

By: Swinford

H.B. No. 2503

A BILL TO BE ENTITLED

AN ACT

relating to agreements for limitations on appraised value under the Texas Economic Development Act.

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

SECTION 1. Section 313.007, Tax Code, is amended to read as follows:

Sec. 313.007. EXPIRATION. Subchapters B, C, and D expire December 31, 2015 [~~2011~~].

SECTION 2. Section 313.021, Tax Code, is amended to read as follows:

Sec. 313.021. DEFINITIONS. In this subchapter:

(1) "Qualified investment" means:

(A) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2002 without regard to whether the property is affixed to or incorporated into real property, and is described as Section 1245 property by Section 1245(a), Internal Revenue Code of 1986;

(B) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2002, without regard to whether the property is affixed to or incorporated into real property, and that is used in connection with the manufacturing, processing, or fabrication in a cleanroom environment of a

1 semiconductor product, without regard to whether the property is
2 actually located in the cleanroom environment, including:

3 (i) integrated systems, fixtures, and
4 piping;

5 (ii) all property necessary or adapted to
6 reduce contamination or to control airflow, temperature, humidity,
7 chemical purity, or other environmental conditions or
8 manufacturing tolerances; and

9 (iii) production equipment and machinery,
10 moveable cleanroom partitions, and cleanroom lighting;

11 (C) tangible personal property that is first
12 placed in service in this state during the applicable qualifying
13 time period that begins on or after January 1, 2002, without regard
14 to whether the property is affixed to or incorporated into real
15 property, and that is used in connection with the operation of a
16 nuclear electric power generation facility, including:

17 (i) property, including pressure vessels,
18 pumps, turbines, generators, and condensers, used to produce
19 nuclear electric power; and

20 (ii) property and systems necessary to
21 control radioactive contamination;

22 (D) tangible personal property that is first
23 placed in service in this state during the applicable qualifying
24 time period that begins on or after January 1, 2002, without regard
25 to whether the property is affixed to or incorporated into real
26 property, and that is used in connection with operating an
27 integrated gasification combined cycle electric generation

1 facility, including:

2 (i) property used to produce electric power
3 by means of a combined combustion turbine and steam turbine
4 application using synthetic gas or another product produced by the
5 gasification of coal or another carbon-based feedstock; or

6 (ii) property used in handling materials to
7 be used as feedstock for gasification or used in the gasification
8 process to produce synthetic gas or another carbon-based feedstock
9 for use in the production of electric power in the manner described
10 by Subparagraph (i); or

11 (E) a building or a permanent, nonremovable
12 component of a building that is built or constructed during the
13 applicable qualifying time period that begins on or after January
14 1, 2002, and that houses tangible personal property described by
15 Paragraph (A), (B), (C), or (D).

16 (2) "Qualified property" means:

17 (A) land:

18 (i) that is located in an area designated as
19 a reinvestment zone under Chapter 311 or 312 or as an enterprise
20 zone under Chapter 2303, Government Code;

21 (ii) on which a person proposes to
22 construct a new building or erect or affix a new improvement that
23 does not exist before the date such person [~~the owner~~] applies for a
24 limitation on appraised value under this subchapter;

25 (iii) that is not subject to a tax abatement
26 agreement entered into by a school district under Chapter 312; and

27 (iv) on which, in connection with the new

1 building or new improvement described by Subparagraph (ii), the
2 owner or lessee of, or holder of another possessory interest in,
3 the land proposes to:

4 (a) make a qualified investment in an
5 amount equal to at least the minimum amount required by Section
6 313.023; and

7 (b) create at least 25 new jobs;

8 (B) the new building or other new improvement
9 described by Paragraph (A)(ii); and

10 (C) tangible personal property that:

11 (i) is not subject to a tax abatement
12 agreement entered into by a school district under Chapter 312; and

13 (ii) except for new equipment described in
14 Section 151.318(q) or (q-1), is first placed in service in the new
15 building or in or on the new improvement described by Paragraph
16 (A)(ii), or on the land on which that new building or new
17 improvement is located, if the personal property is ancillary and
18 necessary to the business conducted in that new building or in or on
19 that new improvement.

20 (3) "Qualifying job" means a permanent full-time job
21 that:

22 (A) requires at least 1,600 hours of work a year;

23 (B) is not transferred from one area in this
24 state to another area in this state;

25 (C) is not created to replace a previous
26 employee;

27 (D) is covered by a group health benefit plan, as

1 defined by Section 481.151, Government Code, for which the business
2 offers to pay at least 80 percent of the premiums or other charges
3 assessed for employee-only coverage under the plan, regardless of
4 whether an employee may voluntarily waive the coverage; and

5 (E) pays at least 110 percent of the county
6 average weekly wage [~~for manufacturing jobs~~] in the county where
7 the job is located.

