

AN ACT

relating to agreements authorizing a limitation on taxable value of certain property to provide for the creation of jobs and the generation of state and local tax revenue; authorizing fees; authorizing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 403, Government Code, is amended by adding Subchapter T to read as follows:

SUBCHAPTER T. TEXAS JOBS, ENERGY, TECHNOLOGY, AND INNOVATION ACT

Sec. 403.601. PURPOSES. The purposes of this subchapter are to:

(1) create new, high-paying permanent jobs and construction jobs in this state;

(2) encourage financially positive economic development in this state;

(3) provide a temporary competitive economic incentive for attracting certain large-scale economic development projects to this state that, in the absence of this subchapter, would likely locate in another state or nation;

(4) encourage energy and water infrastructure development, including new and expanded dispatchable electric generation facilities;

(5) make this state a national and international leader in new and innovative technologies;

1 (6) encourage the establishment of certain advanced
2 manufacturing industry sectors critical to national defense and
3 health care;

4 (7) create new wealth, raise personal income, and
5 foster long-term expansion of state and local tax bases;

6 (8) provide growing and sustainable economic
7 opportunity for the residents of this state; and

8 (9) incentivize the preceding objectives in a
9 balanced, transparent, and accountable manner.

10 Sec. 403.602. DEFINITIONS. In this subchapter:

11 (1) "Additional job" means a full-time job in
12 connection with an eligible project that is not a required job for
13 the same project.

14 (2) "Agreement" means an agreement entered into under
15 Section 403.612.

16 (3) "Applicant" means a person that applies for, or
17 enters into an agreement providing for, a limitation on the taxable
18 value of eligible property used as part of an eligible project,
19 including the person's assignees or successors-in-interest.

20 (4) "Appraised value," "tax year," and "taxing unit"
21 have the meanings assigned by Section 1.04, Tax Code.

22 (5) "Construction completion date" means the date on
23 which an eligible project is first capable of being used for the
24 purposes for which it is constructed.

25 (6) "Construction job" means an otherwise full-time
26 job that is temporary in nature and is performed before the start of
27 the incentive period applicable to an eligible project to perform

1 construction, maintenance, remodeling, or repair work for an
2 applicant in connection with the project.

3 (7) "Construction period" means the period prescribed
4 by an agreement as the construction period of the eligible project
5 that is the subject of the agreement.

6 (8) "Eligible project":

7 (A) means a project:

8 (i) to construct or expand a new or existing
9 facility that is:

10 (a) a manufacturing facility;

11 (b) a facility related to the
12 provision of utility services, including an electric generation
13 facility that is considered to be dispatchable because the
14 facility's output can be controlled primarily by forces under human
15 control;

16 (c) a facility related to the
17 development of natural resources; or

18 (d) a facility engaged in the
19 research, development, or manufacture of high-tech equipment or
20 technology; or

21 (ii) to construct or expand critical
22 infrastructure; and

23 (B) does not include a project to construct or
24 expand a new or existing:

25 (i) nondispatchable electric generation
26 facility; or

27 (ii) electric energy storage facility.

1 (9) "Eligible property" means property that is used as
2 part of an eligible project that is wholly owned by an applicant or
3 leased by an applicant under a capitalized lease and consists of:

4 (A) a new building or expansion of an existing
5 building, including a permanent, nonremovable component of a
6 building, that is:

7 (i) constructed after the date the
8 agreement pertaining to the project is entered into; and

9 (ii) located in an area designated as a
10 reinvestment zone under Chapter 311 or 312, Tax Code, or as an
11 enterprise zone under Chapter 2303 of this code, at the time the
12 agreement pertaining to the project is entered into; or

13 (B) tangible personal property, other than
14 inventory, first located in the zone described by Paragraph (A)(ii)
15 after the date the agreement pertaining to the project is entered
16 into.

17 (10) "Full-time job" means a permanent full-time job
18 that requires a total of at least 1,600 hours of work a year in
19 connection with an eligible project. The term does not include a
20 construction job.

21 (11) "Incentive period" for an eligible project means
22 the period prescribed by the agreement pertaining to the project
23 during which the eligible property used as part of the project is
24 subject to a limitation on taxable value.

25 (12) "Independent contractor" has the meaning
26 assigned by Section 406.121, Labor Code.

27 (13) "Investment" means the costs incurred by an

1 applicant to acquire or construct eligible property composing an
2 eligible project, other than the cost of land or inventory.

3 (14) "Oversight committee" means the Jobs, Energy,
4 Technology, and Innovation Act Oversight Committee established
5 under Section 403.618.

6 (15) "Qualified opportunity zone" means an area
7 designated as such by the secretary of the United States Treasury.

8 (16) "Required job" means a job that an applicant
9 commits to create or demonstrate in connection with an eligible
10 project as prescribed by Section 403.604.

11 (17) "Total jobs" means the sum of required jobs and
12 additional jobs in connection with an eligible project.

13 Sec. 403.603. EXPIRATION. This subchapter expires December
14 31, 2033.

15 Sec. 403.604. REQUIRED JOBS AND INVESTMENT. (a) A jobs
16 requirement prescribed by this section does not apply to an
17 eligible project that is an electric generation facility described
18 by Section 403.602(8)(A)(i)(b).

