of community crime prevention programs; and
(C) special public transportation routes or reduced fares;

(4) improvements in community facilities, including:
(A) capital improvements in water and sewer facilities;
(B) road repair; and
(C) creation or improvement of parks;

(5) improvements to housing, including:
(A) low-interest loans for housing rehabilitation, improvement, or new construction; and
(B) transfer of abandoned housing to individuals or community groups;

(6) business and industrial development services, including:
(A) low-interest loans for business;
(B) use of surplus school buildings or other underutilized publicly owned facilities as small business incubators;

(C) provision of publicly owned land for development purposes, including residential, commercial, or industrial development;
(D) creation of special one-stop permitting and problem resolution centers or ombudsmen; and
(E) promotion and marketing services; and

(7) job training and employment services, including:
(A) retraining programs;
(B) literacy and employment skills programs;
(C) vocational education; and
(D) customized job training.

(e) Factors to be considered in evaluating the local effort of a private entity include:

(1) the willingness to negotiate or cooperate in the achievement of the purposes of this chapter;

(2) commitments to hire underskilled, inexperienced, disadvantaged, or displaced workers who reside in the enterprise zone;

(3) commitments to hire minority workers and to contract with minority-owned businesses;

(4) provision of technical and vocational job training for enterprise zone residents or economically disadvantaged employees;

(5) provision of child care for employees;

(6) commitments to implement and contribute to a tutoring or mentoring program for area students;

(7) prevention or reduction of juvenile crime activity; and

(8) the willingness to make contributions to the well-being of the community, such as job training, or the donation of land for parks or other public purposes.

(f) A nominating body may submit an application for a project or activity that during the application process loses its eligibility for designation as an enterprise project solely because the project or activity is no longer located in an enterprise zone as described by Section 2303.101(1) if the bank receives the application not later than the 30th day after the date on which the bank makes the updated block group data used to make the eligibility determination available as required by Section 2303.051.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.52(a), eff. Sept. 1, 1995, and Acts 1995, 74th Leg., ch. 985, Sec. 6, eff. Sept. 1, 1995.

Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.12, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 1243, Sec. 5, eff. Sept. 1, 2005.

Sec. 2303.4051. ORDINANCE OR ORDER FOR IDENTIFICATION OF LOCAL INCENTIVES. (a) In this section, "local incentive" means each tax incentive, grant, other financial incentive or benefit, or program to be provided by the governing body to business enterprises in the block group and any other local incentive listed in Section 2303.511.

(b) Before nominating the project or activity of a qualified business for designation as an enterprise project, the governing body of the municipality or county in which the business is located, by ordinance or order, as appropriate, must identify and summarize briefly any local incentives available:

(1) in each of the block groups or other areas within its jurisdiction that qualify as an enterprise zone under Section 2303.101, if any; and

(2) in any area within its jurisdiction that does not qualify as an enterprise zone.

(c) The ordinance or order must:

(1) state whether the project or activity to be nominated as an enterprise project is located in an area designated as an enterprise zone under this chapter;

(2) summarize briefly the local incentives, including tax incentives, that, at the election of the governing body, are or will be made available to the nominated project or activity of the qualified business; and

(3) nominate a project or activity as an enterprise project.

(d) At least one of the local incentives summarized under Subsection (b)(1) must not apply throughout the nominating governmental entity.

(e) Unless the nominating body holds a public hearing before adopting an ordinance or order under this section, the ordinance or order is not valid.

(f) If the nominating body has previously nominated a project or activity for designation as an enterprise project, the nominating body, instead of issuing a new ordinance or order under this section for a nominated project or activity, may by resolution make a reference to a previously issued ordinance or order that met the requirements of this section if:

(1) the resolution nominates the project or activity for designation as an enterprise project and states whether the nominated project or activity is located in an area designated as an enterprise zone;

(2) the local incentives described in the previously issued ordinance or order for the areas described by Subsections (b)(1) and (2) are substantially the same on the date the resolution is issued; and

(3) the local incentives to be made available to the nominated project or activity are the same as those made available to the project or activity that are the subject of the previously issued ordinance or order.

(g) This section does not prohibit a municipality or county from extending additional incentives, including tax incentives, for business enterprises in an enterprise zone by a separate order or ordinance.