8 (4) "Qualifying time period" means:

9 (A) the period from the date that a person's
10 application for a limitation on appraised value is approved by the
11 governing body of the school district through the end of the first
12 two tax years that begin on or after the date a person's application
13 for a limitation on appraised value under this subchapter is
14 approved, except as provided by Paragraph (B) or by section
15 313.027(h); or

16 (B) in connection with a nuclear electric power
17 generation facility, the first seven tax years that begin on or
18 after the third anniversary of the date the school district
19 approves the property owner's application for a limitation on
20 appraised value under this subchapter, unless a shorter time period
21 is agreed to by the governing body of the school district and the
22 property owner.

23 (5) "County average weekly wage [~~for manufacturing~~
24 ~~jobs~~]" means the average weekly wage in a county [~~for manufacturing~~
25 ~~jobs~~] as computed by the Texas Workforce Commission with respect to
26 the most recent four quarters then available from the Texas
27 Workforce Commission.

1 SECTION 3. Section 313.024(e), Tax Code, is amended to read
2 as follows:

3 (e) In this section:

4 (1) "Manufacturing" [~~and "research and development"~~
5 ~~have the meanings assigned by Section 171.751]~~ means an
6 establishment that is primarily engaged in activities that are
7 described in sector codes 31-33 of the North American Industry
8 Classification System.

9 (2) "Research and development" means an establishment
10 that is primarily engaged in activities that are described in
11 industry code 541710 of the 2002 North American Industry
12 Classification System.

13 (3) "Renewable energy electric generation" means an
14 establishment primarily engaged in activities described in
15 category 221119 of the 1997 North American Industry Classification
16 System.

17 (4) "Integrated gasification combined cycle
18 technology" means technology used to produce electricity in a
19 combined combustion turbine and steam turbine application using
20 synthetic gas or another product produced from the gasification of
21 coal or another carbon-based feedstock, including related
22 activities such as materials-handling and gasification of coal or
23 another carbon-based feedstock.

24 (5) "Nuclear electric power generation" means
25 activities described in category 221113 of the 2002 North American
26 Industry Classification System.

27 SECTION 4. Section 313.025(a), Tax Code, is amended to read

1 as follows:

2 (a) The owner or lessee of, or other holder of a possessory
3 interest in, any qualified property described in any of Section
4 313.021(2)(A), (B), or (C) may apply to the governing body of the
5 school district in which the property is located for a limitation on
6 the appraised value for school district maintenance and operations
7 ad valorem tax purposes of the person's qualified property. An
8 application must be made on the form prescribed by the comptroller
9 and include the information required by the comptroller, and it
10 must be accompanied by:

11 (1) the application fee established by the governing
12 body of the school district;

13 (2) information sufficient to show that the real and
14 personal property identified in the application as qualified
15 property meets the applicable criteria established by Section
16 313.021(2); and

17 (3) information relating to each applicable criterion
18 listed in Section 313.026.

19 SECTION 5. Amend Section 313.027, Tax Code, by adding the
20 following new subsection (h) to read as follows:

21 (h) The governing body of the school district and the
22 property owner may agree to delay the effective date of the
23 agreement or subsequently amend the agreement to delay the
24 effective date of the agreement for a period not to exceed 5 years
25 from the date that the governing body of the school district first
26 approves the agreement. In the event that the governing body of the
27 school district and the property owner agree to delay the effective

1 date of the agreement, the qualifying time period shall consist of
2 the first two tax years that begin on or after the effective date of
3 the agreement.

4 SECTION 6. Amend Section 313.051, Tax Code, to read as
5 follows:

6 Sec. 313.051. APPLICABILITY. (a) This subchapter applies
7 only to a school district that has territory in:

8 (1) an area that qualified as a strategic investment
9 area under Subchapter 0, Chapter 171, immediately before that
10 subchapter expired [~~as defined by Section 171.721~~]; or

11 (2) a county:

12 (A) that has a population of less than 50,000;
13 and

14 (B) [~~that is not partially or wholly located in a~~
15 ~~metropolitan statistical area; and~~

16 [~~(C)~~] in which, from 1990 to 2000, according to
17 the federal decennial census, the population:

18 (i) remained the same;

19 (ii) decreased; or

20 (iii) increased, but at a rate of not more
21 than three percent per annum.

22 (a-1) Notwithstanding Subsection (a), if on January 1,
23 2002, this subchapter applied to a school district in whose
24 territory is located a federal nuclear facility, this subchapter
25 continues to apply to the school district regardless of whether the
26 school district ceased or ceases to be described by Subsection (a)
27 after that date.

1 (b) The governing body of a school district to which this
2 subchapter applies may enter into an agreement in the same manner as
3 a school district to which Subchapter B applies may do so under
4 Subchapter B, subject to Sections 313.052-2313.054. Except as
5 otherwise provided by this subchapter, the provisions of Subchapter
6 B apply to a school district to which this subchapter applies. For
7 purposes of this subchapter, a property owner is required to create
8 only at least 10 new jobs on the owner's qualified property. At
9 least 80 percent of all the new jobs created must be qualifying jobs
10 as defined by Section 313.021(3). ~~[, except that, for a school~~
11 ~~district described by Subsection (a)(2), each qualifying job must~~
12 ~~pay at least 110 percent of the average weekly wage for~~
13 ~~manufacturing jobs in the region designated for the regional~~
14 ~~planning commission, council of governments, or similar regional~~
15 ~~planning agency created under Chapter 391, Local Government Code,~~
16 ~~in which the district is located.]~~