19 (b) To be eligible to enter into an agreement, an applicant
20 for a limitation on taxable value of eligible property to be used
21 for a proposed eligible project must agree to:

22 (1) if the project is to be located in a county with a
23 population of at least 750,000:

24 (A) create at least 75 required jobs by the end of
25 the first tax year of the incentive period prescribed by the
26 agreement and demonstrate an average of at least that number of jobs
27 during each following tax year until the date the agreement

1 expires; and

2 (B) make an investment in the project in an
3 amount of at least \$200 million by the end of the first tax year of
4 the incentive period prescribed by the agreement;

5 (2) if the project is to be located in a county with a
6 population of at least 250,000 but less than 750,000:

7 (A) create at least 50 required jobs by the end of
8 the first tax year of the incentive period prescribed by the
9 agreement and demonstrate an average of at least that number of jobs
10 during each following tax year until the date the agreement
11 expires; and

12 (B) make an investment in the project in an
13 amount of at least \$100 million by the end of the first tax year of
14 the incentive period prescribed by the agreement;

15 (3) if the project is to be located in a county with a
16 population of at least 100,000 but less than 250,000:

17 (A) create at least 35 required jobs by the end of
18 the first tax year of the incentive period prescribed by the
19 agreement and demonstrate an average of at least that number of jobs
20 during each following tax year until the date the agreement
21 expires; and

22 (B) make an investment in the project in an
23 amount of at least \$50 million by the end of the first tax year of
24 the incentive period prescribed by the agreement; or

25 (4) if the project is to be located in a county with a
26 population of less than 100,000:

27 (A) create at least 10 required jobs by the end of

1 the first tax year of the incentive period prescribed by the
2 agreement and demonstrate an average of at least that number of jobs
3 during each following tax year until the date the agreement
4 expires; and

5 (B) make an investment in the project in an
6 amount of at least \$20 million by the end of the first tax year of
7 the incentive period prescribed by the agreement.

8 (c) For purposes of Subsection (b), each required job
9 created in connection with an eligible project:

10 (1) must be a new full-time job in this state:

11 (A) maintained in the usual course and scope of
12 the applicant's business, which may be performed by an individual
13 who is a trainee under the Texans Work program established under
14 Chapter 308, Labor Code; or

15 (B) performed by an independent contractor and
16 the independent contractor's employees at the site of the project;
17 and

18 (2) may not be transferred by the applicant from an
19 existing facility or location in this state or otherwise created to
20 replace an existing job, unless the applicant fills the vacancy
21 caused by the transfer.

22 (d) For purposes of Subsection (b), an applicant may
23 demonstrate that the applicant has met the applicable minimum
24 investment requirement by any reasonable means. The applicant is
25 considered to have met the applicable minimum investment
26 requirement if the most recent appraisal roll for the county used to
27 determine the minimum investment requirement under this section

1 indicates that the appraised value of the eligible property
2 composing the project as of January 1 of the second tax year of the
3 incentive period prescribed by the agreement is equal to or greater
4 than the minimum investment requirement applicable to the project.

5 (e) If an eligible project is located in more than one
6 county, the jobs and investment requirement applicable to the
7 project is determined using the jobs and investment requirement
8 applicable to the county with the smallest population in which any
9 part of the project is located.

10 (f) The comptroller may adopt rules necessary to interpret
11 and administer this section, including rules regarding:

12 (1) the manner for determining:

13 (A) which jobs and investment requirements
14 prescribed by Subsection (b) apply to an eligible project; and

15 (B) the circumstances under which a trainee under
16 the Texans Work program established under Chapter 308, Labor Code,
17 may be considered a full-time employee for purposes of this
18 section; and

19 (2) the method by which an applicant must demonstrate
20 an average of at least the number of required jobs for purposes of
21 satisfying the jobs requirement prescribed by Subsection (b).

22 Sec. 403.605. TAXABLE VALUE OF ELIGIBLE PROPERTY. (a) The
23 taxable value for school district maintenance and operations ad
24 valorem tax purposes of eligible property subject to an agreement
25 for each tax year of the incentive period prescribed by the
26 agreement is equal to:

27 (1) 50 percent of the market value of the property for

1 that tax year; or

2 (2) if the property is located in a qualified
3 opportunity zone, 25 percent of the market value of the property for
4 that tax year.

5 (b) The taxable value of eligible property for school
6 district maintenance and operations ad valorem tax purposes is zero
7 for each tax year beginning with the tax year following the year in
8 which the agreement pertaining to the property is entered into and
9 ending December 31 of the tax year that includes the construction
10 completion date for the applicable eligible project.

11 (c) The chief appraiser for the appraisal district in which
12 eligible property is located shall determine the market value and
13 appraised value of the property and include the market value,
14 appraised value, and taxable value of the property as determined
15 under this section in the appraisal records for the appraisal
16 district.

17 (d) The chief appraiser for the appraisal district in which
18 eligible property subject to an agreement is located may not use an
19 estimated value included in the application to which the agreement
20 pertains to determine the market value of the property.

21 Sec. 403.606. CERTAIN PERSONS INELIGIBLE. A person is not
22 eligible to submit an application to the comptroller or enter into
23 an agreement under this subchapter if the person is a company that
24 is listed as ineligible to receive a state contract or investment
25 under Chapter 808, 809, 2270, 2271, or 2274, as added by Chapters
26 529 (S.B. 13), 530 (S.B. 19), and 975 (S.B. 2116), Acts of the 87th
27 Legislature, Regular Session, 2021.

1 Sec. 403.607. APPLICATION. (a) A person who proposes to
2 construct an eligible project in a school district for which the
3 person seeks a limitation on the taxable value for maintenance and
4 operations ad valorem tax purposes of the district of the eligible
5 property used as part of the proposed project must submit an
6 application to the comptroller.

7 (b) A person submitting an application under Subsection (a)
8 must use the form prescribed by the comptroller. The form must
9 contain the following information:

10 (1) the applicant's name, address, and Texas taxpayer
11 identification number and the contact information for the
12 applicant's authorized representative;

13 (2) the applicant's form of business and, if
14 applicable, the name, address, and Texas taxpayer identification
15 number of the applicant's parent entity;

16 (3) the applicable school district's name and address
17 and the contact information for the district's authorized
18 representative;

19 (4) the legal description of the property on which the
20 project is proposed to be located and, if applicable, the address of
21 the proposed project;

22 (5) each county in which the project is proposed to be
23 located and the population of each of those counties;

24 (6) the applicable number of required jobs prescribed
25 by Section 403.604 for the proposed project;

26 (7) a list of each taxing unit in which the project is
27 proposed to be located;