Added by Acts 2003, 78th Leg., ch. 814, Sec. 3.13, eff. Sept. 1, 2003.

Sec. 2303.4052. REQUIRED INFORMATION FROM NOMINATING BODY. Before nominating the project or activity of a qualified business for designation as an enterprise project, the nominating body must submit to the bank:

(1) a certified copy of the ordinance or order, as appropriate, or reference to an ordinance or order as required by Section 2303.4051;

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

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

(4) any additional information the bank may require.

Added by Acts 2003, 78th Leg., ch. 814, Sec. 3.13, eff. Sept. 1,

2003.

Sec. 2303.406. ENTERPRISE PROJECT DESIGNATION. (a) The bank may designate a project or activity of a business as an enterprise project only if the bank receives all of the information required by Section 2303.4052 and determines that:

(1) the business is a qualified business under Section 2303.402 that is located in or has made a substantial commitment to locate in an enterprise zone or at a qualified business site;

(2) the nominating body making the application has demonstrated that a high level of cooperation exists among public, private, and neighborhood entities within the jurisdiction of the governmental entity nominating the project or activity;

(3) the designation will contribute significantly to the achievement of the plans of the nominating body making the application for development and revitalization of the area in which the enterprise project will be located; and

(4) if the business is seeking job retention benefits:

(A) the permanent employees of the business will be permanently laid off;

(B) the business will close down permanently;

(C) the business will relocate out-of-state;

(D) a 10 percent increase in the production capacity of the business will occur;

(E) a 10 percent decrease in overall cost per unit produced will occur;

(F) the business facility has been legitimately destroyed or impaired because of 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.

(b) This subsection does not apply to a qualified business located in a federally designated zone, as described by Section 2303.101(2), which will receive priority designation in allocating the number of enterprise projects allowed statewide per biennium as provided by Section 2303.403. The bank shall designate qualified businesses as enterprise projects on a competitive basis. The bank shall make its designation decisions using a weighted scale in which:

(1) 40 percent of the evaluation depends on the economic distress of the block group or distressed county in which a proposed enterprise project is located;

(2) 25 percent of the evaluation depends on the local effort to achieve development and revitalization of the block group or distressed county in which a proposed enterprise project is located; and

(3) 35 percent of the evaluation depends on the evaluation criteria as determined by the bank, which must include:

(A) with respect to a proposed enterprise project located in a block group, the level of cooperation and support the project applicant commits to the revitalization goals of all of the enterprise zone block groups within the jurisdiction of the nominating governmental entity;

(B) with respect to a proposed enterprise project located in a distressed county, the level of cooperation and support the project applicant commits to the revitalization of the distressed county; and

(C) the type and wage level of the jobs to be created or retained by the business.

(c) The bank may remove an enterprise project designation if it determines that the business is not complying with a requirement for its designation.

(d) The maximum number of enterprise projects that the bank may designate for each nominating body during any biennium is:

(1) four, plus two additional bonus projects the bank may award in a municipality or county with a population of less than 250,000; or

(2) six, if the nominating body is the governing body of a municipality or county with a population of 250,000 or more.

Text of subsec. (e) as added by Acts 2003, 78th Leg., ch. 209, Sec.

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(e) The department may designate multiple concurrent enterprise projects in the same enterprise zone and may designate the same qualified business as more than one enterprise project.

Text of subsec. (e) as added by Acts 2003, 78th Leg., ch. 814, Sec. 3.14

(e) The office may designate multiple concurrent enterprise projects to a qualified business during any biennium.

(f) An approved designation as a double jumbo enterprise project, as defined by Section 2303.407, counts as two project designations against both the nominating body for purposes of Subsection (d) and the number of enterprise project designations allowed statewide per biennium under Section 2303.403. An approved designation as a triple jumbo enterprise project, as defined by Section 2303.407, counts as three project designations against both the nominating body for purposes of Subsection (d) and the number of enterprise project designations allowed statewide per biennium under Section 2303.403.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.52(a), eff. Sept. 1, 1995, and Acts 1995, 74th Leg., ch. 985, Sec. 6, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1121, Sec. 4, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 813, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 209, Sec. 92, eff. Oct. 1, 2003; Acts 2003, 78th Leg., ch. 814, Sec. 3.14, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 1243, Sec. 6, eff. Sept. 1, 2005.

