LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 26, 2009

TO: Honorable Mark Strama, Chair, House Committee on Technology, Economic Development & Workforce

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

IN RE: **HB4525** by Parker (Relating to qualified manufacturing project zones.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB4525, Committee Report 1st House, Substituted: a negative impact of ($8,869,000) through the biennium ending August 31, 2011.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	$0
2011	($8,869,000)
2012	($55,744,000)
2013	($55,744,000)
2014	($15,119,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from *General Revenue Fund* 1
2010	$0
2011	($8,869,000)
2012	($55,744,000)
2013	($55,744,000)
2014	($15,119,000)

Fiscal Analysis

The bill would create a new Chapter 399 of the Local Government Code entitled, "Qualified Manufacturing Project Zones."

Qualified manufacturing projects would be defined as proposed new or expanded facilities with a Tax Code Chapter 312 or Chapter 313 agreement entered into on or after January 1, 2008, in which at least $200 million is invested and is forecasted to create at least 300 full-time jobs, and the construction of which begins after September 1, 2009. Such facilities would be required to be engaged in manufacturing as defined by Section 151.318, Tax Code. The owner of a proposed facility would also be required to be considering locating the facility outside the state, or be in competition with similar projects in other states for federal funds or financial support that would benefit the project.

A proposed facility would become a qualified manufacturing project on the date the owner of the facility files an election to become a qualified manufacturing facility with the Comptroller.

The owner of a project would be required to conduct an economic impact study of the county in which the project is located and submit the study to the Comptroller for certification within 120 days of the date the owner files an election to become such a project.

The economic impact study would be required to include estimates of: 1) the general economic impact likely to occur in the county as a result of the project, 2) the expected amount of increased tax receipts to the state attributable to the project for 10 years, 3) the number of FTEs likely to be available at the project, and 4) the investment projected for the project. The Comptroller would be required to certify the accuracy of the economic impact study within 30 days of receipt. If the Comptroller determined the study was inaccurate, the Comptroller would be required to submit a preliminary determination to the owner, and provide the owner with an opportunity to respond with a new or amended economic impact study.

The Comptroller would be required to certify the study if conducted by an independent third party engaged by the owner and utilizing generally accepted economic forecasting methods.

The owner of a project for which the Comptroller has certified an economic impact study could apply to the Comptroller for designation of the county in which the project is located as a qualified manufacturing project zone. The Comptroller would be required to approve the application upon a determination that the project is the first such facility in a county. The designation would take effect September 1 preceding the Comptroller's approval. Only one project per county would be allowed. The zone designation would remain in effect until the expiration of applicable Tax Code Chapter 312 or 313 abatements or agreements.

The owner of a project would be required to make annual certifications regarding employment and investment to the Comptroller that would vary according to the age of the zone, with penalties for failure to certify such information.

A qualified manufacturing project would be entitled to receive a refund based on state sales and use tax on taxable items purchased within the boundaries of the qualified manufacturing project zone. The refund would be calculated as 50 percent of the difference between the sales and use tax collected in a zone after the project was designated and the tax collected in a zone before the zone was designated. The total amount of sales tax refunds a particular project could receive would be limited to the lesser of $50 million or 5 percent of a project's total investments.

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.

Methodology

Eligibility as a qualified manufacturing project zone would be based on a project already having an abatement agreement with a local governmental subdivision under Chapter 312 of the Tax Code, or a property tax value limitation agreement with a school district under Chapter 313 of the Tax Code executed on or after January 1, 2008. Furthermore, eligible projects would have to be engaged in manufacturing, have at least 300 jobs forecasted to be created and be considering locating the facility outside the state or be in competition with similar projects in other states for federal funds or financial support that would benefit the project.

For the purposes of this analysis, several nuclear power projects meeting the eligibility criteria that are well into planning and one nearing the construction phase are used to represent the potential fiscal implications of the bill. However, other projects could qualify resulting in higher costs to the state.

The additional two units for the South Texas Nuclear Project (STNP) in Palacios ISD (Matagorda County), together representing an investment of approximately $8.6 billion, would appear to qualify as a qualified manufacturing zone project, having executed Chapter 313 agreements on June 9, 2008, and expected to start construction after the date specified in the bill—September 1, 2009. Manufacturing as defined by Tax Code 151.318, includes the generation of electricity.

Two other nuclear projects—each with two units—are also planned with estimated combined investments of approximately $20 billion: a project in Somervell County and one near Victoria. This estimate assumes these projects will each have a Chapter 313 agreement comprised of both proposed units, and that they will be in service by January 2015. Both of these projects have filed applications with the federal Nuclear Regulatory Commission (NRC), and interconnection requests with Electric Reliability Council of Texas (ERCOT). This analysis assumes the nuclear power projects, in addition to other requirements, would be qualified projects as they either would have considered at least one non-Texas location site or would have competed against similar non-Texas projects for federal funds.

Taxable activity related to these projects, representing the additional sales and use tax, that would be eligible for a refund was estimated based on data gathered from a variety of sources including Comptroller tax files. Expenditures were adjusted for timing of investment; purchases of exempt machinery and equipment; multiplied by the state sales tax rate, and adjusted for the 50 percent refund and effective date to determine the fiscal impact to the General Revenue Fund 0001.

The bill would also provide for a refund of other tax proceeds that are a direct or indirect result of the design, construction, or operation of a project. Such refunds would be at the direction of a local governmental body, are not capped in the bill, and cannot be estimated.

Local Government Impact

The bill would allow, but not require, a local governmental body, including a municipality, county, or political subdivision, to agree to rebate, refund, or pay eligible taxable proceeds to the owner of a qualified manufacturing project at which the eligible taxable proceeds were generated either directly or indirectly as a result of the project. Eligible taxable proceeds would include taxable proceeds generated, paid, or collected by a qualified manufacturing project, including local hotel occupancy taxes, ad valorem taxes, sales and use taxes, and mixed beverage taxes.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, JRO, SD, KK