

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

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**March 24, 2011**

**TO:** Honorable John Davis, Chair, House Committee on Economic & Small Business Development

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

**IN RE: HB433** by Parker (Relating to qualified manufacturing project zones.), **As Introduced**

<b>Estimated Two-year Net Impact to General Revenue Related Funds</b> for HB433, As Introduced: a negative impact of (\$5,300,000) through the biennium ending August 31, 2013.
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**General Revenue-Related Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2012	\$0
2013	(\$5,300,000)
2014	(\$25,100,000)
2015	(\$27,200,000)
2016	(\$27,900,000)

**All Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Revenue Gain/(Loss) from General Revenue Fund 1</b>
2012	\$0
2013	(\$5,300,000)
2014	(\$25,100,000)
2015	(\$27,200,000)
2016	(\$27,900,000)

**Fiscal Analysis**

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

Eligible manufacturing facilities 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, 2011 but before January 1, 2017, in which at least \$100 million is invested, at least 200 full-time jobs are forecasted to be created, and the construction of which begins on or after September 1, 2011. Facilities would be required to be engaged in manufacturing as defined by Section 151.318, Tax Code. The owner of a proposed facility would 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. The bill would appear to make eligible any project that has applied for federal loans or guarantees if other investment, employment and timing criteria are met. The bill does not include any minimum percentage, or threshold percentage, of tax abatement in order for an applicant to gain eligibility through a Chapter 312 tax abatement agreement.

An eligible manufacturing facility would become a qualified manufacturing project on the date the owner of the facility files an election for automatic designation of the facility as a qualified manufacturing project 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 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 state sales tax receipts in the county attributable to the project; 3) the projected number of full-time-equivalent employees 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 study within 30 days of receipt. If the Comptroller determined the study was inaccurate, the Comptroller would be required to notify the project owner of the Comptroller's preliminary determination and the basis for that determination, and provide the owner with an opportunity to respond with a new or amended study within 90 days of receiving the Comptroller's notification.

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 only such facility in a county. The designation would take effect on September 1, preceding the Comptroller's date of approval. Only one project per county would be allowed. Zone designations would remain in effect until the expiration of applicable Tax Code Chapter 312 or 313 abatements or agreements. The Comptroller could charge an application fee in an amount sufficient to cover the Comptroller's costs in administering this chapter.

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 and the status of the project, with penalties for failure to certify such information.

For a period not to exceed 10 years, a qualified manufacturing project would be entitled to receive an annual "refund" based on state sales and use tax on taxable items purchased within the boundaries of the qualified manufacturing project zone directly attributable to the economic activity generated by the project. The refund would be calculated as 50 percent of the difference between the sales and use tax collected in a zone in any year after the project was designated and the sales and use tax collected in a zone in the year before the zone was designated that is directly attributable to the economic activity generated by the project. The total amount of sales and use tax refunds a particular project could receive would be limited to the lesser of \$50 million or five percent of a project's total investments. Refunds would be used for workforce-related expenses associated with the planning, designing, construction, and operation of the project through the first two years of operation of the facility.

The Comptroller would be granted authority to adopt rules, forms, and fees necessary to perform required Comptroller duties.

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, 2011.

## **Methodology**

Eligibility as a qualified manufacturing project zone would be based on a project having a property tax 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 entered into on or after January 1, 2011, but before January 1, 2017. Eligible projects would be required to be engaged in manufacturing as defined by Section 151.318, Tax Code—which includes the generation of electricity. The owner of a proposed facility would 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.

The total number of projects qualifying under the bill's provisions would be the sum of those estimated to become eligible either through participation in a Tax Code Chapter 313 or 312 agreement meeting the criteria of the bill. Although the bill does not specify that jobs forecasted to be created be permanent jobs, the estimates presented in this analysis are based on available data for projects creating "net-new" permanent jobs. If construction or other non-permanent employment were to be counted as eligible employment creation, the number of projects qualifying for the tax refunds—and correspondingly the cost to the state—would be significantly higher. Data sources for this estimate include project-level data for participants in the Chapter 313 Texas Economic Development Act, Tax Code Chapter 312 data reported to the Comptroller, and economic development data from the Governor's Office and other research.

At least 13 manufacturing facilities meeting the investment and employment criteria of the bill have located in Texas from 2004 to 2011. This analysis assumes that 13 projects—locating or expanding in Texas—would enter into Chapter 312 or Chapter 313 agreements before 2017, and would meet the investment and employment criteria. Chapters 312 and 313 both provide for projects to enter into deferred agreements, preserving access to this program beyond 2017. The cost to the state could significantly exceed the estimate contained in this analysis.

Not included in the estimate are any "advanced clean energy" or other large coal or petroleum coke electrical generation projects that likely would be eligible during this time frame. Three such projects currently in the planning stages are assumed to be ineligible for this estimate because the owners have presumably already decided to locate in Texas, or do not meet the minimum employment criteria. Cancellation of proposed nuclear plant expansions would increase the likelihood of other eligible electrical generation projects applying for this program.

Sales taxable activity attributable to the presence of the 13 assumed projects was based on data gathered from a variety of sources, including Comptroller tax files and U.S. Bureau of Economic Analysis regional economic and industry-specific data incorporated into an economic impact model (IMPLAN). For projects where investment and employment data were less comprehensive (i.e., the six assumed non-Tax-Code-Chapter 313 projects), estimated expenditures were modeled after Chapter 313 projects for which information was available. Using project data and IMPLAN, expenditures were adjusted for timing of investment, purchases of exempt machinery and equipment, and the estimated portion of expenditures not subject to the state sales tax. Those figures were multiplied by the state sales tax rate, and adjusted for the 50 percent refund and the five percent or \$50 million "cap" per project, to determine the fiscal impact to the General Revenue Fund 0001.

### **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

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

**LBB Staff:** JOB, AG, SD