

CHAPTER 986

S.B. No. 405

AN ACT

relating to the continuation of the Texas Department of Commerce.

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

SECTION 1. Section 481.003, Government Code, is amended to read as follows:

Sec. 481.003. SUNSET PROVISION. The Texas Department of Commerce is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2001 [1993].

SECTION 2. Section 481.004, Government Code, is amended by adding Subsection (e) to read as follows:

(e) At least one member of the policy board must be a resident of a county with a population of less than 30,000.

SECTION 3. Subsection (a), Section 481.0041, Government Code, is amended to read as follows:

(a) It is a ground for removal from the policy board if a member:

(1) does not have at the time of appointment the qualifications required by Section 481.0042;

(2) does not maintain during service on the policy board the qualifications required by Section 481.0042;

(3) violates a prohibition established by Section 481.0042;

(4) [(2)] cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or

(5) [(3)] is absent from more than half of the regularly scheduled policy board meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the policy board.

SECTION 4. Section 481.0042, Government Code, is amended to read as follows:

Sec. 481.0042. CONFLICT OF INTEREST. (a) *A person may not serve as a public member of the policy board or be the executive director or an employee of the department if the person:*

(1) is employed by, participates in the management of, or is a paid consultant of a business entity that contracts with the department;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization that contracts with the department;

(3) uses or receives a substantial amount of tangible goods, services, or funds from the department, other than compensation or reimbursement authorized by law for employee salaries and benefits or for policy board membership, attendance, and expenses; or

(4) is an officer, employee, or paid consultant of a trade association of businesses that contracts with the department.

(b) A person may not serve as a public member of the policy board or be the executive director or an employee of the department if the person's spouse:

(1) participates in the management of or is a paid consultant of a business entity that contracts with the department;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization that contracts with the department;

(3) uses or receives a substantial amount of tangible goods, services, or funds from the department; or

(4) is an officer, manager, or paid consultant of a trade association of businesses that contracts with the department.

(c) ~~A member of the policy board or the executive director or an employee of the department may not:~~

~~(1) be an officer, employee, or paid consultant of a business entity that contracts with the department;~~

~~(2) directly own, control, or have any interest in a business entity that contracts with the department; or~~

~~(3) accept or solicit any gift, favor, or service that would reasonably tend to influence the person in the discharge of official duties or that the person knows or should know is being offered with the intent to influence official conduct.~~

~~(b) An officer, employee, or paid consultant of a business entity or a trade association of business entities that contracts with the department may not be a member of the policy board or the executive director or employee of the department.~~

~~(c) A person who is the spouse of an officer, manager, or paid consultant of a business entity or a trade association of business entities that contracts with the department may not be a member of the policy board or the executive director or an employee of the department.~~

(d) For the purposes of this section, a trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(d) For the purposes of this section, a business entity is a sole proprietorship, partnership, firm, corporation, holding company, joint stock company, receivership, trust, or any other entity recognized in law through which business for profit is conducted.

(e) A person may not be a member of the policy board or the executive director or an employee of the department if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a business entity that has an interest in a contract with the department or a profession related to the operation of the department.

SECTION 5. Subsection (a), Section 481.0044, Government Code, is amended to read as follows:

(a) The policy board shall ~~may~~ adopt rules *necessary for the administration of department programs and may adopt rules* for its internal management and control.

SECTION 6. Subsection (d), Section 481.005, Government Code, is amended to read as follows:

(d) The members of the policy board shall establish policy, adopt rules ~~[that the policy board may adopt under law]~~, evaluate the implementation of new legislation that affects the department's duties, review and comment on the department's budget, prepare an annual report of the department's activities, conduct investigations and studies, and develop long-range plans for the future goals and needs of the department. The members of the policy board may not be involved in the daily operation of the department. Except for duties related to the approval and issuance of bonds by the department, the policy board may delegate to the executive director the duties of the policy board under this chapter and other law that are not covered by the description of the members' duties under this subsection.

SECTION 7. Subsections (a), (f), and (g), Section 481.010, Government Code, are amended to read as follows:

(a) The executive director shall employ personnel necessary for the performance of department functions. In addition to other personnel, the executive director shall employ a human rights officer and an internal auditor. The internal auditor shall report directly to *the policy board and may consult with the executive director or the executive director's designee [the governor]*.