Sec. 2303.407. ALLOCATION OF JOBS ELIGIBLE FOR TAX REFUND. (a) The bank shall allocate to an enterprise project the maximum number of new permanent jobs or retained jobs eligible based on the amount of capital investment made in the project and the refund per job with a maximum refund to be included in a computation of a tax refund for the project.

(b) A capital investment in a project of:

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

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

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

(4) \$5,000,000 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;

(5) \$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

(6) \$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.

(c) A capital investment in the range amount and the creation or retention of the number of jobs described by Subsection (b)(5) is considered a double jumbo enterprise project.

(d) A capital investment in the range amount and the creation or retention of the number of jobs described by Subsection (b)(6) is considered a triple jumbo enterprise project.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.52(a), eff. Sept. 1, 1995, and Acts 1995, 74th Leg., ch. 985, Sec. 6, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1134, Sec. 1.01, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1134, Sec. 2.01, eff. Sept. 1, 2005; Acts 2003, 78th Leg., ch. 814, Sec. 3.15, 3.16, eff. Sept. 1, 2003.

Sec. 2303.4071. MAXIMUM TAX REFUND. (a) In this section, "double jumbo enterprise project" and "triple jumbo enterprise project" have the meanings assigned by Section 2303.407.

(b) An enterprise project is eligible for a maximum refund of \$250,000 in each state fiscal year.

(c) A double jumbo enterprise project is eligible for a maximum refund of \$500,000 in each state fiscal year.

(d) A triple jumbo enterprise project is eligible for a maximum refund of \$750,000 in each state fiscal year.

Added by Acts 2003, 78th Leg., ch. 814, Sec. 3.17, eff. Sept. 1, 2003.

Sec. 2303.4072. ENTERPRISE PROJECT CLAIM FOR STATE BENEFIT. A person must make a claim to the comptroller for a state benefit as prescribed under this chapter and Chapters 151 and 171, Tax Code, not later than 18 months after the date on which the term of the enterprise project designation expires as provided by Section 2303.404.

Added by Acts 2003, 78th Leg., ch. 814, Sec. 3.17, eff. Sept. 1, 2003.

Sec. 2303.408. DURATION OF CERTAIN DESIGNATIONS. The bank's designation of the project or activity of a qualified business as an enterprise project is effective until the period approved by the bank under Section 2303.404 regardless of whether the enterprise zone in which the project is located, if any, fails to qualify as an enterprise zone before the expiration of the project.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.52(a), eff. Sept. 1, 1995, and Acts 1995, 74th Leg., ch. 985, Sec. 6, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.18, eff. Sept. 1, 2003.

SUBCHAPTER G. ENTERPRISE ZONE BENEFITS

Sec. 2303.501. EXEMPTIONS FROM STATE REGULATION; SUSPENSION OF LOCAL REGULATION. (a) A state agency may exempt from its regulation a qualified business, qualified employee, or qualified property in an enterprise zone if the exemption is consistent with:

- (1) the purposes of this chapter; and
- (2) the protection and promotion of the general health and welfare.

(b) A local government may suspend local regulation, including an ordinance, rule, or standard, relating to zoning, licensing, or building codes in an enterprise zone.

(c) An exemption from or suspension of regulation under this section must be adopted in the same manner that the regulation was adopted.

(d) The authorization provided by Subsection (a) or (b) does not apply to regulation:

- (1) that relates to:
 - (A) civil rights;
 - (B) equal employment;
 - (C) equal opportunity;
 - (D) fair housing rights; or
 - (E) preservation of historical sites or historical artifacts;

(2) the relaxation of which is likely to harm the public safety or public health, including environmental health; or

(3) that is specifically imposed by law.

(e) For the purposes of this section, property is classified as qualified property if the property is:

(1) tangible personal property located in the enterprise zone that was:

(A) acquired by a taxpayer not earlier than the 90th day before the date on which the area was designated as an enterprise zone; and

(B) used predominantly by the taxpayer in the active conduct of a trade or business;

(2) real property located in the enterprise zone that was:

(A) acquired by a taxpayer not earlier than the 90th day before the date on which the area was designated as an enterprise zone and was used predominantly by the taxpayer in the active conduct of a trade or business; or

(B) the principal residence of the taxpayer on the date of the sale or exchange; or

(3) an interest in an entity that was certified as a qualified business under Section 2303.402 for the entity's most recent tax year ending before the date of the sale or exchange.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.56, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 814, Sec. 3.19, eff. Sept. 1, 2003.

