

CHAPTER 337

S.B. No. 435

An Act relating to the procedure for creation of enterprise zones and to the operation of the Enterprise Zone Board; amending the Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes) by adding Subdivisions (12) and (13) to Section 3 and Subsections (f) and (g) to Section 6 and by amending Subsection (c) of Section 6 and Sections 4, 5, and 8.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 3, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is amended by adding Subdivisions (12) and (13) to read as follows:

"(12) 'Urban area' means an area located in whole or in part within the city limits of a city with a population of 50,000 or more, according to the most recent federal census.

"(13) 'Rural area' means an area that is not an urban area."

SECTION 2. Section 6, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is amended by amending Subsection (c) and by adding Subsections (f) and (g) to read as follows:

"(c) A member of the board may not receive compensation. A member is entitled to reimbursement for actual and necessary expenses incurred while attending to official business resulting from membership on the board. The reimbursement shall be paid [board meetings] from funds appropriated to the Industrial Commission."

"(f) A member of the board who is an officer or employee of a city or town may not vote on an application for the designation of an enterprise zone in that city or town.

“(g) A member of the board may not participate in any discussion or vote of the board regarding an application for the designation of an enterprise zone if the member or the member’s spouse:

“(1) is employed by or participates in the management of a business entity or other organization located in the area that would be designated as an enterprise zone; or

“(2) directly or indirectly owns, controls, or has more than a 10-percent interest in a business entity or other organization located in the area that would be designated as an enterprise zone.”

SECTION 3. Sections 4, 5, and 8, Texas Enterprise Zone Act (Article 5190.7, Vernon’s Texas Civil Statutes), are amended to read as follows:

“Section 4. DESIGNATION OF AN ENTERPRISE ZONE. (a) An area of a city, town, county, or combination of these local governments may be designated as an enterprise zone if it:

“(1) has a *continuous* ~~[contiguous]~~ boundary;

“(2) is at least one square mile but not more than 10 square miles in area (exclusive of lakes and waterways) if in an urban area, or is 50 square miles or smaller in area if located in a rural area;

“(3) has been *nominated* ~~[designated]~~ as an enterprise zone in a resolution adopted by the legislative body of the applicable city, town, or county;

“(4) is an area with pervasive poverty, unemployment, and economic distress; and

“(5) meets any additional requirements set by the federal agency responsible for administering a federal enterprise zone program before it is approved as a state-federal enterprise zone.

“(b) An area is an area of pervasive poverty, unemployment, and economic distress if it meets one or more of the following criteria:

“(1) the average rate of unemployment in the area during the most recent 12-month period for which data is available was at least one and one-half times the state average for that period;

“(2) the area was a low-income poverty area according to the most recent federal census;

“(3) at least 70 percent of the residents of the area have an income below 80 percent of the median income of the residents of the county;

“(4) the population of all census tracts in the area decreased by at least 10 percent between 1970 and 1980; or

“(5) the *nominating* ~~[designating]~~ government establishes to the satisfaction of the board that either:

“(A) chronic abandonment or demolition of commercial or residential structures exists in the area; or

“(B) substantial tax arrearages for commercial or residential structures exist in the area.

“(c) An urban enterprise zone is an *urban* area that:

“(1) meets the criteria of Subsection (a) of this section; *and*

“(2) ~~[is located within a central city of a standard metropolitan statistical area (SMSA);~~
~~and~~

“(3) ~~[has]~~ has a minimum population of 4,000 individuals, according to the most recent federal census.

“(d) A rural enterprise zone is a *rural* ~~[an]~~ area that:

“(1) meets the criteria of Subsection (a) of this section; *and*

“(2) ~~[is not located in a central city of a standard metropolitan statistical area (SMSA);~~
~~and~~

“(3) ~~[has]~~ has a population of at least 2,500 individuals, according to the most recent federal census.

“(e) A local enterprise zone is an area that:

“(1) meets the criteria of Subsections (a)(1) through (a)(4) of this section; and

“(2) has been designated as a local enterprise zone by the board.

“(f) A state-federal enterprise zone is an area that:

“(1) meets the criteria of Subsection (a) of this section;

“(2) has been previously designated as a local enterprise zone by the board;

“(3) has been designated as an enterprise zone by the federal agency responsible for administering a federal enterprise zone program; and

“(4) has been designated as a state-federal enterprise zone by the board.

“(g) Local enterprise zones are not eligible for the state tax incentives provided by this Act. State-federal enterprise zones are eligible for the state tax incentives provided by this Act.

“(h) A city, town, or county may *nominate* ~~[designate]~~ only one enterprise zone within its jurisdiction. For the purposes of this Act ~~[subsection]~~, the area of a city’s or town’s extraterritorial jurisdiction is considered to be within the city’s or town’s jurisdiction.

“(i) An area may be designated as an enterprise zone for a maximum period of 20 years with an additional phaseout period of four years or for the maximum period specified in the federal enterprise zone law, whichever is shorter. A designation remains in effect until September 1 of the final year of the designation.

“(j) The board may remove the designation of any area as an enterprise zone if the area no longer meets the criteria for designation as set out in this Act or by rule adopted under this Act by the board.

