

Amend CSHB 3390 (senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter A-1, Tax Code, as added by this Act, is amended by adding Sections 313.0146 and 313.019 to read as follows:

Sec. 313.0146. PENALTY FOR FAILURE TO COMPLY WITH JOB-CREATION REQUIREMENTS. (a) The comptroller shall conduct an annual review and issue a determination as to whether a person with whom a school district has entered into an agreement under this chapter satisfied in the preceding year the requirements of this chapter regarding the creation of the required number of qualifying jobs. If the comptroller makes an adverse determination in the review:

(1) the comptroller shall notify the person of the cause of the adverse determination and the corrective measures necessary to remedy the determination; and

(2) the person must submit to the comptroller a plan for remedying the determination and certify the person's intent to fully implement the plan not later than December 31 of the year in which the determination is made.

(b) If a person who receives an adverse determination fails to comply with Subsection (a)(2) following notification of the determination and receives an adverse determination in the following year, the comptroller shall impose a penalty on the person. The penalty is in an amount equal to the amount computed by:

(1) subtracting from the number of qualifying jobs required to be created the number of qualifying jobs actually created; and

(2) multiplying the amount computed under Subdivision (1) by:

(A) the average annual wage for all jobs in the county during the most recent four quarters for which data is available, if the penalty is being imposed on the person for the first time; or

(B) twice the average annual wage for all jobs in

the county during the most recent four quarters for which data is available, if the penalty has previously been imposed on the person.

(c) Notwithstanding Subsection (b), the penalty may not exceed an amount equal to the difference between the amount of the ad valorem tax benefit received by the person under the agreement in the preceding year and the amount of any supplemental payments made to the school district in that year.

(d) A job created by a person that is not a qualifying job because the job does not meet a numerical requirement of Section 313.0045(a)(3)(A), (D), or (E) is considered for purposes of this section to be a nonqualifying job only if the job fails to meet the numerical requirement by at least 10 percent.

(e) An adverse determination under this section is a deficiency determination under Section 111.008. A penalty imposed under this section is an amount the comptroller is required to collect, receive, administer, or enforce, and the determination is subject to the payment and redetermination requirements of Sections 111.0081 and 111.009.

(f) A redetermination under Section 111.009 of an adverse determination under this section is a contested case as defined by Section 2001.003, Government Code.

(g) If a person on whom a penalty is imposed under this section contends that the amount of the penalty is unlawful or that the comptroller may not legally demand or collect the penalty, the person may challenge the determination of the comptroller under Subchapters A and B, Chapter 112.

(h) If the comptroller imposes a penalty on a person under this section three times, the comptroller may rescind the agreement between the person and the school district under this chapter.

(i) A determination by the comptroller to rescind an agreement between a person and a school district under this chapter pursuant to Subsection (h) is a contested case as defined by Section 2001.003, Government Code.

(j) If a person appeals a final decision of the comptroller to rescind an agreement between a person and a school district under this chapter pursuant to Subsection (h) and that decision is upheld

on appeal, the person shall pay to the comptroller any tax that would have been due and payable to the school district during the pendency of the appeal, including statutory interest and penalties imposed on delinquent taxes under Sections 111.060 and 111.061.

(k) The comptroller shall deposit a penalty collected under this section, including any interest and penalty applicable to the penalty, to the credit of the foundation school fund.

Sec. 313.019. REPORT ON COMPLIANCE WITH JOB-CREATION REQUIREMENTS. Each recipient of a limitation on appraised value under this chapter shall submit to the comptroller an annual report on a form provided by the comptroller that provides information sufficient for the comptroller to determine whether the applicant is creating the number of new qualifying jobs required by this chapter.