- 1 (8) a brief description of the proposed project;
2 (9) any grant or loan of public money or other tax
3 incentive, if applicable, that the applicant is receiving or
4 expects to receive for the project;
5 (10) a brief description of the eligible property to
6 be used as part of the proposed project;
7 (11) a projected timeline for construction and
8 completion of the proposed project, including the projected dates
9 on which construction will begin, construction will be completed,
10 and commercial operations will start;
11 (12) the proposed incentive period;
12 (13) the name and location of the existing or proposed
13 reinvestment zone or enterprise zone in which the proposed project
14 will be located;
15 (14) whether the project is proposed to be located in a
16 qualified opportunity zone;
17 (15) a statement indicating whether the applicant
18 considered locating the proposed project in a qualified opportunity
19 zone;
20 (16) a brief summary of the projected economic
21 benefits of the proposed project; and
22 (17) the applicant's signature and certification of
23 the accuracy of the information included in the application.
24 (c) The form prescribed by Subsection (b) must allow the
25 applicant to segregate confidential information described by
26 Section 403.621(a) from other information in the application.
27 (d) An applicant must include with an application the

1 following:

2 (1) an application fee payable to the comptroller in
3 an amount determined by the comptroller not to exceed an amount
4 sufficient to cover the costs associated with the comptroller's
5 evaluation of the application;

6 (2) an application fee payable to the school district
7 in an amount determined by the comptroller not to exceed \$30,000 to
8 cover the costs associated with the district's evaluation of the
9 application, including the cost of processing the application,
10 retaining professional services, and, if applicable, creating a
11 reinvestment zone or enterprise zone;

12 (3) a map showing the site of the proposed project;

13 (4) the economic benefit statement prepared under
14 Section 403.608 in connection with the proposed project; and

15 (5) a sworn affidavit stating that the applicant is
16 not ineligible under Section 403.606 to submit the application.

17 (e) The comptroller may request that an applicant provide
18 any additional information the comptroller reasonably determines
19 is necessary to complete the comptroller's evaluation of the
20 application. The comptroller may require an applicant to submit
21 the additional information by a certain date and may extend that
22 deadline on a showing of good cause. The comptroller is not
23 required to take any further action on an application until it is
24 complete.

25 (f) The comptroller shall notify an applicant and the
26 applicable school district when the applicant's application is
27 administratively complete.

1 Sec. 403.608. ECONOMIC BENEFIT STATEMENT. (a) An
2 applicant shall submit an economic benefit statement with the
3 applicant's application.

4 (b) An economic benefit statement must include the
5 following information for each year of the period that begins on the
6 date the applicant projects construction of the proposed project
7 that is the subject of the application will begin and ends on the
8 25th anniversary of the date the incentive period ends:

9 (1) an estimate of the number of total jobs that will
10 be created by the project;

11 (2) an estimate of the total amount of capital
12 investment that will be created by the project;

13 (3) an estimate of the increase in appraised value of
14 property that will be attributable to the project;

15 (4) an estimate of the amount of ad valorem taxes that
16 will be imposed by each taxing unit, including the applicable
17 school district, on the property used as part of the project;

18 (5) an estimate of the amount of state taxes that will
19 be paid in connection with the project; and

20 (6) an estimate of the associated economic benefits
21 that may reasonably be attributed to the project, including:

22 (A) the impact on the gross revenues and
23 employment levels of local businesses that provide goods or
24 services in connection with the project or to the applicant's
25 employees;

26 (B) the amount of state and local taxes that will
27 be generated as a result of the indirect economic impact of the

1 project, including all ad valorem taxes not otherwise estimated in
2 Subdivision (4) that will be imposed on property placed into
3 service as a result of the project;

4 (C) the development of complementary businesses
5 or industries that locate in this state as a direct consequence of
6 the project;

7 (D) the total impact of the project on the gross
8 domestic product of this state;

9 (E) the total impact of the project on personal
10 income in this state; and

11 (F) the total impact of the project on state and
12 local taxes.

13 (c) An applicant may use standard economic estimation
14 techniques, including economic multipliers, to create an economic
15 benefit statement. An applicant must base each estimate required
16 by Subsection (b) on reasonable projections of the economic and
17 labor conditions of this state for the period for which the estimate
18 is made.

19 (d) The comptroller shall establish criteria for the
20 methodology to be used by an applicant to create an economic benefit
21 statement.

22 (e) The comptroller may require an applicant to supplement
23 or modify an economic benefit statement to ensure the accuracy of
24 the estimates required to be included in the statement under
25 Subsection (b).

26 Sec. 403.609. COMPTROLLER ACTION ON APPLICATION. (a) The
27 comptroller shall determine whether to recommend or not recommend

1 for approval an application submitted to the comptroller under
2 Section 403.607. The comptroller shall recommend an application
3 for approval if the comptroller makes the findings prescribed by
4 Subsection (b). The comptroller may not recommend an application
5 for approval if the comptroller is unable to make the findings
6 prescribed by that subsection.

7 (b) The comptroller may not recommend an application for
8 approval unless the comptroller finds that:

9 (1) the proposed project that is the subject of the
10 application is an eligible project;

11 (2) the proposed project is reasonably likely to
12 generate, before the 20th anniversary of the first day of the
13 construction period, state or local tax revenue, including ad
14 valorem tax revenue attributable to the effect of the project on the
15 economy of this state, in an amount sufficient to offset the school
16 district maintenance and operations ad valorem tax revenue lost as
17 a result of the agreement;

18 (3) the agreement is a compelling factor in a
19 competitive site selection determination and that, in the absence
20 of the agreement, the applicant would not make the proposed
21 investment in this state; and

22 (4) if the application indicates that the eligible
23 project is proposed to be located in a qualified opportunity zone,
24 the project is located in the zone.

25 (c) In making the finding required by Subsection (b)(3), the
26 comptroller shall consider factors related to the selection of the
27 proposed site for the project, including the workforce, the

1 regulatory environment, infrastructure, transportation, market
2 conditions, investment alternatives, and any specific incentive
3 information provided by the applicant related to other potential
4 sites.

5 (d) Not later than the 60th day after the date the
6 comptroller determines that an application is complete, the
7 comptroller shall take the action required by Subsection (a)
8 regarding the application and provide written notice of the action
9 to the governor, the school district in which the project is
10 proposed to be located, and the applicant.

