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: **HB3676** by Heflin (Relating to the Texas Economic Development Act.), **As Introduced**

The bill would result in school district levy losses due to changes in the Tax Code relating to the Texas Economic Development Act. As a result of the school funding formula, the bill would have a negative effect on the State's cash flow.

The bill would amend Chapter 313 of the Tax Code, relating to the Texas Economic Development Act.

The bill would amend Section 313.007 to extend from December 31, 2011 to December 31, 2015 the expiration date of significant portions of this Chapter.

The bill would amend Section 313.021(1)(A) to clarify that qualified property could include tangible personal property without regard to whether the property is affixed to, or incorporated into, real property. The bill would also clarify that a person owning qualified property need not own the land associated with the qualified property.

The bill would amend Section 313.021(3)(D) by striking a reference to a repealed statute.

The bill would amend Section 313.021(3)(E) by striking the requirement that qualifying jobs pay 110 percent of the average weekly wage for manufacturing jobs in the county where the job is located. The new wage target would be 110 percent of the average weekly wage in the county—using the most recent four quarters of data from the Texas Workforce Commission. Section 6 of the bill would amend 313.051(b) to eliminate the regional wage target currently in place for certain rural districts.

The bill would amend the definition of qualifying time period in Section 313.021(4)(A). The beginning of the qualifying time period would be the date the application is approved by the school board, rather than the beginning of the tax year following the year in which the board approved the application. Section 5 of the bill would amend Section 313.027 adding a new subsection (h) allowing a school board and property owner to delay the effective date of an agreement or amend an existing agreement to delay the effective date for up to five years from the date the board first approves the agreement. If the effective date is delayed, the qualifying time period would be the first two tax years after the renegotiated effective date.

The bill would amend Section 313.024(e) to clarify definitions of manufacturing, and research and development, linking them to definitions in the North American Industry Classification System (NAICS).

The bill would amend Section 313.025(a) to clarify that lessees of, or other holders of possessory interest in, qualified property may apply for value limitations.

The bill would amend Section 313.051(a)(1) to allow school districts to be classified as rural under Subchapter C of Chapter 313 if the school district has territory in an area that was previously designated as a strategic investment area (SIA) immediately prior to the expiration of Subchapter O, Tax Code, Chapter 171. The bill would also delete Section 313.051(a)(2)(B) which currently prevents school districts partially or wholly located within a metropolitan statistical area (MSA) from being classified as rural under the subchapter.

The bill would amend Section 403.302(d) of the Government Code to specify that portions of a school district's tax base not taxed at full market value because of actions taken by a school district under subchapter B or C, Chapter 313, before the expiration of the subchapter would be deducted from the Comptroller's annual property value study.

Without extension of the Texas Economic Development Act, the last group of Chapter 313 projects commencing would be those approved before December 31, 2011 and starting in tax year 2012. The proposed extension of the Act would allow four more groups of projects starting in tax years 2013, 2014, 2015 and 2016. (The school district levy loss for a project approved in tax year 2012—beginning in tax year 2013—would not occur until tax year 2015, with associated state impact in state fiscal year 2016.)

Statewide, manufacturing wages are 30 percent higher on average than total county wages for all industries. To examine regional differences, counties with school districts having agreements under Chapter 313 of the Tax Code were analyzed. In these counties, average manufacturing wages varied from 150 percent higher than the total average wage for all industries, to 40 percent lower than the total county average wage. Counties with significantly higher manufacturing wages tend to be urban with a well-established manufacturing industry base, along with support industries. In these counties, due to competition for manufacturing jobs, wages for manufacturing would be expected to stay at a competitive rate; however lowering the wage target to 110 percent of the average weekly wage in the county could allow other industries the opportunity to locate in these urban counties and apply under Chapter 313 without competing with a high manufacturing wage target. The following table illustrates these regional differences by averaging wage data from the first, second, and third quarters of 2008 and the fourth quarter of 2007.