Sec. 2303.502. REVIEW OF STATE AGENCY RULES; REPORT. (a) A state agency rule adopted after September 1, 1987, may provide, when applicable, encouragements and incentives to increase:

(1) the renovation, improvement, or new construction of housing in enterprise zones; and

(2) the economic viability and profitability of business and commerce in enterprise zones.

(b) Annually each state agency shall:

(1) review the rules it administers that:

(A) may adversely affect:

(i) the renovation, improvement, or new construction of housing in enterprise zones; or

(ii) the economic viability and profitability of business and commerce in enterprise zones; or

(B) may otherwise affect the implementation of this chapter; and

(2) report the results of the review to the bank.

(c) The bank shall disseminate the reports to the governing bodies of enterprise zones and others as necessary to advance the purposes of this chapter.

(d) To contribute to the implementation of this chapter, an agency may waive, modify, provide exemptions to, or otherwise minimize the adverse effects of the rules it administers on the renovation, improvement, or new construction of housing in enterprise zones or on the economic viability and profitability of business and commerce in enterprise zones.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.20, eff. Sept. 1, 2003.

Sec. 2303.503. STATE PREFERENCES. (a) A state agency shall give preference to the governing body of an enterprise zone or a qualified business or qualified employee located in an enterprise zone over other eligible applicants for grants or loans that are administered by the state agency if:

(1) at least 50 percent of the grant or loan will be spent for the direct benefit of the enterprise zone; and

(2) the purpose of the grant or loan is to:

(A) promote economic development in the community; or

(B) construct, improve, extend, repair, or maintain public facilities in the community.

(b) The comptroller may and is encouraged to deposit state money in financial institutions located or doing business in enterprise zones.

(c) A state agency may and is encouraged to contract with businesses located in enterprise zones.

(d) The office may give preference to enterprise zones in granting economic development money or other benefits.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.71, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 814, Sec. 3.21, eff. Sept. 1, 2003.

Sec. 2303.504. STATE TAX REFUNDS; REPORT. (a) Subject to Section 2303.516, an enterprise project is entitled to a refund of state taxes under Section 151.429, Tax Code.

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

(c) Not later than the 60th day after the last day of each fiscal year, the comptroller shall report to the bank the statewide total of actual jobs created, actual jobs retained, and the tax refunds made under this section during that fiscal year.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1134, Sec. 1.02, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1134, Sec. 2.02, eff. Sept. 1, 2005; Acts 2003, 78th Leg., ch. 814, Sec. 3.23, eff. Sept. 1, 2003.

Sec. 2303.505. LOCAL SALES AND USE TAX REFUNDS. (a) To encourage the development of areas designated as enterprise zones, the governing body of a municipality through a program may refund its local sales and use taxes paid by a qualified business on:

(1) the purchase, lease, or rental of equipment or machinery for use in an enterprise zone;

(2) the purchase of material for use in remodeling, rehabilitating, or constructing a structure in an enterprise zone;

(3) labor for remodeling, rehabilitating, or constructing a structure in an enterprise zone; and

(4) electricity and natural gas purchased and consumed in the normal course of business in the enterprise zone.

(b) To promote the public health, safety, or welfare, the governing body of a municipality or county through a program may refund its local sales and use taxes paid by a qualified business or qualified employee.

(c) The governing body of a municipality or county that is the governing body of an enterprise zone may provide for the partial or total refund of its local sales and use taxes paid by a person making a taxable purchase, lease, or rental for development or revitalization in the zone.

(d) A person entitled to a refund of local sales and use taxes under this section shall pay the entire amount of state and local sales and use taxes at the time the taxes would be due if an agreement for the refund did not exist.

(e) An agreement to refund local sales and use taxes under this section must:

- (1) be written;
- (2) contain an expiration date; and
- (3) require that the person entitled to the refund provide to the municipality or county making the refund the documentation necessary to support a refund claim.

(f) The municipality or county shall make the refund directly to the person entitled to the refund in the manner provided by the agreement.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 985, Sec. 7, eff. Sept. 1, 1995.