11 (e) The comptroller shall send to the governor and the
12 applicable school district with the notice required by Subsection
13 (d) regarding an application recommended by the comptroller under
14 Subsection (a) a copy of the application and each document and item
15 of information the comptroller relied on to recommend the
16 application.

17 Sec. 403.610. GOVERNOR ACTION ON APPLICATION. (a) The
18 governor shall, not later than the 30th day after the date the
19 governor receives an application sent to the governor by the
20 comptroller under Section 403.609, consider the application and by
21 official action determine whether the governor is agreeable to
22 entering into the agreement that is the subject of the application.

23 (b) The governor shall provide written notice of the
24 governor's determination under Subsection (a) to the comptroller,
25 the applicable school district, the oversight committee, and the
26 applicant not later than the seventh day after the date the governor
27 makes the determination under that subsection.

Sec. 403.611. SCHOOL DISTRICT ACTION ON APPLICATION. (a)

The governing body of a school district shall, not later than the 30th day after the date the district receives an application sent to the district by the comptroller under Section 403.609, consider the application and by official action determine whether the district is agreeable to entering into the agreement that is the subject of the application.

(b) The governing body of the school district shall hold a public hearing on the application during the period described by Subsection (a).

(c) The governing body of the school district must provide notice of the public hearing in the manner required by Chapter 551, except that the district must provide the notice not later than the 15th day before the date of the hearing. The notice must contain:

(1) the name of the applicant;

(2) the name and location of the existing or proposed reinvestment zone or enterprise zone in which the eligible project that is the subject of the application is proposed to be located;

(3) a general description of the proposed eligible project; and

(4) the projected investment the applicant will make in the project.

(d) The governing body of the school district shall provide written notice of the district's determination under Subsection (a) to the comptroller, the governor, and the applicant.

Sec. 403.612. AGREEMENT. (a) The governor, the governing body of a school district, and an applicant may enter into an

1 agreement to limit the taxable value for maintenance and operations
2 ad valorem tax purposes of the district of the eligible property
3 used as part of an eligible project that is the subject of an
4 application for which both the governor and the governing body of
5 the district have made a favorable determination under Sections
6 403.610(a) and 403.611(a), respectively.

7 (b) An agreement entered into under this section between the
8 governor, a school district, and an applicant pertaining to an
9 eligible project shall:

10 (1) specify the project to which the agreement
11 applies;

12 (2) specify the term of the agreement, which must:

13 (A) begin on the date the agreement is entered
14 into; and

15 (B) end on December 31 of the third tax year
16 following the end of the incentive period;

17 (3) specify the construction and incentive periods for
18 the project;

19 (4) specify the manner for determining the taxable
20 value for school district maintenance and operations ad valorem tax
21 purposes during the incentive period under Section 403.605 for the
22 eligible property subject to the agreement;

23 (5) specify the applicable jobs and investment
24 requirements prescribed by Section 403.604 and require the
25 applicant to comply with those requirements;

26 (6) require that the average annual wage paid to all
27 persons employed by the applicant in connection with the project

1 used to calculate total jobs exceed 110 percent of the average
2 annual wage for all jobs in the applicable industry sector during
3 the most recent four quarters for which data is available, as
4 computed by the Texas Workforce Commission, with the applicant's
5 average annual wage being equal to the quotient of:

6 (A) the applicant's total wages paid, other than
7 wages paid for construction jobs, as reported under Section
8 403.616(c)(4); and

9 (B) the applicant's number of total jobs as
10 reported under Section 403.616(c)(3);

11 (7) require the applicant to pay a penalty prescribed
12 by Section 403.614 if the applicant fails to comply with an
13 applicable jobs or wage requirement;

14 (8) require the applicant to offer and contribute to a
15 group health benefit plan for each employee of the applicant who is
16 employed in a full-time job;

17 (9) require the applicant, at the time the applicant
18 executes the agreement, to execute a performance bond in an amount
19 the comptroller determines to be reasonable and necessary to
20 protect the interests of the state and the district and conditioned
21 on the applicant's compliance with the terms of the agreement;

22 (10) authorize the governor or the district to
23 terminate the agreement as provided by Subsection (d); and

24 (11) incorporate each relevant provision of this
25 subchapter.

26 (c) An agreement entered into under this section between the
27 governor, a school district, and an applicant pertaining to an

1 eligible project must include a provision that states that the
2 applicant is prohibited from making a payment to the district
3 related to the agreement.

4 (d) This subsection applies to a term described by
5 Subsection (b)(10). The agreement must provide that:

6 (1) the governor or the school district is authorized
7 to terminate the agreement if the applicant fails to comply with an
8 applicable jobs or wage requirement of the agreement;

9 (2) the governor or the district may not terminate the
10 agreement until the party provides written notice to the applicant
11 of the proposed termination;

12 (3) the governor or the district must provide the
13 applicant a 180-day period to cure and dispute the alleged failure,
14 including through judicial action; and

15 (4) in the event the agreement is terminated, the
16 state shall recover from the applicant a penalty in an amount equal
17 to all lost ad valorem tax revenue from the project and interest on
18 that amount calculated as provided by Section 111.060, Tax Code.

19 (e) An agreement terminated under Subsection (d) is void,
20 and all remaining obligations and benefits under the agreement and
21 this subchapter terminate on the date the agreement is terminated.

22 (f) The parties to an agreement may modify the terms of the
23 agreement that do not materially modify the jobs or investment
24 requirements prescribed by the agreement.

25 (g) An agreement must be submitted to the comptroller not
26 later than the seventh day after the date the agreement is entered
27 into. A copy of the economic benefit statement applicable to the

1 project that is the subject of the agreement must be attached to the
2 agreement.

3 (h) The comptroller shall deposit a penalty collected under
4 Subsection (d)(4) and any interest on the penalty to the credit of
5 the foundation school fund.

6 Sec. 403.613. INCENTIVE PERIOD. (a) An incentive period
7 pertaining to an eligible project is a period of 10 consecutive tax
8 years specified in the agreement pertaining to the project.

9 (b) An incentive period may not begin:

10 (1) earlier than January 1 of the first tax year
11 following the construction completion date; or

12 (2) later than January 1 of the first tax year
13 following the 10th anniversary of the date the agreement is entered
14 into.