County:	Annual Average Manufacturing Wage:	Annual Average Total County Wage:
Archer	$25,025	$32,019
Jefferson	75,153	44,057
Liberty	50,414	33,800
Pecos	19,396	31,317
Scurry	31,148	48,711
Travis	90,766	51,168

The impact of lowering the wage target for qualifying jobs from 110 percent of manufacturing wage to 110 percent of all wages in the county for all industries would be negative for the state, but cannot be determined. In a number of counties, such as Travis, is it likely that projects not paying the higher wages currently required for qualified jobs under the Chapter 313 program would be able to obtain value limitation agreements with school districts they could not have obtained otherwise. In such instances, the total school property tax levy loss would increase, thereby increasing state cost through the Foundation School Program. The reverse may happen in counties where average all-industry wages are higher than those for manufacturing. Overall, the impact would be negative for the state, as a general lowering of the wage target would increase the applicant pool for Chapter 313 projects.

To estimate the fiscal impact of modifying the definitions of "rural" under the chapter, existing Chapter 313 program data were analyzed to estimate probable higher school district levy loss due to reduced property tax value limitation amounts for school districts with territory in metropolitan statistical areas, and in areas previously designated as strategic investment areas. Chapter 313 projects applying during 2009 would fall under provisions of the bill if a school board approved an application after the effective date of the bill but before the end of the calendar year. Therefore the proposed changes in criteria for being rural under the subchapter would initially affect school district levy losses for projects beginning in property tax year (calendar year) 2010. Levy losses associated with those tax year 2010 projects appear first in tax year 2012, which would be state fiscal year 2013.

Projects beginning in tax year 2011 would create another "set" of levy losses starting in state fiscal year 2014. Total levy losses in fiscal year 2014 would reflect first year levy losses due to projects started in property tax year 2011 and second year losses from projects starting in tax year 2010. The fiscal year 2013 estimated levy loss of $4,992,000 would be composed of $4,368,000 from the SIA designation change and $624,000 from the change to the definition of rural districts in metropolitan statistical areas.

These SIA-related and MSA-related provisions of the bill would have a slight negative effect on the state's cash flow during fiscal year 2014, as approximately eight percent of the total levy loss in the program is attributable to the tax credit features of the program paid through the Foundation School Program. (Tax credits earned by a company in the first two years of a project are first credited against other property tax levies in the fourth year of an agreement.)

The addition of language in the chapter to allow districts and companies to delay the effective date of a value limitation agreement could negatively affect school levies, but that possible loss cannot be determined. Under current law, the date marking the beginning of qualification of property starts when the project owner applies to the school district. If the time between the date of application and beginning of the limitation period is extended, some projects may be able to include more qualified property in the limitation than they could have included without such an extension.

The proposed change in definition of qualifying time period would not have a significant impact. There would be no fiscal impact to the state or units of local government from the extension of the Texas Economic Development Act until state fiscal year 2016—outside the time frame of this fiscal note.

The impact of lowering the wage target for qualifying jobs from 110 percent of manufacturing wage to 110 percent of all wages in the county for all industries would be negative for the state, but cannot be determined.

The impact of considering certain districts rural for having territory in an area that was previously designated as a strategic investment area, and not excluding districts from the rural designation for having territory within metropolitan statistical areas, is shown in the following table.

Fiscal Year:	Gain/(Loss) to School District Levy
2010	$0
2011	0
2012	0
2013	(4,992,000)
2014	(9,984,000)

There would be significant school district levy losses associated with four additional years of new Chapter 313 projects, beginning in state fiscal year 2016. With the proposed four-year extension of the Act, the fiscal impact for nuclear projects could possibly continue through fiscal year 2039. Coupled with other proposed language in the bill allowing delayed effective dates of agreements by consent between the property owners and the school boards, the fiscal impact could continue through fiscal year 2041. The final fiscal impact for other—non-nuclear—projects would continue until sometime between fiscal year 2028 to 2036.

The estimated annual school district levy loss attributable to both of the proposed changes in definition of "rural" for Chapter 313 for any one year's group of Chapter 313 projects (about $5 million) continues for approximately nine years ($45 million). Subsequent years' projects would create additional increasing annual levy losses.

The Texas Economic Development Act has provisions for continuation of the statute for projects already in existence at the time of the Act's expiration date, currently December 31, 2011.

The bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2009.

Local Government Impact

The bill would have a negative impact on units of local government.

Source Agencies: 304 Comptroller of Public Accounts
LBB Staff: JOB, MN, SD, SJS