

By: Kolkhorst

H.B. No. 1274

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the availability and reporting of certain information  
3 regarding applications under the Texas Economic Development Act to  
4 the public and the state.

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

6 SECTION 1. Section 313.025, Tax Code, is amended by adding  
7 Subsection (a-1) and amending Subsection (f) to read as follows:

8 (a-1) If the school district maintains a generally  
9 accessible Internet website, the district shall post on that site  
10 each application received under Subsection (a) and any information  
11 in the possession of the district that relates to an application.  
12 The application must be posted before the 15th day after the date  
13 the application was received. Information relating to an  
14 application must be posted before the 15th day after the date the  
15 information was received or created by the district. This  
16 subsection does not require a school district to post information  
17 that is confidential business information under Section 313.028.

18 (f) The governing body may approve an application only if:

19 (1) the comptroller recommends approval of the  
20 application in the economic impact evaluation provided under  
21 Subsection (b);

22 (2) in the event that the school district maintains a  
23 generally accessible Internet website, the district has posted on  
24 that site, for at least 30 consecutive days, each document or item

1 of information designated by the comptroller under Sections  
2 313.0265(d)(1), (2), and (4);

3 (3) the comptroller has posted on the comptroller's  
4 Internet website, for at least 30 consecutive days, each document  
5 or item of information designated by the comptroller under Sections  
6 313.0265(d)(1), (2), and (4); and

7 (4) the governing body:

8 (A) finds that the information in the application  
9 is true and correct;

10 (B) [~~7~~] finds that the applicant is eligible for  
11 the limitation on the appraised value of the person's qualified  
12 property; and

13 (C) [~~7~~ and] determines that granting the  
14 application is in the best interest of the school district and this  
15 state.

16 SECTION 2. Sections 313.026(a) and (b), Tax Code, are  
17 amended to read as follows:

18 (a) The economic impact evaluation of the application must  
19 include the following:

20 (1) the recommendations of the comptroller;

21 (2) the name of the school district;

22 (3) the name of the applicant;

23 (4) the general nature of the applicant's investment;

24 (5) [~~2~~] the relationship between the applicant's  
25 industry and the types of qualifying jobs to be created by the  
26 applicant to the long-term economic growth plans of this state as  
27 described in the strategic plan for economic development submitted

1 by the Texas Strategic Economic Development Planning Commission  
2 under Section 481.033, Government Code, as that section existed  
3 before February 1, 1999;

4 (6) [~~(3)~~] the relative level of the applicant's  
5 investment per qualifying job to be created by the applicant;

6 (7) the number of qualifying jobs to be created by the  
7 applicant;

8 (8) [~~(4)~~] the wages, salaries, and benefits to be  
9 offered by the applicant to qualifying job holders;

10 (9) [~~(5)~~] the ability of the applicant to locate or  
11 relocate in another state or another region of this state;

12 (10) [~~(6)~~] the impact the added infrastructure will  
13 have on the region, including:

14 (A) revenue gains that would be realized by the  
15 school district; and

16 (B) subsequent economic effects on the local and  
17 regional tax bases;

18 (11) [~~(7)~~] the economic condition of the region of the  
19 state at the time the person's application is being considered;

20 (12) [~~(8)~~] the number of new facilities built or  
21 expanded in the region during the two years preceding the date of  
22 the application that were eligible to apply for a limitation on  
23 appraised value under this subchapter; [~~and~~]

24 (13) [~~(9)~~] the effect of the applicant's proposal, if  
25 approved, on the number or size of the school district's  
26 instructional facilities, as defined by Section 46.001, Education  
27 Code;

1           (14) the projected market value of the qualified  
2 property of the applicant as determined by the comptroller;

3           (15) the proposed limitation on appraised value for  
4 the qualified property of the applicant;

5           (16) the projected dollar amount of the taxes that  
6 would be imposed on the qualified property, for each year of the  
7 agreement, if the property does not receive a limitation on  
8 appraised value with assumptions of the projected appreciation or  
9 depreciation of the investment and projected tax rates clearly  
10 stated;

11           (17) the projected dollar amount of the taxes that  
12 would be imposed on the qualified property, for each tax year of the  
13 agreement, if the property receives a limitation on appraised value  
14 with assumptions of the projected appreciation or depreciation of  
15 the investment and projected tax rates clearly stated;

16           (18) the projected effect on Foundation School Program  
17 payments to the district for each year of the agreement;

18           (19) the projected future tax credits if the applicant  
19 also applies for school tax credits under Section 313.103; and

20           (20) the total amount of taxes projected to be lost or  
21 gained by the district over the life of the agreement computed by  
22 subtracting the projected taxes stated in Subdivision (17) from the  
23 projected taxes stated in Subdivision (16).