15 (c) Subject to Subsection (b), the beginning date of an
16 incentive period specified in an agreement pertaining to an
17 eligible project may be deferred if the applicant projects that the
18 applicant will not satisfy the minimum investment requirement
19 applicable to the project by the end of the first tax year of the
20 incentive period. The incentive period may be deferred until
21 January 1 of the second tax year following the construction
22 completion date. The deferral of an incentive period under this
23 subsection does not affect the date on which the incentive period
24 ends as prescribed by the agreement. An applicant that is a party
25 to an agreement for which the beginning date of the incentive period
26 is deferred as authorized by this subsection must provide notice of
27 the deferral to the comptroller. The notice must include the reason

1 for the deferral.

2 (d) Subject to Subsection (b), an applicant may propose to
3 modify the beginning and ending dates of the incentive period as
4 provided by this subsection. The applicant shall provide notice of
5 the proposed modification to the comptroller, the governor, and the
6 school district not later than the 90th day before the first day of
7 the incentive period specified in Section 403.612(b)(3) or as
8 proposed to be modified, whichever is earlier. The applicant shall
9 revise the most recent economic benefit statement as necessary to
10 reflect the proposed change to the incentive period. The applicant
11 must include the revised economic benefit statement with the notice
12 provided to the comptroller, the governor, and the district under
13 this subsection. The comptroller shall make the finding required
14 by Section 403.609(b)(2) regarding the project as proposed to be
15 modified or determine that the finding cannot be made. The
16 comptroller shall notify the governor, the district, and the
17 applicant of the comptroller's finding or determination not later
18 than the 60th day after the date the comptroller receives notice
19 from the applicant of the proposed modification. The incentive
20 period for the project may not be modified if the comptroller
21 determines that the finding required by Section 403.609(b)(2)
22 regarding the project as proposed to be modified cannot be made or
23 if the governor or the district objects to the proposed
24 modification.

25 Sec. 403.614. PENALTY FOR FAILURE TO COMPLY WITH JOBS OR
26 WAGE REQUIREMENT. (a) An applicant is liable to the state for a
27 penalty in the amount computed under this subsection if the

1 applicant fails to maintain at least the number of required jobs
2 prescribed by the agreement to which the applicant is a party during
3 the periods covered by two consecutive reports submitted by the
4 applicant under Section 403.616. The amount of the penalty is equal
5 to two times the product of:

6 (1) the difference between:

7 (A) the number of required jobs prescribed by the
8 agreement; and

9 (B) the number of required jobs actually created
10 as stated in the most recent report submitted by the applicant under
11 Section 403.616; and

12 (2) the average annual wage prescribed by the
13 agreement during the most recent four quarters for which data is
14 available, as computed by the Texas Workforce Commission.

15 (b) An applicant is liable to the state for a penalty in the
16 amount computed under this subsection if the applicant fails to
17 meet the average annual wage requirement prescribed by the
18 agreement to which the applicant is a party, if any, during the
19 periods covered by two consecutive reports submitted by the
20 applicant under Section 403.616. The amount of the penalty is equal
21 to two times the difference between:

22 (1) the product of:

23 (A) the actual average annual wage paid to all
24 persons employed by the applicant in connection with the project
25 that is the subject of the agreement as computed under Section
26 403.612(b)(6); and

27 (B) the number of required jobs prescribed by the

1 agreement; and

2 (2) the product of:

3 (A) the average annual wage prescribed by the
4 agreement; and

5 (B) the number of required jobs prescribed by the
6 agreement.

7 (c) Notwithstanding Subsections (a) and (b), the amount of a
8 penalty imposed on an applicant under this section may not exceed
9 the amount of the ad valorem tax benefit received by the applicant
10 under the agreement that is the subject of the penalty.

11 (d) An applicant on request of the comptroller shall provide
12 to the comptroller a schedule of required jobs created as of the
13 date of the request under an agreement to which the applicant is a
14 party.

15 (e) A determination by the comptroller that an applicant has
16 failed to meet the jobs or wage requirement prescribed by an
17 agreement to which the applicant is a party is a deficiency
18 determination under Section 111.008, Tax Code. A penalty imposed
19 under this section is an amount the comptroller is required to
20 collect, receive, administer, or enforce and is subject to the
21 payment and redetermination requirements of Sections 111.0081 and
22 111.009, Tax Code. A redetermination under Section 111.009, Tax
23 Code, of a determination under this section is a contested case as
24 defined by Section 2001.003 of this code.

25 (f) The comptroller shall deposit a penalty collected under
26 this section and any interest on the penalty to the credit of the
27 foundation school fund.

1 Sec. 403.615. AUDIT OF AGREEMENTS BY STATE AUDITOR. (a)

2 Each year the state auditor shall select and review at least 10
3 percent of the agreements in effect in that year to determine
4 whether:

5 (1) each agreement accomplishes the purposes of this
6 subchapter as expressed in Section 403.601; and

7 (2) the terms of each agreement were executed in
8 compliance with the terms of this subchapter.

9 (b) In determining which agreements to review under
10 Subsection (a), the state auditor may consider any risk of
11 noncompliance identified in the biennial compliance report
12 regarding an agreement submitted to the comptroller under Section
13 403.616.

14 (c) As part of the review, the state auditor shall make
15 recommendations relating to increasing the efficiency and
16 effectiveness of the administration of this subchapter. The state
17 auditor shall submit the recommendations to the governor,
18 comptroller, lieutenant governor, speaker of the house of
19 representatives, and oversight committee not later than December 15
20 of each year.

21 Sec. 403.616. BIENNIAL COMPLIANCE REPORT BY APPLICANT. (a)

22 An applicant that is a party to an agreement shall submit a report
23 to the comptroller as required by this section using the form
24 adopted by the comptroller.

25 (b) An applicant must submit a report required by this
26 section to the comptroller not later than June 1 of each
27 even-numbered year during the term of the agreement that is the

1 subject of the report.