Sec. 2303.5055. REFUND, REBATE, OR PAYMENT OF TAX PROCEEDS TO QUALIFIED HOTEL PROJECT. (a) For a period that may not exceed 10 years, a governmental body, including a municipality, county, or political subdivision, may agree to rebate, refund, or pay eligible taxable proceeds to the owner of a qualified hotel project at which the eligible taxable proceeds were generated.

(b) A municipality with a population of 1,500,000 or more may agree to guarantee from hotel occupancy taxes the bonds or other obligations of a municipally sponsored local government corporation created under the Texas Transportation Corporation Act (Article 15281, Vernon's Texas Civil Statutes) that were issued or incurred to pay the cost of construction, remodeling, or rehabilitation of a qualified hotel project.

(c) An agreement under this section must be in writing, contain an expiration date, and require the beneficiary to provide documentation necessary to support a claim.

(d) A governmental body that makes an agreement under this section shall make the rebate, refund, or payment directly to the beneficiary.

(e) In this section, "eligible taxable proceeds" means taxable proceeds generated, paid, or collected by a qualified hotel project or a business at a qualified hotel project, including hotel occupancy taxes, ad valorem taxes, sales and use taxes, and mixed beverage taxes.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.53(a), eff. Sept. 1, 1995.

Sec. 2303.506. REDUCTION OR ELIMINATION OF LOCAL FEES OR TAXES. (a) To promote the public health, safety, or welfare, the governing body of a municipality or county through a program may reduce or eliminate fees or taxes that it imposes on a qualified business or qualified employee.

(b) This section does not apply to sales and use taxes or property taxes.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2303.507. TAX INCREMENT FINANCING AND ABATEMENT; LIMITATIONS ON APPRAISED VALUE. Designation of an area as an enterprise zone is also designation of the area as a reinvestment zone for:

- (1) tax increment financing under Chapter 311, Tax Code;
- (2) tax abatement under Chapter 312, Tax Code; and
- (3) limitations on appraised value under Chapter 313, Tax Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1505, Sec. 11, eff. Jan. 1, 2002.

Sec. 2303.509. DEVELOPMENT BONDS. To finance a project in an enterprise zone, bonds may be issued under:

- (1) Chapter 1433; or
- (2) the Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.246, eff. Sept. 1, 2001.

Sec. 2303.510. INDUSTRIAL DEVELOPMENT CORPORATION. (a) The governing body of a municipality that is the governing body of an enterprise zone may create, in accordance with the Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil

Statutes), an industrial development corporation for use by the enterprise zone.

(b) A corporation created under this section has the powers and is subject to the limitations of a corporation created under the Development Corporation Act of 1979. To the extent of a conflict between this section and that Act, that Act prevails.

(c) The articles of incorporation of a corporation created under this section must state that the corporation is governed by this section.

(d) The governing body of the municipality that creates an industrial development corporation shall appoint the board of directors of the corporation.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2303.511. OTHER LOCAL INCENTIVES. (a) The governing body of a municipality or county that is the governing body of an enterprise zone may:

(1) defer compliance in the zone with the subdivision and development ordinances or rules, other than those relating to streets and roads or sewer or water services, of the municipality or county, as appropriate;

(2) give priority to the zone for the receipt of:
(A) community development block grant money;
(B) industrial revenue bonds; or
(C) funds received under the federal Job Training Partnership Act (29 U.S.C. Section 1501 et seq.);

(3) adopt and implement a plan for police protection in the zone;

(4) amend the zoning ordinances of the municipality or county, as appropriate, to promote economic development in the zone;

(5) establish permitting preferences for businesses in the zone;

(6) establish simplified, accelerated, or other special permit procedures for businesses in the zone;

(7) waive development fees for projects in the zone;

(8) create a local enterprise zone fund for funding bonds or other programs or activities to develop or revitalize the zone;

(9) for qualified businesses in the zone, reduce rates charged by:

(A) a utility owned by the municipality or county, as appropriate; or

(B) a cooperative corporation or utility owned by private investors, subject to the requirements of Subsection (b);

(10) in issuing housing finance bonds, give priority to persons or projects in the zone;

(11) in providing services, give priority to local economic development, educational, job training, or transportation programs that benefit the zone; or

(12) sell real property owned by the municipality or county, as appropriate, and located in the enterprise zone in accordance with Section 2303.513.