(f) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, *disability [handicap]*, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel *that are in compliance with requirements of the Commission on Human Rights;*

(2) a comprehensive analysis of the department work force that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant *underuse [underutilization]* in the department work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of significant *underuse [underutilization]*.

(g) A policy statement prepared under Subsection (f) must cover an annual period, be updated *[at least]* annually *and reviewed by the Commission on Human Rights for compliance with Subsection (f)(1)*, and be filed with the governor's office.

SECTION 8. Section 481.011, Government Code, is amended to read as follows:

Sec. 481.011. FISCAL REPORT. The *executive director [department]* shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the department during the preceding fiscal year. The annual report must be in the form and reported in the time provided by the General Appropriations Act.

SECTION 9. Section 481.012, Government Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) The *policy board [department]* shall prepare and maintain a written plan that describes how a person who does not speak English *[or who has a physical, mental, or developmental disability]* can be provided reasonable access to the department's programs. *The policy board shall also comply with federal and state laws for program and facility accessibility.*

(d) *The policy board by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the department for the purpose of directing complaints to the department.*

SECTION 10. Section 481.021, Government Code, is amended to read as follows:

Sec. 481.021. GENERAL POWERS OF DEPARTMENT. (a) The department may:

(1) adopt and enforce rules necessary to carry out this chapter;

(2) adopt and use an official seal;

(3) accept gifts, grants, or loans from and contract with any entity;

(4) sue and be sued;

(5) acquire and convey property or an interest in property;

(6) procure insurance and pay premiums on insurance of any type, in accounts, and from insurers as the department considers necessary and advisable to accomplish any of the department's purposes; *[and]*

(7) hold patents, copyrights, trademarks, or other evidence of protection or exclusivity issued under the laws of the United States, any state, or any nation and may enter into license agreements with any third parties for the receipt of fees, royalties, or other monetary or nonmonetary value;

(8) sell advertisements in any medium; and

(9) exercise any other power necessary to carry out this chapter.

(b) *Except as otherwise provided by this chapter, money paid to the department under this chapter shall be deposited in the state treasury.*

(c) The department shall deposit contributions from private sources in a separate fund kept and held in escrow and in trust by the state treasurer for and on behalf of the department as funds held outside the treasury under Section 404.073, and the money contributed shall be used to carry out the purposes of the department and, to the extent possible, the purposes specified by the donors. The state treasurer may invest and reinvest the money, pending its use, in the fund in investments authorized by law for state funds that the state treasurer considers appropriate.

SECTION 11. Subsection (c), Section 481.027, Government Code, is amended to read as follows:

(c) The department shall *maintain regional offices in locations specified in the General Appropriations Act* ~~(maintain at least one regional office in Europe, at least one regional office in the Pacific Rim area, and at least one regional office in Mexico. Each regional office may have one or more satellite offices).~~

SECTION 12. Subchapter B, Chapter 481, Government Code, is amended by adding Section 481.028 to read as follows:

Sec. 481.028. MEMORANDUM OF UNDERSTANDING WITH OTHER STATE AGENCIES. (a) *The department shall initiate negotiations for and enter into a memorandum of understanding with any other state agency involved in economic development to cooperate in program planning and budgeting.*

(b) *The department shall enter into an agreement as required by Subsection (a) with the:*

(1) *Department of Agriculture regarding each agency's international marketing efforts and business finance programs;*

(2) *Texas Employment Commission, Texas Higher Education Coordinating Board, and Central Education Agency regarding each agency's work force development efforts and literacy programs;*

(3) *General Land Office regarding each agency's rural economic development efforts;*

(4) *Texas Department of Housing and Community Affairs regarding each agency's community development programs;*

(5) *Texas Department of Transportation and Parks and Wildlife Department regarding each agency's efforts to promote tourism;*

(6) *Texas Air Control Board regarding small business finance and permits;*

(7) *office of the state comptroller regarding economic development and analyses;*

(8) *Texas Historical Commission regarding community preservation, restoration, and revitalization;*

(9) *Texas Department of Human Services regarding work force development;*

(10) *General Services Commission regarding providing procurement information, certification, and technical assistance to small and historically underutilized businesses;*