17 SECTION 7. Section 403.302(d), Government Code, is amended
18 to read as follows:

19 (d) For the purposes of this section, "taxable value" means
20 the market value of all taxable property less:

21 (1) the total dollar amount of any residence homestead
22 exemptions lawfully granted under Section 11.13(b) or (c), Tax
23 Code, in the year that is the subject of the study for each school
24 district;

25 (2) one-half of the total dollar amount of any
26 residence homestead exemptions granted under Section 11.13(n), Tax
27 Code, in the year that is the subject of the study for each school

1 district;

2 (3) the total dollar amount of any exemptions granted
3 before May 31, 1993, within a reinvestment zone under agreements
4 authorized by Chapter 312, Tax Code;

5 (4) subject to Subsection (e), the total dollar amount
6 of any captured appraised value of property that:

7 (A) is within a reinvestment zone created on or
8 before May 31, 1999, or is proposed to be included within the
9 boundaries of a reinvestment zone as the boundaries of the zone and
10 the proposed portion of tax increment paid into the tax increment
11 fund by a school district are described in a written notification
12 provided by the municipality or the board of directors of the zone
13 to the governing bodies of the other taxing units in the manner
14 provided by Section 311.003(e), Tax Code, before May 31, 1999, and
15 within the boundaries of the zone as those boundaries existed on
16 September 1, 1999, including subsequent improvements to the
17 property regardless of when made;

18 (B) generates taxes paid into a tax increment
19 fund created under Chapter 311, Tax Code, under a reinvestment zone
20 financing plan approved under Section 311.011(d), Tax Code, on or
21 before September 1, 1999; and

22 (C) is eligible for tax increment financing under
23 Chapter 311, Tax Code;

24 (5) for a school district for which a deduction from
25 taxable value is made under Subdivision (4), an amount equal to the
26 taxable value required to generate revenue when taxed at the school
27 district's current tax rate in an amount that, when added to the

1 taxes of the district paid into a tax increment fund as described by
2 Subdivision (4)(B), is equal to the total amount of taxes the
3 district would have paid into the tax increment fund if the district
4 levied taxes at the rate the district levied in 2005;

5 (6) the total dollar amount of any captured appraised
6 value of property that:

7 (A) is within a reinvestment zone:

8 (i) created on or before December 31, 2008,
9 by a municipality with a population of less than 18,000; and

10 (ii) the project plan for which includes
11 the alteration, remodeling, repair, or reconstruction of a
12 structure that is included on the National Register of Historic
13 Places and requires that a portion of the tax increment of the zone
14 be used for the improvement or construction of related facilities
15 or for affordable housing;

16 (B) generates school district taxes that are paid
17 into a tax increment fund created under Chapter 311, Tax Code; and

18 (C) is eligible for tax increment financing under
19 Chapter 311, Tax Code;

20 (7) the total dollar amount of any exemptions granted
21 under Section 11.251 or 11.253, Tax Code;

22 (8) the difference between the comptroller's estimate
23 of the market value and the productivity value of land that
24 qualifies for appraisal on the basis of its productive capacity,
25 except that the productivity value estimated by the comptroller may
26 not exceed the fair market value of the land;

27 (9) the portion of the appraised value of residence

1 homesteads of individuals who receive a tax limitation under
2 Section 11.26, Tax Code, on which school district taxes are not
3 imposed in the year that is the subject of the study, calculated as
4 if the residence homesteads were appraised at the full value
5 required by law;

6 (10) a portion of the market value of property not
7 otherwise fully taxable by the district at market value because of:

8 (A) action required by statute or the
9 constitution of this state that, if the tax rate adopted by the
10 district is applied to it, produces an amount equal to the
11 difference between the tax that the district would have imposed on
12 the property if the property were fully taxable at market value and
13 the tax that the district is actually authorized to impose on the
14 property, if this subsection does not otherwise require that
15 portion to be deducted; or

16 (B) action taken by the district under Subchapter
17 B or C, Chapter 313, Tax Code, before the expiration of the
18 subchapter;

19 (11) the market value of all tangible personal
20 property, other than manufactured homes, owned by a family or
21 individual and not held or used for the production of income;

22 (12) the appraised value of property the collection of
23 delinquent taxes on which is deferred under Section 33.06, Tax
24 Code;

25 (13) the portion of the appraised value of property
26 the collection of delinquent taxes on which is deferred under
27 Section 33.065, Tax Code; and

1 (14) the amount by which the market value of a
2 residence homestead to which Section 23.23, Tax Code, applies
3 exceeds the appraised value of that property as calculated under
4 that section.

5 SECTION 8. Section 313.021(1)(A) and (2), Tax Code, as
6 amended by Section 2, Section 313.024(e), Tax Code, as amended by
7 Section 3, and Section 313.025(a), Tax Code, as amended by Section
8 4, are intended to clarify existing law in effect before the
9 effective date of this Act and are not intended to make a
10 substantive change in the law.

11 SECTION 9. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2009.