

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**April 1, 2009**

**TO:** Honorable Rene Oliveira, Chair, House Committee on Ways & Means

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB1274** by Kolkhorst (Relating to the availability and reporting of certain information regarding applications under the Texas Economic Development Act to the public and the state.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend Chapter 313 of the Tax Code, relating to the availability and reporting of certain information regarding applications under the Texas Economic Development Act to the public and state.

The bill would amend Section 313.025 by adding a new subsection (a-1) to require school districts to post property tax value limitation applications and information relating to such applications on their Internet Web sites within a certain time period.

The bill would also prohibit a school district from approving an application for value limitation unless the Comptroller recommended approval in the economic impact evaluation, and certain web posting requirements were met by the Comptroller and the school district.

The bill would require that additional information be included in the economic impact evaluation required by Section 313.026, including such information as projected levy loss, projected effect on Foundation School Program payments, projected levies with and without the limitation, and projected future tax credits.

The bill would add a new Section 313.0265 titled, "Disclosure of Appraised Value Limitation Information" to the Tax Code. The new section would require the Comptroller to designate applications and certain other documents related to value limitation applications and projects as "substantive." School districts would be required to post certain substantive documents on their Web site before the 15th day after they were received or created, and maintain them on their website until the expiration of the limitation (at least 10 years and four months). The Comptroller would also be required to post certain substantive documents on the agency website. The Comptroller would be granted rule-making authority to determine requirements for school districts to post required documents on their Web sites. The Comptroller would be required to provide a link on the agency website to all relevant school Web sites. The Comptroller and the Texas Education Agency would be required annually to certify district compliance with the posting requirements of the new subsection.

The bill would amend Section 313.027(f) to require that agreements entered into by districts and companies specify explicit performance targets for each year of the agreements, related to investment, jobs, and wages. It further would require that agreements contain "clawback" provisions if property owners failed to attain performance targets, and a requirement that property owners provide school districts and the Comptroller with annual progress reports.

The bill also would amend Section 313.027(f) by adding new language requiring that agreements contain language prohibiting the school district from assigning any payment or benefits received from, or on behalf of, the property owner to any other party.

The bill would create a new Section 313.0275 titled "Computation of Recapture of Ad Valorem Tax Revenue Lost" outlining a method of calculating the clawback amount a property owner would pay a district for failure to meet performance targets.

The bill would amend Section 313.028 to specify that confidential information be segregated in the application from information not considered confidential, and that certain information could not be considered confidential business information.

The bill would amend Section 313.103 to clarify that the tax credit application—completed by the property owner in the third year of the agreement—is not confidential.

The bill would amend Section 42.2515 of the Education Code to prohibit the commissioner of education from reimbursing a district for a tax credit granted to a property owner if the Internet posting requirements at the school district level had not been met.

The bill would add a new section 42.25151 to the Education Code titled, "Adjustment for Recaptured Taxes Lost Associated with Agreements Under Texas Economic Development Act," requiring that state aid be decreased, or Education Code Chapter 41 recapture increased, by the amount of any clawback payments to the district. School districts would be required to report clawback payments through the Public Education Information Management System (PEIMS). The commissioner of education, in consultation with the Comptroller, would be granted rule-making authority necessary to implement the section.

The Comptroller and school districts would have extensive new Internet posting requirements for applications filed after the effective date of the bill.

The Comptroller's Office would have new duties regarding evaluating, maintaining and reporting information about the projects, as well as new duties related to the proposed performance-target and clawback provisions.

The bill would require the Comptroller to post application information on the web site within 15 days after receipt of each individual document related to an application. Section 2 of the bill would require additional information be included in the economic impact evaluation prepared by the Comptroller. Section 3 of the bill would require that value limitation application information be segregated into confidential and non-confidential information, with certain documents posted on the CPA website. Section 3 of the bill would require the Comptroller and TEA to annually certify district compliance with the proposed Internet posting requirements. Section 4 and Section 5 of the bill would require school districts and companies to include in their limitation agreements certain performance targets, with penalties for failure to meet those targets.

The bill would specify that the changes in law made by the bill would apply only to Chapter 313 applications filed after the effective date of the bill.

The Comptroller's Office indicates that there would be an indeterminate amount of administrative costs associated with implementation of the bill.

The bill would take effect September 1, 2009.

### **Local Government Impact**

According to the Comptroller of Public Accounts, the fiscal impact on units of local government cannot be estimated.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** JOB, MN, SD, SJS