(11) *Alternative Fuels Council if that council is created by S.B. No. 737, Acts of the 73rd Legislature, Regular Session, 1993, regarding the promotion of alternative fuels;*

(12) *institutions of higher education regarding work force development, literacy, and technology transfer; and*

(13) *Texas Water Commission regarding the marketing of recyclable products and business permits.*

(c) *Each agency listed in Subsection (b) may enter into memoranda of understanding in areas other than those listed for the respective agency.*

(d) *The memorandum of understanding between the department and the other state agency shall be adopted as a rule of each department or agency.*

SECTION 13. Subchapter B, Chapter 481, Government Code, is amended by adding Section 481.029 to read as follows:

Sec. 481.029. COST RECOVERY. The department shall recover the cost of providing direct technical assistance and management training services to businesses and communities when reasonable and practical.

SECTION 14. Subsections (a) and (b), Section 481.050, Government Code, are amended to read as follows:

(a) A member of the policy board, the executive director, or an agent or employee of the department, in the person's own name or in the name of a nominee, may not hold an ownership interest of more than the following amount in an association, trust, corporation, partnership, or other entity that is, in its own name or in the name of a nominee, a party to a contract or agreement under this *chapter* ~~[subchapter]~~ on which the member of the policy board, executive director, agent, or employee may be called on to act or vote:

- (1) 7-1/2 percent of the fair market value of the entity; or
- (2) \$50,000.

(b) With respect to a direct or indirect interest, other than an interest prohibited by Subsection (a), in a contract or agreement under this *chapter* ~~[subchapter]~~ on which the member of the policy board, executive director, agent, or employee may be called on to act or vote, the member of the policy board, executive director, agent, or employee shall disclose the interest to the secretary of the department before the department takes final action concerning the contract or agreement and shall disclose the nature and extent of the interest and the person's acquisition of it. The department shall publicly acknowledge this disclosure and enter it in its minutes. A member of the policy board, executive director, agent, or employee who holds such an interest may not be officially involved in regard to the contract or agreement, may not vote on a matter relating to the contract or agreement, and may not communicate with the executive director or other members, agents, or employees concerning the contract or agreement. Notwithstanding any other provision of law, a contract or agreement entered into in conformity with this subsection is not invalid because of an interest described by this subsection nor is a person who complies with this subsection guilty of an offense, and the person may not be removed from office or be subjected to other penalty because of the interest.

SECTION 15. Subchapter F, Chapter 481, Government Code, is amended by adding Section 481.0831 to read as follows:

Sec. 481.0831. OFFICE OF RURAL AFFAIRS. (a) The department shall maintain an office of rural affairs.

(b) The office shall:

- (1) implement the programs established under this subchapter; and*
- (2) address the special needs of rural communities and businesses and assist those communities and businesses.*

SECTION 16. Subsection (a), Section 481.084, Government Code, is amended to read as follows:

(a) The department *may* ~~[shall use money in the fund to]~~ guarantee not more than 90 percent of a loan made by a private lender or to make loans to fund a project. For each guarantee the department shall determine:

- (1) that the project is located in a rural area;
- (2) the amount of equity the user must pledge or apply to the establishment of the project;
- (3) the fees charged by the department, including guarantee or loan fees, application fees, annual fees, and any other costs associated with the loan guarantee or loan, as necessary to fund the administration of this subchapter;
- (4) the maximum and minimum guarantee or loan amounts, if applicable;
- (5) the permissible interest rates and amortization requirements for a guaranteed loan or loan, as agreed on by the private lender, the user, and the department;
- (6) the acceptable security for the department's participation in a project; and
- (7) any other terms or conditions relating to a guarantee or loan.

SECTION 17. Subchapter F, Chapter 481, Government Code, is amended by adding Section 481.0842 to read as follows:

Sec. 481.0842. GUARANTEE-TO-RESERVE RATIO. (a) The department may guarantee loans as provided by Section 481.084 in an amount that exceeds the amount available in the fund. Loan guarantees may not exceed the guarantee-to-reserve ratio set by the policy board under Subsection (b).

(b) The policy board by rule shall adopt a guarantee-to-reserve ratio that determines the amount of loan guarantees that may be made that exceed the amount available in the fund. The ratio of guarantees to the amount of money available in the fund may not exceed two to one.

