LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 23, 2009

TO: Honorable Chris Harris, Chair, Senate Committee on Economic Development

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

IN RE: **SB1593** by Seliger (Relating to agreements for limitations on appraised value under the Texas Economic Development Act.), **Committee Report 1st House, As Amended**

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, and that lessees of, or other holders of possessory interest in, qualified property may apply for value limitations.

The bill would amend Section 313.021(3)(E) to modify the wage target for qualifying jobs. In counties with populations of 800,000 or more, the new wage target would be at least 110 percent of the average weekly wage for all industries in the county where the job is located. In other counties—with less than 800,000 population—the new wage target would be the lesser of $50,000 or 110 percent of the county average weekly wage for manufacturing jobs. The bill would define county average weekly wage as that computed using the most recent four quarters of data from the Texas Workforce Commission. 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. The bill would amend Section 313.027 adding a new subsection (h) to allow 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 were 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 also 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. Districts would not be required to post confidential business information.

The bill would also amend Section 313.025 by adding a new subsection (d-1) to provide that, when the comptroller had made a negative recommendation, districts could only approve applications with at least a vote of two-thirds of the school board.

The bill would amend section 313.026, to expand the Comptroller’s economic impact evaluation to include the impact a project would have on the state and individual units of government instead of the region. It also would require the economic impact evaluation to include tax and other revenue gains, direct or indirect, that would be realized as well as economic effects of the project, including the impact on jobs and income, during the qualifying time period, the limitation period, and a period of time after the limitation period considered appropriate by the Comptroller.

The bill would add a new Section 313.0265 titled, "Disclosure of Appraised Value Limitation Information." 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, and maintain them 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 Web site 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 313.028 to specify that confidential information be segregated in the limitation application from information not considered confidential, and that certain information could not be considered confidential business information.

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.)

In counties with a population less than 800,000, the bill would require the applicant to pay the lesser of $50,000 or 110 percent of the county average weekly wage for manufacturing jobs. The following list illustrates annual wages for manufacturing jobs (an average of the 4th quarter of 2007 and the 1st through 3rd quarters of 2008) for a selection of counties—with Chapter 313 projects—that have populations less than 800,000: Archer County ($25,025), Jefferson County ($75,153), Liberty County ($50,414), Pecos County ($19,396), and Scurry County ($31,148).

In counties with populations greater than 800,000, the bill would require the applicant to pay at least 110 percent of the county average weekly wage for all industries. Currently, this would affect Harris, Dallas, Tarrant, Bexar and Travis counties. The table below shows the annual wage (an average of the 4th quarter of 2007 and the 1st through 3rd quarters of 2008) in these counties for all industries compared to the average annual wage rates for manufacturing jobs. (With populations of 762,000 and 742,000, Collin County and El Paso County would appear likely to be subject to the "all industries" wage target in the future.)

County:	Annual Average Manufacturing Wage:	Annual Average Total County Wage:
Harris	$72,852	$59,046
Dallas	$62,049	$56,173
Tarrant	$63,713	$44,759
Bexar	$43,056	$38,480
Travis	$90,766	$51,168

Lowering the wage target for qualifying jobs would increase the applicant pool for Chapter 313 projects, with an associated increase in school district levy loss and state cost through the Foundation School Program that cannot be determined.

The proposed change in definition of qualifying time period would not have a significant impact.

To meet the requirements of the proposed language related to the Comptroller's economic impact evaluation regarding the qualifying time period, the limitation period, and a period of time after the limitation period, Comptroller staff would need to forecast these effects for a minimum of 13 years.

The Comptroller and school districts would have new Internet posting requirements for applications filed after the effective date of the bill. The bill would require the Comptroller to post application information on the Web site and require that value limitation application information be segregated into confidential and non-confidential information. The bill would require the Comptroller and TEA to annually certify district compliance with the proposed Internet posting requirements.

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 (MSA).

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 as qualified 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 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 table below.

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 years 2028 to 2036.

The estimated annual school district levy loss attributable to both of the proposed changes in the definition of "rural" for Chapter 313 for any one year's group of Chapter 313 projects would continue for approximately nine years, with each year's levy loss being about $5 million. (The lifetime levy loss for a group of projects starting in any one particular year would be about $45 million.) Each group of Chapter 313 projects starting in subsequent years would generate similar levy losses for nine years.

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, SJS, JRO, SD, MN