

F&Q: TEXAS ENTERPRISE ZONE PROGRAM



Economic Development & Tourism | Office of Texas Governor Greg Abbott

What is an enterprise zone?

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

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

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

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

Who may participate in the program?

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

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

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

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

The Governor's Office, through Economic Development Finance (Bank), has published on its website the areas that qualify as an enterprise zone as either a qualifying block group or a distressed county. The website can be accessed at <https://gov.texas.gov/business/page/texas-enterprise-zone-program>. If your block group is not listed, it does not qualify as an enterprise zone.

How does a municipality or county participate in the program?

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

Can a community offer local incentives without an enterprise zone?

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

What local incentives are available in an enterprise zone?

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

What is a qualified business?

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

- A. the person is engaged in, or has provided substantial commitment to initiate the active conduct of a trade or business at a qualified business site; and
- B. at least 25 percent of the business' new employees are either economically disadvantaged or enterprise zone residents (ED/EZR) if the qualified business site is located in an enterprise zone, or at least 35 percent of the business' new employees are ED/EZR if the qualified business site is located outside of an enterprise zone; and
- C. a franchise or subsidiary of a new or existing business may be certified by the governing jurisdiction as a qualified business if the franchise or subsidiary is located entirely at the qualified business site and maintains separate books and records of the business activity conducted at the qualified business site.

What is the definition of economically disadvantaged?

An individual who at the time of hire:

- A. was unemployed for at least three months before obtaining employment with a qualified business;
- B. receives public assistance benefits, including welfare payments or food stamps, based on need and intended to alleviate poverty;
- C. is a low-income individual, as defined by Section 101, Workforce Investment Act of 1998 (29 U.S.C. Section 2801(25));
- D. is an individual with a disability, as defined by 29 U.S.C. Section 705(20)(A);
- E. is an inmate, as defined by Section 498.001;
- F. 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;
- G. has been released by the Texas Youth Commission and is on parole, if state law provides for such a person to be on parole;
- H. 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.); or
- I. was under the permanent managing conservatorship of the Department of Family and Protective Services on the day preceding the individual's 18th birthday.

What is an enterprise project?

An enterprise project is a business that is nominated by a municipality or county and approved by the bank for state benefits. State incentives include state sales and use tax benefits based on capital investment and jobs created and/or retained during the designation period. The State may designate up to 105 enterprise projects each biennium.

What items purchased are allowable for sales and use tax refund under the Program?

An enterprise project is eligible for a refund of the taxes imposed by the Texas Tax Code on all taxable items purchased for use at the qualified business site related to the project or activity during the designation period.

How many enterprise projects can we have?

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

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

How long is an enterprise project designation?

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

What state incentives are available to enterprise projects?

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

Level of Capital Investment	Maximum number of jobs allocated	Maximum potential refund	Maximum refund per job allocated
Half Enterprise Project			
\$40,000 to \$399,999	10	\$25,000	\$2,500
\$400,000 to \$999,999	25	\$62,500	\$2,500
\$1,000,000 to \$4,999,999	125	\$312,500	\$2,500
\$5,000,000 or more	250	\$625,000	\$2,500
Enterprise Project			
\$5,000,000 or more	500	\$1,250,000	\$2,500
Double Jumbo Project			
\$150,000,000 to \$249,999,999	500	\$2,500,000	\$5,000
Triple Jumbo Project			
\$250,000,000 or more	500	\$3,750,000	\$7,500

Each project is limited to a maximum refund of \$250,000 per year for five years for a regular enterprise project designation, \$500,000 per year for five years for a double jumbo enterprise project and \$750,000 per year for five years for a triple jumbo enterprise project. NOTE: a qualified business making a capital investment eligible to apply for a double jumbo enterprise project or a triple jumbo enterprise project must be nominated by the governing jurisdiction for the elevated designation in the nominating ordinance, order or resolution, as applicable, or the designation will automatically be for a regular enterprise project designation. A double jumbo enterprise project will count as two enterprise project designations against the 105 projects designations allowed statewide and against the four or six allowed for the governing jurisdiction. A triple jumbo enterprise project will count as three project designations for the state as well as the governing jurisdiction. Double and triple jumbo enterprise projects may not include retained jobs for benefit.

*A triple jumbo enterprise project must create a minimum of 500 jobs.

What constitutes capital investment?

Money paid to purchase capital assets or fixed assets including but not limited to land, buildings, labor used to construct or renovate a capital asset, furniture, manufacturing machinery, computers and software, or other machinery and equipment. Property that is leased under a capitalized lease is considered a qualified capital investment but property that is leased under an operating lease is not considered a qualified capital investment.

NOTE: If using a contractor to construct the facility, a “separated contract” (a contract in which the agreed contract price is divided into separately states prices for materials and labor) must be executed. If a “lump sum” contract is executed, a claim for refund of taxes invoiced to, and paid by a third party, will not qualify for a refund under this Program. Please call the Comptroller of Public Accounts Office at 1-800-531-5441 ext. 32844 if you have any questions regarding this issue.

What is a qualified employee?

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

What is a new permanent job?

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

What is a retained job?

A retained job is a position that existed with a qualified business on the 91st day prior to the application deadline, that has provided employment to a qualified employee of at least 1,820 hours annually and is retained throughout the designation period, or for at least three years after the date on which a state benefit is received, whichever is longer.

What is a job retention project?

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

- A. that permanent employees will be permanently laid off;
- B. the business will permanently close down;
- C. the business will relocate out of state;
- D. the business is able to employ individuals in accordance with Section 2303.402; or
- E. the business facility has been legitimately destroyed or substantially impaired due to fire, flood, tornado, hurricane, or any other natural disaster and that at least 60 percent of the capital investment is being spent to repair damages resulting from the disaster.

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

What is an existing job?

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

Do leased, contract or construction employees qualify for benefit?

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

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

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

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