

BILL ANALYSIS

C.S.H.B. 1274
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Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Economic Development Act permits school districts to grant a limitation on appraised value, similar to a property tax abatement, to certain businesses. According to the comptroller of public accounts, such agreements will result in a loss of school property taxes of approximately \$465 million in the upcoming 2010-2011 biennium. Lost taxes are replaced with state aid through the school finance system. Although this is a large cost to the state, the state currently cannot control the granting of such tax breaks by local school districts, nor does the state currently track compliance with such agreements.

C.S.H.B. 1274 requires specific information relating to a proposed agreement to be publicly posted for at least 30 consecutive days prior to school board action. The bill adds to the required contents of the comptroller's economic impact evaluation that occurs before the approval of any proposed agreement and requires a favorable recommendation from the comptroller based on that evaluation as a prerequisite to approval. The bill requires any limitation agreement to include performance targets for each year of the agreement, including the amount of the investment, the number of jobs to be created, and the average wages or salaries of those jobs. The bill requires such targets to be reported annually to the comptroller and the school district, requires the district to be compensated by the recipient of a limitation for any failure to meet these targets, and contains provisions under which such compensation is considered in state school finance formulas.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 3 and to the commissioner of education in SECTION 8 of this bill.

ANALYSIS

C.S.H.B. 1274 amends the Texas Economic Development Act, within the Tax Code, to require a school district, if it maintains a generally accessible Internet website, to post on its website each application for a limitation on appraised value of certain property used to create jobs and any information in the possession of the district that relates to such an application. The bill requires the application to be posted before the 15th day after the date the application was received and requires the related information to be posted before the 15th day after the date the information was received or created by the district. The bill specifies that such provisions do not require a school district to post confidential business information.

C.S.H.B. 1274 authorizes the governing body of a school district to approve an application only if, in addition to other requirements under existing law, the comptroller recommends approval in the economic impact evaluation; in the event that the school district maintains a generally accessible Internet website, the district has posted on that site, for at least 30 consecutive days, specified documents or items of information designated for inclusion by the comptroller; and the comptroller has posted those same specified documents or items on the comptroller's website for at least 30 consecutive days.

C.S.H.B. 1274 adds the following to the items required to be included in the comptroller's economic impact evaluation:

- the name of the school district, applicant, and the general nature of the applicant's investment;
- the number of qualifying jobs to be created by the applicant;
- the projected market value of the qualified property of the applicant as determined by the comptroller;
- the proposed limitation on appraised value for the applicant's qualified property;
- the projected dollar amount of the taxes that would be imposed on the qualified property, for each year of the agreement, if the property does not receive a limitation on appraised value with assumptions of the projected appreciation or depreciation of the investment and projected tax rates clearly stated;
- the projected dollar amount of the taxes that would be imposed on the qualified property, for each year of the agreement, if the property receives a limitation on appraised value with assumptions of the projected appreciation or depreciation of the investment and projected tax rates clearly stated;
- the projected effect on Foundation School Program payments to the district for each year of the agreement;
- the projected future tax credits if the applicant also applies for school tax credits; and
- the total amount of taxes projected to be lost or gained by the district over the life of the agreement.

C.S.H.B. 1274 requires a school district to post on its website, if it maintains a generally accessible Internet website, and the comptroller to post on the comptroller's website, each item of information concerning appraised value limitations and school tax credits that the comptroller designates as substantive. The bill requires such posting to occur before the 15th day after the date the document or item of information was received or created. The bill requires each such document or item to continue to be posted until the appraised value limitation expires or the school district no longer maintains the website. The bill requires the comptroller to post the information on a web page that is no more than three mouse clicks from the comptroller's homepage. The bill requires the comptroller to designate as substantive each application requesting a limitation on appraised value, the economic impact evaluation made in connection with the application, all information provided by the owner of the property to the school district and comptroller regarding the attainment of performance targets, and each application requesting school tax credits. The bill requires the comptroller to determine by rule the requirements for districts to post on their Internet websites the required documents and requires the comptroller to provide a link on the comptroller's website to all school districts' appraised value limitation postings. The bill requires the comptroller and the Texas Education agency to annually certify that the districts comply with the posting requirements.

C.S.H.B. 1274 adds to the requirements for an agreement to a limitation on appraised value. The bill provides that the agreement must specify explicit performance targets for each year of the agreement, including the amount of qualifying investment the owner of the property commits to expand or allocate, the number of qualifying jobs the owner of the property commits to create, and the average wage or salary to be offered by the owner of the property to qualifying job holders. The bill provides that the agreement must require the owner of the property to compensate the school district for failure to attain specified performance targets and to provide the school district and the comptroller with an annual progress report containing the information compiled during the previous calendar year regarding the attainment of each specified performance target. The bill provides that the agreement must prohibit the school district from assigning any payments or benefits received from or on behalf of the property owner to any other party.

C.S.H.B. 1274 prescribes the method for computing the total amount of the recapture payment to which a school district is entitled in any year and prohibits the total amount of the recapture payment in a calendar year from exceeding an amount computed by dividing the amount of taxes projected to be lost or gained over the life of the agreement by the number of years in the life of the agreement.

C.S.H.B. 1274 requires confidential information provided to the school district describing specific processes or business activities to be conducted or the specific tangible personal property to be located on real property covered by the application to be segregated in the application from other information. The bill prohibits other information in the custody of a school district or the comptroller in connection with the application, including information related to the economic impact of a project or the essential elements of eligibility, such as the nature and amount of the projected investment, employment, wages, and benefits, from being considered confidential business information if the governing body of the school district agrees to consider the application. The bill establishes that information in the custody of the comptroller after approval of an application for a tax limitation is not confidential and that neither an application nor any related information provided by the school district to the Texas Education Agency is confidential.

C.S.H.B. 1274 amends the Education Code to require the commissioner of education, for any school year, to either reduce the amounts due to a school district under the foundation school program by an amount equal to all recapture payments received during that school year by the district or increase the amounts necessary for a school district to comply with equalized wealth level requirements by an amount equal to all recapture payments received during that school year by the district. The bill requires a school district to report each recapture payment through the Public Education Information Management System. The bill defines "recapture payment" as a payment by an owner of property to a school district for failure to attain performance targets under a Texas Economic Development Act agreement for a limitation on appraised value. The bill authorizes the commissioner of education, in consultation with the comptroller as appropriate, to adopt rules necessary to implement the Education Code provisions.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1274 removes provisions in the original prohibiting the commissioner of education, in determining the amount of tax credits credited against property taxes of a school district under the Texas Economic Development Act, from taking into account any tax credit granted to a person if the school district fails to comply with the requirement that information regarding appraised value limitations be posted to the Internet until the limitation expires or the school district no longer maintains the website. The substitute removes a provision in the original providing that such a determination by the commissioner of education is final and prohibiting it from being appealed.