2 (c) A report required by this section must include the
3 following documents and information applicable to the agreement
4 that is the subject of the report:

5 (1) a certification by the applicant that is a party to
6 the agreement that the applicant has met the jobs and investment
7 requirements prescribed by the agreement, which must include:

8 (A) a sworn affidavit stating:

9 (i) the number of required jobs prescribed
10 by the agreement; and

11 (ii) the number of required jobs actually
12 created under the agreement as of December 31 of the preceding two
13 years; and

14 (B) if applicable, payroll records maintained
15 for purposes of 40 T.A.C. Chapter 815;

16 (2) the number assigned to the application by the
17 comptroller for the agreement, name of the applicant, name of the
18 school district, and name of and contact information for the
19 applicant's representative;

20 (3) the number of total jobs created by the project in
21 each of the preceding two years;

22 (4) the total wages paid for total jobs, not including
23 wages paid for construction jobs, in each of the preceding two
24 years;

25 (5) the number of construction jobs created by the
26 project;

27 (6) the total amount of the applicant's investment,

1 including any additional amount invested by the applicant after the
2 incentive period begins;

3 (7) the appraised value of all property composing the
4 project for each previous tax year of the agreement;

5 (8) the taxable value of all property composing the
6 project for each previous tax year of the agreement;

7 (9) the amount of school district maintenance and
8 operations ad valorem taxes imposed on the property composing the
9 project and paid by the applicant for each previous tax year of the
10 agreement;

11 (10) the amount of school district interest and
12 sinking fund ad valorem taxes imposed on the property composing the
13 project and paid by the applicant for each previous tax year of the
14 agreement;

15 (11) the amount of school district ad valorem taxes
16 that would have been imposed on the property composing the project
17 and paid by the applicant in the absence of the agreement for each
18 previous tax year of the agreement; and

19 (12) the amount of ad valorem taxes imposed on the
20 property composing the project by each taxing unit other than the
21 school district and paid by the applicant for each previous tax year
22 of the agreement, stated by taxing unit.

23 (d) This subsection applies only to a report required to be
24 submitted under this section by an applicant for the period that
25 includes the first year of the incentive period as prescribed by the
26 agreement that is the subject of the report or as deferred. In
27 addition to the documents and information described by Subsection

1 (c), the applicant must include with the certification required by
2 Subsection (c)(1):

3 (1) a list of the property tax account numbers
4 assigned to the property composing the project;

5 (2) the current total appraised value of the property
6 composing the project; and

7 (3) if applicable, a statement that the incentive
8 period was deferred because the applicant did not meet the minimum
9 investment requirement prescribed by the agreement before the date
10 specified in the agreement.

11 Sec. 403.617. BIENNIAL REPORT TO LEGISLATURE. (a) The
12 comptroller shall submit to the lieutenant governor, the speaker of
13 the house of representatives, and each other member of the
14 legislature a report on the agreements entered into under this
15 subchapter. The comptroller must submit the report not later than
16 December 1 of each even-numbered year.

17 (b) The report must include:

18 (1) an assessment of the following with regard to the
19 agreements entered into under this subchapter, considered in the
20 aggregate:

21 (A) the total number of jobs created in this
22 state;

23 (B) the total effect on personal income in this
24 state;

25 (C) the total amount of investment in this state;

26 (D) the total taxable value of property on the
27 tax rolls in this state resulting from the agreements, including

1 property subject to an agreement that has expired;
2 (E) the total value of property subject to
3 agreements that have not expired; and
4 (F) the total fiscal effect resulting from the
5 agreements on this state and on local governments in this state; and
6 (2) an assessment of each agreement entered into under
7 this subchapter that states for each agreement:
8 (A) the number of required jobs prescribed by the
9 agreement;
10 (B) the number of jobs actually created under the
11 agreement, including:
12 (i) each job described by Section
13 403.604(c)(1)(A);
14 (ii) each job described by Section
15 403.604(c)(1)(B); and
16 (iii) any additional jobs created or
17 maintained in connection with the project that is the subject of the
18 agreement, if reported by the applicant;
19 (C) the number of total jobs created under the
20 agreement, if the term of the agreement has expired;
21 (D) the amount of the investment specified by the
22 agreement;
23 (E) the amount of the actual investment made for
24 the applicable project before the expiration of the agreement;
25 (F) the difference between the amount of ad
26 valorem taxes that would have been imposed on the property
27 composing the applicable project in the absence of the agreement

1 and the amount of ad valorem taxes actually imposed on that property
2 during the term of the agreement; and

3 (G) the total amount of state and local tax
4 revenue attributable to the applicable project during the term of
5 the agreement.

6 (c) The comptroller may not include in the report
7 information that is confidential under law.

8 (d) The comptroller may use standard economic estimation
9 techniques, including economic multipliers, to prepare the portion
10 of the report described by Subsection (b)(1).

11 (e) The comptroller may require an applicant to submit
12 information required to complete the report on a form prescribed by
13 the comptroller.

14 Sec. 403.618. JOBS, ENERGY, TECHNOLOGY, AND INNOVATION ACT
15 OVERSIGHT COMMITTEE; REPORT. (a) The Jobs, Energy, Technology,
16 and Innovation Act Oversight Committee is composed of the following
17 seven members:

18 (1) three members of the house of representatives
19 appointed by the speaker of the house of representatives;

20 (2) three members of the senate appointed by the
21 lieutenant governor; and

22 (3) one member who serves as the chair of the committee
23 and who:

24 (A) is a member of the house of representatives
25 appointed by the speaker of the house of representatives who serves
26 only in odd-numbered years; and

27 (B) is a member of the senate appointed by the

1 lieutenant governor who serves only in even-numbered years.

2 (b) At least one member appointed by the speaker of the
3 house of representatives and at least one member appointed by the
4 lieutenant governor under Subsection (a) must represent a district
5 that includes a county with a population of 100,000 or less.

6 (c) If a vacancy occurs in the membership of the oversight
7 committee, the appropriate appointing authority shall appoint a
8 person to fill the vacancy.

9 (d) A member of the oversight committee serves at the
10 pleasure of the appropriate appointing authority.

11 (e) The oversight committee may recommend in a written
12 report to the legislature those types of projects that the
13 committee determines by majority vote should be statutorily added
14 to or removed from the definition of "eligible project" provided by
15 Section 403.602.