(b) A reduction in utility rates under Subsection (a)(9)(B) is subject to the agreement of the affected utility and the approval of the appropriate regulatory authority. The rates may be reduced up to but not more than five percent below the lowest rate authorized for a person described by Subsection (a)(9)(B). A qualified enterprise project or the governing body of the enterprise zone may petition the appropriate utility and the appropriate regulatory authority to receive a reduced rate under this section, and the regulatory authority may order that rates be reduced. In making its determination under this section, the regulatory authority shall consider revitalization goals for the enterprise zone. In setting the rates of the utility the appropriate regulatory authority shall allow the utility to recover the amount of the reduction.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 985, Sec. 8, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1121, Sec. 5, eff. Sept. 1, 1999.

Sec. 2303.513. DISPOSITION OF PUBLIC PROPERTY IN ENTERPRISE ZONE. (a) After an area is designated as an enterprise zone, the state, a municipality, or a county that owns a surplus building or vacant land in the zone may dispose of the building or land by:

(1) selling the building or land at a public auction;
or

(2) establishing an urban homestead program described by Subsection (c).

(b) A municipality or county may sell a surplus building or vacant land in the enterprise zone at less than fair market value if the governing body of the municipality or county by ordinance or order, as appropriate, adopts criteria that specify the conditions and circumstances under which the sale may occur and the public purpose to be achieved by the sale. The building or land may be sold to a buyer who is not the highest bidder if the criteria and public purpose specified in the ordinance or order are satisfied. A copy of the ordinance or order must be filed with the bank not later than the day on which the sale occurs.

(c) An urban homestead program must provide that:

(1) the state, municipality, or county is to sell to an individual a residence or part of a residence that it owns for an amount not to exceed \$100;

(2) as a condition of the sale, the individual must agree to live in the residence for at least seven years and to renovate or remodel the residence to meet the level of maintenance stated in an agreement between the individual and the governmental entity; and

(3) after the individual satisfies the seven-year residency and property improvement requirements of the agreement, the governmental entity shall assign the residence to the individual.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.24, eff. Sept. 1, 2003.

Sec. 2303.514. WAIVER OF PERFORMANCE BOND. A subcontractor is not required to execute a performance bond under Chapter 2253 if:

(1) the construction, alteration, repair, or other public work to be performed under the contract is entirely in an enterprise zone; and

(2) the amount of the contract does not exceed \$200,000.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 985, Sec. 9, eff. Sept. 1, 1995.

Sec. 2303.515. LIABILITY OF CONTRACTOR OR ARCHITECT. A contractor or architect who constructs or rehabilitates a building in an enterprise zone is liable for any structural defect in the building only for the period ending on the 10th anniversary of the date on which beneficial occupancy of the building begins after the construction or rehabilitation, notwithstanding a statute of limitations to the contrary.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2303.516. MONITORING QUALIFIED BUSINESS OR ENTERPRISE PROJECT COMMITMENTS. (a) The bank may monitor a qualified business or enterprise project to determine whether and to what extent the business or project has followed through on any commitments made by it or on its behalf under this chapter.

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

(1) the business or project is not willing to cooperate with the bank in providing the bank with the information the bank needs to make the determination under Subsection (a); or

(2) the business or project has substantially failed to follow through on any commitments made by it or on its behalf under this chapter.

(c) On the date on which a certificate of occupancy is issued with respect to an enterprise project or at the completion of the enterprise project designation period as indicated by the approved application, the nominating body shall monitor the qualified business to determine whether the business or project has followed through on any commitments or goals made by it or on its behalf in the designation application. On completion, the nominating body shall submit a report of its findings to the bank and comptroller.

(d) A qualified business may obtain a state benefit, earned through a specific enterprise project designation, on completion of an audit performed by the comptroller that will certify hiring commitments and eligible purchases made by or on behalf of a qualified business under this chapter.

Added by Acts 2001, 77th Leg., ch. 1134, Sec. 1.03, eff. Sept. 1,

2001. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.25, eff. Sept. 1, 2003.

Sec. 2303.517. REPORT. Before obtaining a state benefit, the qualified business must submit to the bank a certified report of the actual number of jobs created or retained and the capital investment made at or committed to the qualified business site. Added by Acts 2003, 78th Leg., ch. 814, Sec. 3.26, eff. Sept. 1, 2003.