24           (b) The comptroller's recommendations shall be based on the  
25 criteria listed in Subsections (a)(2)-(20) [~~(a)(2)-(9)~~] and on any  
26 other information available to the comptroller, including  
27 information provided by the governing body of the school district

1 under Section 313.025(b).

2 SECTION 3. Subchapter B, Chapter 313, Tax Code, is amended  
3 by adding Section 313.0265 to read as follows:

4 Sec. 313.0265. DISCLOSURE OF APPRAISED VALUE LIMITATION  
5 INFORMATION. (a) If a school district maintains a generally  
6 accessible Internet website, the district shall post each document  
7 or item of information concerning appraised value limitations under  
8 this subchapter and school tax credits under Subchapter D that the  
9 comptroller designates as substantive before the 15th day after the  
10 date the document or item of information was received or created.

11 (b) Each document or item of information posted under  
12 Subsection (a) must continue to be posted until the appraised value  
13 limitation expires or the school district no longer maintains the  
14 website.

15 (c) The comptroller shall post on the comptroller's  
16 Internet website each document or item of information the  
17 comptroller designates as substantive before the 15th day after the  
18 date the document or item of information was received or created.  
19 Each document or item of information must continue to be posted  
20 until the appraised value limitation expires. The posting must be  
21 on a web page that is not more than three mouse clicks from the  
22 comptroller's home page.

23 (d) The comptroller shall designate the following as  
24 substantive:

25 (1) each application requesting a limitation on  
26 appraised value;

27 (2) the economic impact evaluation made in connection

1 with the application;

2 (3) all information provided by the owner of the  
3 property to the school district and the comptroller under Section  
4 313.027(f)(3-c); and

5 (4) each application requesting school tax credits  
6 under Section 313.103.

7 (e) The comptroller by rule shall determine the  
8 requirements for districts to post on their Internet websites the  
9 documents provided under Subsection (a) and shall provide a link on  
10 the comptroller's website to all school districts' appraised value  
11 limitation postings.

12 (f) The comptroller and the Texas Education Agency shall  
13 annually certify that districts comply with the posting  
14 requirements of Subsection (b).

15 SECTION 4. Section 313.027(f), Tax Code, is amended to read  
16 as follows:

17 (f) In addition, the agreement:

18 (1) must incorporate each relevant provision of this  
19 subchapter and, to the extent necessary, include provisions for the  
20 protection of future school district revenues through the  
21 adjustment of the minimum valuations, the payment of revenue  
22 offsets, and other mechanisms agreed to by the property owner and  
23 the school district;

24 (2) must require the property owner to maintain a  
25 viable presence in the school district for at least three years  
26 after the date the limitation on appraised value of the owner's  
27 property expires;

1           (3) must provide for the termination of the agreement,  
2 the recapture of ad valorem tax revenue lost as a result of the  
3 agreement if the owner of the property fails to comply with the  
4 terms of the agreement, and payment of a penalty or interest, or  
5 both, on that recaptured ad valorem tax revenue;

6           (3-a) must specify explicit performance targets for  
7 each year of the agreement, including:

8           (A) the amount of qualifying investment the owner  
9 of the property commits to expend or allocate;

10           (B) the number of qualifying jobs the owner of  
11 the property commits to create; and

12           (C) the average wage or salary to be offered by  
13 the owner of the property to qualifying job holders;

14           (3-b) must require the owner of the property to  
15 compensate the school district for failure to attain the  
16 performance targets specified under Subdivisions (3-a)(B) and (C);

17           (3-c) must require the owner of the property to  
18 provide the school district and the comptroller with an annual  
19 progress report containing the information compiled during the  
20 previous calendar year regarding the attainment of each of the  
21 performance targets specified under Subdivisions (3-a)(B) and (C);

22           (3-d) must prohibit the school district from assigning  
23 any payments or benefits received from or on behalf of the property  
24 owner to any other party;

25           (4) may specify any conditions the occurrence of which  
26 will require the district and the property owner to renegotiate all  
27 or any part of the agreement; and

1           (5) must specify the ad valorem tax years covered by  
2 the agreement.

3           SECTION 5. Subchapter B, Chapter 313, Tax Code, is amended  
4 by adding Section 313.0275 to read as follows:

5           Sec. 313.0275. COMPUTATION OF RECAPTURE OF AD VALOREM TAX  
6 REVENUE LOST. (a) The total amount of the recapture payment to  
7 which a school district is entitled under this section in any year  
8 is computed by:

9           (1) subtracting a number equal to the number of  
10 persons holding a qualifying job in that year created by the owner  
11 of the property from the number of qualifying jobs the owner of the  
12 property committed to create under Section 313.027(f)(3-a)(B) in  
13 that year or over the life of the agreement, as applicable; and

14           (2) multiplying the result by the average wage or  
15 salary the owner of the property committed to offer to qualifying  
16 job holders under Section 313.027(f)(3-a)(C).