“Section 5. *NOMINATION [INITIAL DESIGNATION] BY COUNTIES AND MUNICIPALITIES.* The legislative body of any city, town, county, or combination of these local governments may *nominate [designate]* by resolution any economically distressed area within its jurisdiction as a potential enterprise zone, if the area meets the criteria established in Section 4 of this Act. The city, town, county, or combination of these local governments, if it first has obtained the consent of any municipality in which all or part of the potential *nominated [designated]* area is located, may then make written application to the board to have the area declared to be an enterprise zone.”

“Section 8. *PROCEDURE FOR DESIGNATION OF ZONES BY BOARD.* (a) A city, town, county, or combination of these local governments that has *nominated [designated]* a qualified economically distressed area within its jurisdiction as a potential enterprise zone shall make written application to the board, *within an application period prescribed by the board,* to have the area declared to be a local enterprise zone. The application shall include a description of the location of the area in question and other information as the board may require.

“(b) On receipt of an application from a city, town, county, or combination of these local governments, the board *or its designee* shall review the application to determine if the area described in the application qualifies to be designated as an enterprise zone under the criteria of Section 4 of this Act. *The board shall provide an applicant at least two weeks to correct any omissions or clerical errors that may be present in the application and to resubmit the application to the board. Following the close of the application period and the resubmission period, if any, the board shall meet to review the applications that have qualified for consideration as enterprise zones.*

“(c) *Not later than the 60th day after the day the qualified applications have been selected, the board or its designee shall request from the Comptroller a fiscal impact statement containing an estimate of revenue effects of the proposed nomination on the State of Texas and all affected political subdivisions. After receiving the fiscal impact statement the board or its designee shall, not later than the 45th day after the day the application is received, hold at least one public hearing in a central location within each of the qualifying area [proposed zone] on the question of whether the area nominated [proposed] to be an enterprise zone should be so designated. Not later than the 15th day before the day of the hearing, the board shall place a notice of the hearing in at least two newspapers circulated in the area of the nominated [proposed] zone and shall notify public officials, community and neighborhood organizations, and public agencies located within the nominated [proposed] zone of the public hearing.*

“(d) After the public hearing, the board shall begin negotiations for *agreements [an agreement]* with the governing *body or* bodies filing the *applications [application]*. *A [The] negotiated agreement must designate the enterprise zone. A [The] negotiated agreement must designate the administrative authority, if any, and its functions and duties. The board shall complete the negotiations and sign the agreements [agreement] not later than the 120th day after the day of the conclusion of the last public hearing. The board may extend this deadline for an additional 30 days. If an agreement is not completed within the stated period, the board shall provide the applicant with the specific areas of concern and a final proposal for the agreement. If the agreement is not signed before the 30th day after the day of the receipt by the applicant of the final proposal, the application is considered to be denied. The board shall inform the governing body or bodies of the specific reasons for the denial.*

“(e) The governing body or bodies of an area that previously had been designated as a local enterprise zone by the board may make written application to the board for designation as a state-federal enterprise zone. The governing body or bodies and the board must follow the procedures established by this section. The board may only grant a state-federal *enterprise zone designation to an area contingent on the area's designation as a federal enterprise zone by the federal agency responsible for administering the federal enterprise zone program.*

“(f) If the board designates two or more areas of the state as local *[state/federal]* enterprise zones, at least *two-fifths [one-third]* of the areas must be rural enterprise zones *unless there are not enough qualified applications for designation as rural enterprise zones to permit the board to comply with this requirement.*

“(g) In deciding the areas that should be designated as local or state-federal enterprise zones, the board shall give preference to:

“(1) areas with the highest levels of poverty, [~~unemployment,~~] and general distress;

“(2) *areas located in cities or counties with an unemployment rate that exceeds the statewide unemployment rate by 50 percent or more;*

“(3) areas that have the widest support from the government seeking designation and the community, residents, local businesses, and private organizations; and

“(4) [~~(3)~~] areas for which the government seeking the designation has made or will make the greatest effort to encourage economic activity and remove impediments to job creation, including a reduction of tax rates or fees, *the adoption of tax abatement or tax increment financing programs, the creation of foreign trade zones,* an increase in the level or efficiency of local services, and a simplification or streamlining of governmental requirements on employers or employees, taking into account the resources available to the government to make the efforts.

“(h) During any 12-month period, the board may not designate more than five local enterprise zones nor more than three state-federal enterprise zones. The total number of local enterprise zones in existence at any one time may not exceed 20; the total number of state-federal enterprise zones in existence at any one time may not exceed 10.”

SECTION 4. The amendment by this Act of Section 8, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), applies only to applications for designation as enterprise zones that are made on or after the effective date of this Act. The applications made before the effective date of this Act are governed by the law in effect before the effective date, and the former law is continued in effect for this purpose.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on May 15, 1985, by the following vote: Yeas 31, Nays 0; Senate concurred in House amendments on May 25, 1985, by a viva-voce vote; passed the House, with amendments, on May 24, 1985, by a non-record vote.

Approved: June 10, 1985

Effective: August 26, 1985