(c) The policy board shall review the guarantee-to-reserve ratio annually and adjust the ratio as appropriate. In reviewing the guarantee-to-reserve ratio, the policy board shall consider the payment experience of the loans and any recommendations of the state auditor as provided by Subsection (d).

(d) The state auditor shall review the loan guarantee program and payment activity and make recommendations based on that review to the policy board about the program and the guarantee-to-reserve ratio. A recommendation to the policy board shall be made not later than September 1 of each year.

SECTION 18. Subdivision (1), Section 481.101, Government Code, is amended to read as follows:

(1) "Historically underutilized [~~Disadvantaged~~] business" means:

(A) a corporation formed for the purpose of making a profit in which at least 51 percent of all classes of the shares of stock or other equitable securities is owned by one or more persons who are socially disadvantaged because of their identification as members of certain groups, including black Americans, Hispanic Americans, women, Asian Pacific Americans, and American Indians, who have suffered the effects of discriminatory practices or similar insidious circumstances over which they have no control;

(B) a sole proprietorship formed for the purpose of making a profit that is 100 percent owned, operated, and controlled by a person described by Paragraph (A) [~~of this subdivision~~];

(C) a partnership formed for the purpose of making a profit in which 51 percent of the assets and interest in the partnership is owned by one or more persons described by Paragraph (A) [~~of this subdivision~~]. Those persons must have proportionate interest in the control, operation, and management of the partnership's affairs;

(D) a joint venture in which each entity in the joint venture is a *historically underutilized* [~~disadvantaged~~] business under this subdivision; or

(E) a supplier contract between a *historically underutilized* [~~disadvantaged~~] business under this subdivision and a prime contractor under which the *historically underutilized* [~~disadvantaged~~] business is directly involved in the manufacture or distribution of the supplies or materials or otherwise warehouses and ships the supplies.

SECTION 19. Subsection (a), Section 481.103, Government Code, is amended to read as follows:

(a) The office shall:

(1) examine the role of small and *historically underutilized* [~~disadvantaged~~] businesses in the state's economy and the contribution of small and *historically underutilized* [~~disadvantaged~~] businesses in generating economic activity, expanding employment opportunities, promoting exports, stimulating innovation and entrepreneurship, and bringing new and untested products and services to the marketplace;

(2) serve as the principal advocate in the state on behalf of small and *historically underutilized* [~~disadvantaged~~] businesses and provide advice in the consideration of administrative requirements and legislation that affect small and *historically underutilized* [~~disadvantaged~~] businesses;

(3) evaluate the effectiveness of efforts of state agencies and other entities to assist small and *historically underutilized* [~~disadvantaged~~] businesses and make appropriate recommendations to assist the development and strengthening of small and *historically underutilized businesses* [~~disadvantaged business enterprise~~];

(4) identify specific instances in which regulations inhibit small and *historically underutilized* [~~disadvantaged~~] business development and to the extent possible identify conflicting state policy goals;

(5) determine the availability of financial and other resources to small and *historically underutilized* [~~disadvantaged~~] businesses and recommend methods for:

(A) increasing the availability of equity capital and other forms of financial assistance to small and *historically underutilized* [~~disadvantaged~~] businesses;

(B) generating markets for the goods and services of small and *historically underutilized* [~~disadvantaged~~] businesses;

(C) providing more effective education, training, and management and technical assistance to small and *historically underutilized* [~~disadvantaged~~] businesses; and

(D) providing assistance to small and *historically underutilized* [~~disadvantaged~~] businesses in complying with federal, state, and local laws;

(6) describe the reasons for small and *historically underutilized* [~~disadvantaged~~] business successes and failures, ascertain the related factors that are particularly important in this state, and recommend actions for increasing the success rate of small and *historically underutilized* [~~disadvantaged~~] businesses;

(7) serve as a focal point for receiving complaints and suggestions concerning state government policies and activities that affect small and *historically underutilized* [~~disadvantaged~~] businesses;

(8) assist with the resolution of problems among state agencies and small and *historically underutilized* [~~disadvantaged~~] businesses;

(9) develop and advocate proposals for changes in state policies and activities that adversely affect small and *historically underutilized* [~~disadvantaged~~] businesses;