16 Sec. 403.619. CONFLICT OF INTEREST. A person may not,
17 directly or indirectly, represent, advise, or provide a service to
18 both an applicant and a school district in connection with the same
19 application submitted or agreement entered into under this
20 subchapter.

21 Sec. 403.620. CERTAIN BENEFITS RELATED TO AGREEMENTS
22 PROHIBITED; ATTORNEY GENERAL ENFORCEMENT. (a) An employee or
23 representative of a school district, a member of the governing body
24 of the district, or any other person may not intentionally or
25 knowingly solicit, accept, agree to accept, or require any payment
26 of money or transfer of property or other thing of value, directly
27 or indirectly, to the district, an employee or representative of

1 the district, a member of the governing body of the district, or any
2 other person in recognition of, anticipation of, or consideration
3 for approval of an agreement unless authorized by this subchapter.

4 (b) An applicant, an employee or representative of the
5 applicant, or any other person may not intentionally or knowingly
6 offer, confer, agree to confer, or make a payment of money or
7 transfer of property or other thing of value, directly or
8 indirectly, to the governor or the school district, an employee or
9 representative of the governor or the district, a member of the
10 governing body of the district, or any other person in recognition
11 of, anticipation of, or consideration for approval of an agreement
12 unless authorized by this subchapter.

13 (c) If the attorney general receives a written complaint
14 from a party to an agreement of a violation of this section, the
15 attorney general may bring an action to enforce this section to
16 restrain or enjoin a person from continuing or repeating the
17 violation. Venue for an action brought under this subsection is in
18 a district court in Travis County.

19 Sec. 403.621. CONFIDENTIALITY OF CERTAIN BUSINESS
20 INFORMATION. (a) Information provided to the comptroller, the
21 governor, or a school district by an applicant under this
22 subchapter that is a trade secret, as defined by Section 134A.002,
23 Civil Practice and Remedies Code, is confidential and not subject
24 to disclosure under Chapter 552.

25 (b) Payroll records reported under Section 403.616(c)(1)(A)
26 or (B) by an applicant to the comptroller are confidential and not
27 subject to disclosure under Chapter 552.

1 Sec. 403.622. INTERNET POSTING OF INFORMATION. (a)

2 Subject to Section 403.621, the comptroller shall post on the
3 comptroller's Internet website the following information received
4 by the comptroller:

5 (1) each application submitted under this subchapter;

6 (2) each map and economic benefit statement required
7 to be submitted with an application under this subchapter;

8 (3) each amendment to an application made under this
9 subchapter;

10 (4) each agreement entered into under this subchapter;
11 and

12 (5) each biennial compliance report submitted as
13 required under this subchapter.

14 (b) Except as provided by Subsection (c), the comptroller
15 shall post the information described by Subsection (a) as soon as
16 practicable after the date the comptroller receives the
17 information.

18 (c) The comptroller shall post the information described by
19 Subsections (a)(1), (2), and (3) not later than the 10th business
20 day after the date the comptroller receives the information.

21 (d) The comptroller shall continue to post the information
22 required by this section until the date the agreement to which the
23 information relates expires.

24 (e) The comptroller shall notify the governor and the
25 applicable school district of the comptroller's posting of the
26 information described by Subsection (a)(5) on the comptroller's
27 Internet website.

1 Sec. 403.623. RULES AND FORMS. (a) The comptroller shall
2 adopt rules necessary to implement and administer this subchapter,
3 including rules for:

4 (1) determining whether an applicant meets the jobs
5 and investment requirements prescribed by Section 403.604; and

6 (2) authorizing an applicant or school district to
7 submit any form or information required by this subchapter
8 electronically.

9 (b) The comptroller shall adopt forms necessary to
10 implement and administer this subchapter, including the forms to be
11 used by an applicant under Sections 403.607 and 403.616.

12 (c) The comptroller shall provide without charge one copy of
13 the rules and forms adopted under this section to any person that
14 states that the person intends to submit an application to the
15 comptroller under this subchapter to limit the taxable value of
16 eligible property used as part of an eligible project.

17 SECTION 2. Section [48.2551](#)(a), Education Code, is amended
18 to read as follows:

19 (a) In this section:

20 (1) "DPV" is the taxable value of property in the
21 school district, as determined by the agency by rule, using locally
22 determined property values adjusted in accordance with Section
23 [403.302](#)(d), Government Code;

24 (2) "E" is the expiration of the exclusion of
25 appraised property value for the preceding tax year that is
26 recognized as taxable property value for the current tax year,
27 which is the sum of the following:

1 (A) property value that is no longer subject to a
2 limitation on appraised value under former Subchapter B or C,
3 Chapter 313, Tax Code, or a limitation on taxable value under
4 Subchapter T, Chapter 403, Government Code; and

5 (B) property value under Section 311.013(n), Tax
6 Code, that is no longer excluded from the calculation of "DPV" from
7 the preceding year because of refinancing or renewal after
8 September 1, 2019;

9 (3) "MCR" is the district's maximum compressed rate,
10 which is the tax rate for the current tax year per \$100 of valuation
11 of taxable property at which the district must levy a maintenance
12 and operations tax to receive the full amount of the tier one
13 allotment to which the district is entitled under this chapter;

14 (4) "PYDPV" is the district's value of "DPV" for the
15 preceding tax year; and

16 (5) "PYMCR" is the district's value of "MCR" for the
17 preceding tax year.

18 SECTION 3. Section 48.256, Education Code, is amended by
19 amending Subsections (d) and (e) and adding Subsection (d-1) to
20 read as follows:

21 (d) This subsection applies to a school district in which
22 the board of trustees entered into a written agreement with a
23 property owner [~~under Section 313.027, Tax Code,~~] for the
24 implementation of a limitation on taxable [~~appraised~~] value under
25 Subchapter T, Chapter 403, Government [~~B or C, Chapter 313, Tax~~]
26 Code. For purposes of determining "DPV" under Subsection (a) for a
27 school district to which this subsection applies, the commissioner

1 shall exclude a portion of the market value of property not
2 otherwise fully taxable by the district under Subchapter T, Chapter
3 403, Government [~~B or C, Chapter 313, Tax~~] Code[, ~~before the~~
4 ~~expiration of the subchapter~~]. The comptroller shall provide
5 information to the agency necessary for this subsection.

