LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 4, 2011

TO: Honorable Steve Ogden, Chair, Senate Committee on Finance

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

IN RE: **SB1590** by Ogden (Relating to the Texas Economic Development Act.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1590, As Introduced: a positive impact of $59,665,432 through the biennium ending August 31, 2013.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2012	$28,980,006
2013	$30,685,426
2014	$31,836,488
2015	$30,274,743
2016	$28,654,143

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *General Revenue Fund* 1	Probable Savings/(Cost) from *Foundation School Fund* 193	Change in Number of State Employees from FY 2011
2012	($376,715)	$29,356,721	2.5
2013	($269,840)	$30,955,266	2.5
2014	($270,135)	$32,106,623	2.5
2015	($270,435)	$30,545,178	2.5
2016	($270,745)	$28,924,888	2.5

Fiscal Analysis

The bill would require the Texas Education Agency (TEA) to determine the projected effect on the Foundation School Program of payments to the district for each year of a proposed agreement for value limitation under the Texas Economic Development Act (Chapter 313). The bill would also require the commissioner of education to submit to the Comptroller of Public Accounts (CPA), not later than December 1 of each year, an estimate of the total amount of additional state aid to which a school district is entitled resulting from tax credits authorized by the Act for the school year beginning in that year.

The bill would clarify that the CPA is required to evaluate certain criteria in providing an economic impact evaluation of projects being considered for value limitation under Chapter 313. The bill would provide for an annual reduction in state aid or increase in recapture payments under the Foundation

School Program that is equal to the amount of any supplemental payments received under a Chapter 313 agreement. To the extent that existing agreements are not amended to discontinue supplemental payments, the provision would reduce the state cost of entitlement under the Foundation School Program.

In the event that statewide levy loss due to Chapter 313 agreements exceeded $225 million in any tax year, the bill would establish a proportionate reduction in the amount of the taxable value exempted for the purpose of the Comptroller's property value study.

Parties to agreements entered into after the effective date of the bill would no longer be entitled to tax credits over a period of years for school district taxes paid during the qualifying period on the portion of property subject to Chapter 313 agreements that exceeds the limitation amount. The bill would continue the existing authorization for tax credits for agreements already in effect. Under current law, school districts are entitled to additional state aid equal to the amount of tax credits granted each year. The provisions of the bill would limit state cost for this aid to the obligations related to current agreements.

Methodology

According to the Comptroller's December 2010 report concerning the Texas Economic Development Act, supplemental payment amounts for existing agreements average about $45.5 million per year over the Tax Year 2011-Fiscal Year 2012 through Tax Year 2015-Fiscal Year 2016 period. For the purpose of this estimate, the Comptroller assumed that some school districts and property owners would choose to amend existing agreements to reduce or eliminate supplemental payments. As a result, savings associated with this provision are estimated to represent two-thirds of the supplemental payment amounts reported in December 2010 totaling approximately $29.4 million in fiscal year 2012 increasing to $31.0 million in fiscal year 2013. Because existing agreements typically calculate supplemental payment amounts as a percentage of the tax savings to the company after revenue protection, savings realized under this provision could be reduced if this or other provisions of the bill increase the degree to which revenue protection mechanisms are employed.

The bill would provide a proportionate reduction in property value exemption amounts recognized for the Comptroller's property value study if statewide levy loss associated with properties subject to Chapter 313 agreements exceeded a limit of $225 million. An analysis of data collected by the Comptroller's office in 2010 for the 98 projects in effect as of August 2010 indicates that statewide levy loss as defined by the bill would approach $200 million for tax years 2012 and 2013 but would not exceed the $225 million limit for the tax years affecting the cost of Foundation School Program entitlement for FY12 – FY16. The estimated levy loss was determined using projected school district tax rates and projected values for Chapter 313 properties reported to the state for the purpose of the Comptroller's December 2010 report concerning the Texas Economic Development Act.

While no state impact is estimated at this time under the provision, changes in school district taxing behavior as well as changes in the actual valuation of property subject to Chapter 313 agreements would alter the results of the analysis. Likewise, if there is a dramatic increase in the number or in the value of approved projects before the program expires in December 2014, the levy loss limitation provision could be invoked. In the event that the Comptroller's property value study included reduced exemption amounts, state costs under the Foundation School Program would be affected one fiscal year later. However, the extent and nature of savings in the form of increased recapture, increased local share, and reduced effective rates for enrichment aid would depend on the degree to which property values increased and the specific districts experiencing the increased property values.

This estimate does not include the fiscal impact associated with the repeal of tax credits given the indeterminate nature of future projects and the variables affecting the potential for cost avoidance.

According to the CPA, it would be necessary to hire 2 full-time equivalent (FTE) positions for the assessment and evaluation of Chapter 313 projects as required by the bill. According to TEA, a half-time FTE position would be necessary to fulfill responsibilities relating to payments from the Foundation School Program impacted by Chapter 313 agreements. It is assumed that the cost associated with these FTEs would be approximately $268 thousand in fiscal year 2012, and $254 thousand in each subsequent year.

Technology

TEA estimates that the costs associated with the modification of both the PEIMS data colletion system and the Foundation School Program payment systems required by the bill would total $108,965 in fiscal year 2012. TEA estimates an ongoing annual maintenance cost of $16,345 beginning in fiscal year 2013.

Local Government Impact

As of August 2010, 68 school districts were parties to 98 active agreements under Chapter 313, Tax Code. Under the provisions of the bill, affected school districts would experience a reduction in Foundation School Program state aid or increase in recapture equivalent to the amount of supplemental payments received under Chapter 313 agreements. To the extent that school districts were to maintain some but not all existing agreement provisions relating to supplemental payments, the change in state aid or recapture would be estimated to be about $29.4 million in FY12 and $31.0 million in FY13. Because Chapter 313 agreements also contain provisions requiring property owners to ensure the protection of school district revenues through various mechanisms, changes in local revenue overall may not equal the change in state aid or recapture estimated.

School districts participating in Chapter 313 agreements would be required to report supplemental payment information through PEIMS and to clearly identify supplemental payments within both the district's budget and comprehensive annual financial report. These activities would not be expected to significantly affect school district operating costs.

Source Agencies: 701 Central Education Agency

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