(10) provide to legislative committees and state agencies information on the effects of proposed policies or actions that affect small and *historically underutilized* [~~disadvantaged~~] businesses;

(11) enlist the assistance of public and private agencies, businesses, and other organizations in disseminating information about state programs and services that benefit small and *historically underutilized* [~~disadvantaged~~] businesses and information regarding means by which small and *historically underutilized* [~~disadvantaged~~] businesses can use those programs and services;

(12) provide information and assistance relating to establishing, operating, or expanding small and *historically underutilized* [~~disadvantaged~~] businesses;

(13) establish and operate a statewide toll-free telephone service providing small and *historically underutilized* [~~disadvantaged~~] businesses with ready access to the services offered by the office;

(14) *assist small and historically underutilized businesses by:*

(A) *identifying:*

(i) [~~identify~~] sources of financial assistance for those [~~small and disadvantaged~~] businesses; and

(ii) *financial barriers to those businesses;*

(B) *establishing financing programs for those businesses that aid in overcoming financial barriers;*

(C) *matching those* [~~match small and disadvantaged~~] businesses with sources of financial assistance;[,] and

(D) *assisting those* [~~assist small and disadvantaged~~] businesses with the preparation of applications for loans from governmental or private sources;

(15) sponsor meetings, to the extent practicable in cooperation with public and private educational institutions, to provide training and disseminate information beneficial to small and *historically underutilized* [disadvantaged] businesses;

(16) assist small and *historically underutilized* [disadvantaged] businesses in their dealings with federal, state, and local governmental agencies and provide information regarding governmental requirements affecting small and *historically underutilized* [disadvantaged] businesses;

(17) perform research, studies, and analyses of matters affecting the interests of small and *historically underutilized* [disadvantaged] businesses;

(18) develop and implement programs to encourage governmental agencies, public sector business associations, and other organizations to provide useful services to small and *historically underutilized* [disadvantaged] businesses;

(19) use available resources within the state, such as small business development centers, educational institutions, and nonprofit associations, to coordinate the provision of management and technical assistance to small and *historically underutilized* [disadvantaged] businesses in a systematic manner;

(20) publish newsletters, brochures, and other documents containing information useful to small and *historically underutilized* [disadvantaged] businesses;

(21) identify successful small and *historically underutilized* [disadvantaged] business assistance programs provided by other states and determine the feasibility of adapting those programs for implementation in this state;

(22) establish an outreach program to make the existence of the office known to small and *historically underutilized* [disadvantaged] businesses and potential clients throughout the state;

(23) adopt rules necessary to carry out this subchapter;

(24) identify potential business opportunities for small and *historically underutilized* [disadvantaged] businesses in the border region and develop programs to maximize those opportunities;

(25) identify potential business opportunities for small and *historically underutilized* [disadvantaged] businesses in rural areas of this state and develop programs to maximize those opportunities; and

(26) perform any other functions necessary to carry out the purposes of this subchapter.

SECTION 20. Section 481.107, Government Code, is amended to read as follows:

Sec. 481.107. **CONTRACTS AWARDED TO SMALL OR HISTORICALLY UNDERUTILIZED [DISADVANTAGED] BUSINESSES.** Each state agency shall keep statistical data and other records on the number of contracts awarded by the agency to small or *historically underutilized* [disadvantaged] businesses.

SECTION 21. Section 481.155, Government Code, as added by Chapter 1, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Subsection (g) to read as follows:

(g) *During each state fiscal year the executive director shall attempt to ensure that at least 50 percent of the total dollar amount of grants awarded under this section is awarded to small businesses, as defined by Section 481.101.*

SECTION 22. Subchapter J, Chapter 481, Government Code, as added by Chapter 1, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Section 481.1601 to read as follows:

Sec. 481.1601. **LEGISLATIVE REVIEW COMMITTEE; REPORTS.** (a) *The legislative review committee is composed of:*

(1) *two senators appointed by the lieutenant governor;*

(2) *two members of the house of representatives appointed by the speaker of the house of representatives; and*

(3) *one representative of business appointed by the governor.*

(b) *Every six months the executive director shall submit to the legislative review committee a report covering the previous six-month period and containing the information required for a report under Section 481.160. The legislative review committee shall review the report and submit to the executive director recommendations concerning the carrying out of the program.*