6 (d-1) Subsection (d) applies to an agreement for the
7 implementation of a limitation on appraised value under former
8 Subchapter B or C, Chapter 313, Tax Code, that was in effect on
9 January 1, 2023, in the same manner as that subsection applies to an
10 agreement described by that subsection. If the agreement for the
11 limitation on appraised value requires a [A] revenue protection
12 payment to the school district, the payment [~~required as part of an~~
13 ~~agreement for a limitation on appraised value~~] shall be based on the
14 district's taxable value of property for the preceding tax year.

15 (e) Subsection (d-1) [~~(d)~~] does not apply to property that
16 was the subject of an application under former Subchapter B or C,
17 Chapter 313, Tax Code, made after May 1, 2009, that the comptroller
18 recommended should be disapproved.

19 SECTION 4. Section 2303.507, Government Code, is amended to
20 read as follows:

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

25 (1) tax increment financing under Chapter 311, Tax
26 Code;

27 (2) tax abatement under Chapter 312, Tax Code; [~~and~~]

1 (3) limitations on appraised value under former
2 Subchapter B or C, Chapter 313, Tax Code; and

3 (4) limitations on taxable value under Subchapter T,
4 Chapter 403, of this code.

5 SECTION 5. Section 23.03, Tax Code, is amended to read as
6 follows:

7 Sec. 23.03. COMPILATION OF LARGE PROPERTIES AND PROPERTIES
8 SUBJECT TO LIMITATION ON APPRAISED OR TAXABLE VALUE. Each year the
9 chief appraiser shall compile and send to the Texas [~~Department of~~
10 Economic Development and Tourism Office a list of properties in the
11 appraisal district that in that tax year:

12 (1) have a market value of \$100 million or more; [~~or~~]

13 (2) are subject to a limitation on appraised value
14 under former Subchapter B or C, Chapter 313; or

15 (3) are subject to a limitation on taxable value under
16 Subchapter T, Chapter 403, Government Code.

17 SECTION 6. Section 26.012(6), Tax Code, is amended to read
18 as follows:

19 (6) "Current total value" means the total taxable
20 value of property listed on the appraisal roll for the current year,
21 including all appraisal roll supplements and corrections as of the
22 date of the calculation, less the taxable value of property
23 exempted for the current tax year for the first time under Section
24 11.31 or 11.315, except that:

25 (A) the current total value for a school district
26 excludes:

27 (i) the total value of homesteads that

1 qualify for a tax limitation as provided by Section 11.26; ~~and~~

2 (ii) new property value of property that is
3 subject to an agreement entered into under former Subchapter B or C,
4 Chapter 313; and

5 (iii) new property value of property that
6 is subject to an agreement entered into under Subchapter T, Chapter
7 403, Government Code; and

8 (B) the current total value for a county,
9 municipality, or junior college district excludes the total value
10 of homesteads that qualify for a tax limitation provided by Section
11 11.261.

12 SECTION 7. Section 171.602(f), Tax Code, is amended to read
13 as follows:

14 (f) The comptroller may not issue a credit under this
15 section before the later of:

16 (1) ~~[September 1, 2018, or~~
17 ~~[(2)]~~ the expiration of an agreement under former
18 Subchapter B or C, Chapter 313, regarding the clean energy project
19 for which the credit is issued; or

20 (2) the expiration of an agreement under Subchapter T,
21 Chapter 403, Government Code, regarding the clean energy project
22 for which the credit is issued.

23 SECTION 8. Section 312.0025(a), Tax Code, is amended to
24 read as follows:

25 (a) Notwithstanding any other provision of this chapter to
26 the contrary, the governing body of a school district, in the manner
27 required for official action and for purposes of former Subchapter

1 B or C, Chapter 313, of this code or Subchapter T, Chapter 403,
2 Government Code, may designate an area entirely within the
3 territory of the school district as a reinvestment zone if the
4 governing body finds that, as a result of the designation and the
5 granting of a limitation on appraised value under former Subchapter
6 B or C, Chapter 313, of this code or the granting of a limitation on
7 taxable value under Subchapter T, Chapter 403, Government Code, for
8 property located in the reinvestment zone, the designation is
9 reasonably likely to:

10 (1) contribute to the expansion of primary employment
11 in the reinvestment zone; or

12 (2) attract major investment in the reinvestment zone
13 that would:

14 (A) be a benefit to property in the reinvestment
15 zone and to the school district; and

16 (B) contribute to the economic development of the
17 region of this state in which the school district is located.

18 SECTION 9. The lieutenant governor and the speaker of the
19 house of representatives shall appoint the initial members of the
20 Jobs, Energy, Technology, and Innovation Act Oversight Committee
21 under Sections 403.618(a)(1), (2), and (3)(B), Government Code, as
22 added by this Act, as soon as practicable after the effective date
23 of this Act.

24 SECTION 10. The comptroller of public accounts shall adopt
25 rules and develop and make available the forms and materials as
26 required under Section 403.623, Government Code, as added by this
27 Act, as soon as practicable after the effective date of this

1 section.

2 SECTION 11. (a) Except as provided by Subsection (b) of
3 this section, this Act takes effect January 1, 2024.

4 (b) Section 10 of this Act takes effect September 1, 2023.

President of the Senate

Speaker of the House

I certify that H.B. No. 5 was passed by the House on May 5, 2023, by the following vote: Yeas 120, Nays 24, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 5 on May 26, 2023, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 5 on May 28, 2023, by the following vote: Yeas 100, Nays 36, 1 present, not voting.

Chief Clerk of the House

H.B. No. 5

I certify that H.B. No. 5 was passed by the Senate, with amendments, on May 24, 2023, by the following vote: Yeas 27, Nays 4; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 5 on May 28, 2023, by the following vote: Yeas 26, Nays 5.

Secretary of the Senate

APPROVED: _____

Date

Governor