17           (b) The total amount of the recapture payment in a calendar  
18 year may not exceed an amount computed by dividing the amount  
19 computed under Section 313.026(a)(20) by the number of years in the  
20 life of the agreement.

21           SECTION 6. Section 313.028, Tax Code, is amended to read as  
22 follows:

23           Sec. 313.028. CERTAIN BUSINESS INFORMATION CONFIDENTIAL.  
24 Information provided to a school district in connection with an  
25 application for a limitation on appraised value under this  
26 subchapter that describes the specific processes or business  
27 activities to be conducted or the specific tangible personal

1 property to be located on real property covered by the application  
2 shall be segregated in the application from other information in  
3 the application and is confidential and not subject to public  
4 disclosure unless the governing body of the school district  
5 approves the application. Other information in the custody of a  
6 school district or the comptroller in connection with the  
7 application, including information related to the economic impact  
8 of a project or the essential elements of eligibility under this  
9 chapter, such as the nature and amount of the projected investment,  
10 employment, wages, and benefits, may not be considered confidential  
11 business information if the governing body of the school district  
12 agrees to consider the application. Information in the custody  
13 of a school district or the comptroller if the governing body  
14 approves the application is not confidential under this section.

15 SECTION 7. Section 313.103, Tax Code, is amended to read as  
16 follows:

17 Sec. 313.103. APPLICATION. (a) An application for a tax  
18 credit under this subchapter must be made to the governing body of  
19 the school district to which the ad valorem taxes were paid. The  
20 application must be:

21 (1) made on the form prescribed for that purpose by the  
22 comptroller and verified by the applicant;

23 (2) accompanied by:

24 (A) a tax receipt from the collector of taxes for  
25 the school district showing full payment of school district ad  
26 valorem taxes on the qualified property for the applicable  
27 qualifying time period; and

1 (B) any other document or information that the  
2 comptroller or the governing body considers necessary for a  
3 determination of the applicant's eligibility for the credit or the  
4 amount of the credit; and

5 (3) filed before September 1 of the year immediately  
6 following the applicable qualifying time period.

7 (b) An application for a tax credit under this subchapter or  
8 any information provided by the school district to the Texas  
9 Education Agency under Section 42.2515, Education Code, is not  
10 confidential.

11 SECTION 8. Section 42.2515, Education Code, is amended by  
12 amending Subsection (a) and adding Subsections (c) and (d) to read  
13 as follows:

14 (a) Subject to Subsection (c), for ~~For~~ each school year, a  
15 school district, including a school district that is otherwise  
16 ineligible for state aid under this chapter, is entitled to state  
17 aid in an amount equal to the amount of all tax credits credited  
18 against ad valorem taxes of the district in that year under  
19 Subchapter D, Chapter 313, Tax Code.

20 (c) In determining the amount of the tax credits credited  
21 against ad valorem taxes of a school district under Subsection (a)  
22 in a school year, the commissioner may not take into account any tax  
23 credit granted to a person if the district does not comply with the  
24 posting requirements of Section 313.0265(b), Tax Code.

25 (d) A determination by the commissioner under this section  
26 is final and may not be appealed.

27 SECTION 9. Subchapter E, Chapter 42, Education Code, is

1 amended by adding Section 42.25151 to read as follows:

2 Sec. 42.25151. ADJUSTMENT FOR RECAPTURED TAXES LOST  
3 ASSOCIATED WITH AGREEMENTS UNDER TEXAS ECONOMIC DEVELOPMENT ACT.

4 (a) In this section, "recapture payment" means a payment by an  
5 owner of property to a school district as required by Section  
6 313.027(f)(3-b), Tax Code.

7 (b) Notwithstanding Section 42.2516, the commissioner shall  
8 for any school year:

9 (1) reduce the amounts due to a school district under  
10 this chapter by an amount equal to all recapture payments received  
11 during that school year by the district; or

12 (2) increase the amounts necessary for a school  
13 district to comply with the requirements of Chapter 41 by an amount  
14 equal to all recapture payments received during that school year by  
15 the district.

16 (c) A school district shall report each recapture payment  
17 through the Public Education Information Management System  
18 (PEIMS).

19 (d) The commissioner, in consultation with the comptroller,  
20 as appropriate, may adopt rules necessary to implement this  
21 section.

22 SECTION 10. The change in law made by this Act applies only  
23 to an application under Chapter 313, Tax Code, filed on or after the  
24 effective date of this Act. An application under that chapter filed  
25 before the effective date of this Act is governed by the law in  
26 effect immediately before the effective date of this Act, and that  
27 law is continued in effect for that purpose.

1 SECTION 11. This Act takes effect September 1, 2009.