(c) *The executive director shall submit with the report required under Section 481.160:*

(1) *copies of the recommendations that the executive director has received from the legislative review committee during the preceding fiscal year; and*

(2) *a statement of the executive director's actions taken on the recommendations.*

SECTION 23. Subchapter L, Chapter 481, Government Code, is amended by adding Section 481.174 to read as follows:

Sec. 481.174. **ADVERTISEMENTS IN TOURISM PROMOTIONS.** (a) *The department may sell advertisements in travel promotions in any medium.*

(b) *The policy board shall adopt rules to implement the sale of advertisements under Subsection (a), including rules regulating:*

(1) *the cost of advertisements;*

(2) *the type of products or services that may be advertised;*

(3) *the size of advertisements; and*

(4) *refunds on advertisements that are not run.*

(c) *Proceeds from the sale of advertisements shall be deposited in the special account in the general revenue fund that may be used for advertising and marketing activities of the department as provided by Section 156.251, Tax Code.*

SECTION 24. Section 481.182, Government Code, is amended to read as follows:

Sec. 481.182. **DUTIES.** The department shall:

(1) *establish and maintain a central depository of information, including computer retrievable files, concerning the significant characteristics of the state and its people, economy, land, and physical characteristics, including information concerning employment opportunities in the state;*

(2) *analyze the information collected under Subdivision (1) as well as other information and disseminate the information and analyses to state, federal, and local agencies and the public;*

(3) *serve as the official cognizant administrator of the United States Bureau of the Census federal-state cooperative;*

(4) *collect information and compile data on the border region for the preparation of specific plans and programs for the border region;*

(5) *adopt procedures to ensure the greatest use by and exchange among state agencies of data bases and statistical and analytical models created by or belonging to the state;*

(6) *assist institutions of elementary, secondary, and higher education to develop and expand programs of education in international commerce, geography, and language;*

(7) *establish and operate a comprehensive clearinghouse of information relating to small and historically underutilized businesses; and*

(8) *develop and maintain a master file of information on small and historically underutilized business assistance programs provided by federal, state, and local agencies, educational institutions, chambers of commerce, civic organizations, community development groups, private industry associations, and other organizations and provide comprehensive, timely information to persons seeking that information.*

SECTION 25. Section 8, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is amended by adding Subsection (i) to read as follows:

(i) *Not later than December 1 of each year, the department shall prepare an annual cost-benefit analysis of the program and submit it to the state auditor for review and comment on the methodology and conclusions of the study. Before each regular legislative session convenes, the state auditor shall submit the analyses and the state auditor's comments on the*

analyses to the governor, the lieutenant governor, and the speaker of the house of representatives.

SECTION 26. Subsection (f), Section 10, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is amended to read as follows:

(f) The department shall allocate to each enterprise project at the time of its designation a job ceiling number representing the maximum number of new permanent jobs *or retained jobs* eligible to be included in any calculation for a tax refund for the enterprise project. The job ceiling number for a project may not exceed 625 or a number equal to 110 percent of the number of new permanent jobs *or retained jobs* that a qualified business in its application for designation commits to create *or retain, as applicable*, during the five-year term of its designation as an enterprise project, whichever is less. ~~[The maximum number of new permanent jobs that may be allocated by the department among all enterprise projects designated under this section between August 31, 1991, and August 31, 1993, is 10,000.]~~

SECTION 27. Effective August 30, 1993, Subsection (k), Section 10, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is repealed.

SECTION 28. Subsection (b), Section 151.429, Tax Code, is amended to read as follows:

(b) Subject to the limitations provided by Subsection (c) of this section, an enterprise project qualifies for a refund of taxes under this section of \$2,000 for each new permanent job *or job that has been retained by* ~~[that]~~ the enterprise project ~~[provides]~~ for a qualified employee ~~[during the period of its designation as an enterprise project].~~

SECTION 29. The Texas Job-Training Partnership Act (Article 4413(52), Vernon's Texas Civil Statutes) is amended by adding Sections 5A and 5B to read as follows:

Sec. 5A. *RULES.* *The policy board of the Texas Department of Commerce shall adopt necessary rules for the implementation and management of the job-training program.*

Sec. 5B. *CONTESTED CASES.* *A proceeding of the Texas Department of Commerce involving the job-training program is not subject to the provisions of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) and its subsequent amendments relating to contested cases.*

SECTION 30. Section 10, Texas Job-Training Partnership Act (Article 4413(52), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 10. *POLICY* ~~[RULES AND REGULATIONS]~~. The governor may *develop policies* ~~[in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), prescribe such rules and regulations as]~~ the governor deems necessary to carry out the provisions of this Act and the federal Act.

SECTION 31. During the state fiscal biennium beginning September 1, 1993, the Texas Department of Commerce may not certify more than 8,000 new permanent jobs or retained jobs under Subsection (f), Section 10, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), as amended by this Act, among enterprise projects designated after August 31, 1993. An enterprise project designated after August 31, 1993, may not receive a tax refund under Section 151.429, Tax Code, as amended by this Act, or a tax reduction under Section 171.1015, Tax Code, before September 1, 1995.

SECTION 32. (a) The state auditor shall conduct a study to review the impact of the program created under the Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes) since its implementation. The comptroller, the Texas Employment Commission, and the Texas Department of Commerce shall provide the state auditor with data and assistance as necessary to complete the study. At a minimum, the study shall include:

(1) an examination of the impact of the program on the state as a whole as well as the impact on individual communities with enterprise zones, including the program's effect on state and local:

- (A) tax revenues;
- (B) tax bases;
- (C) socio-economic conditions; and
- (D) unemployment rates;

(2) a review of the incentives offered by local communities and the relative impact of the incentives on company location, expansion, and retention; and

(3) a survey of companies to determine the role of the state enterprise zone incentives on decisions of companies to locate, expand, or retain jobs in the zone.

(b) The state auditor shall complete the study required by this section and submit a report of its findings to the governor, lieutenant governor, and the speaker of the house of representatives not later than October 1, 1994.

SECTION 33. (a) The state auditor shall perform the first review of the rural economic loan guarantee program and payment activity and make a recommendation to the Texas Department of Commerce policy board regarding the program and the guarantee-to-reserve ratio as required by Section 481.0842, Government Code, as added by this Act, not later than December 1, 1993.

(b) The Texas Department of Commerce may guarantee loans in an amount that exceeds the amount available in the Texas rural economic development fund as provided by Section 481.0842, Government Code, as added by this Act, beginning January 1, 1994.

SECTION 34. Subsection (d), Section 156.251, Tax Code, is amended to read as follows:

(d) An amount equal to the amount of revenue derived from the collection of taxes imposed by this chapter at a rate of one-half of one percent shall be allocated [~~to a special account~~] in the general revenue fund to be used for media advertising and other marketing activities of the *Tourism Division* of the Texas Department of Commerce. *Section 403.094(h), Government Code, does not apply to funds described in this section. This subsection takes effect October 1, 1994.*

SECTION 35. This Act takes effect September 1, 1993.

SECTION 36. For purposes of transition, the policy board of the Texas Department of Commerce shall review all rules adopted by the executive director and either adopt as a rule of the policy board or repeal such rules. If a rule that was adopted by the executive director is not adopted by the policy body by April 1, 1994, the rule is repealed. Until a rule is adopted or repealed as provided by this section, the rule is a rule of the policy board.

SECTION 37. The policy board of the Texas Department of Commerce shall review and either adopt as a rule of the department or repeal all policy issuances of the department regarding the job-training program under the Texas Job-Training Partnership Act (Article 4413(52), Vernon's Texas Civil Statutes) not later than September 1, 1994. If a policy issuance has not been adopted as a rule of the department on or before September 1, 1994, the policy issuance is repealed. Until a policy issuance is adopted as a rule of the department or repealed as provided by this section, the policy issuance is a rule of the department.

SECTION 38. 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.

Passed the Senate on April 21, 1993, by a viva-voce vote; May 14, 1993, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 19, 1993, House granted request of the Senate; May 26, 1993, Senate adopted Conference Committee Report by a viva-voce vote; passed the House, with amendments, on May 8, 1993, by a non-record vote; May 19, 1993, House granted request of the Senate for appointment of Conference Committee; May 26, 1993, House adopted Conference Committee Report by a non-record vote.

Approved June 19, 1993.

Effective Sept. 1, 1993, and as provided in § 27.