

By: Murphy

H.B. No. 2467

A BILL TO BE ENTITLED

AN ACT

relating to the Texas Economic Development Act; authorizing a fee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 313.002, 313.004, and 313.007, Tax Code, are amended to read as follows:

Sec. 313.002. FINDINGS. The legislature finds that:

(1) many states have enacted aggressive economic development laws designed to attract large employers, create jobs, and strengthen their economies;

(2) given Texas' relatively high property taxes, it is difficult for the state to compete for new capital projects without some kind of temporary limit on ad valorem taxes imposed on new capital investments [~~the State of Texas has slipped in its national ranking each year between 1993 and 2000 in terms of attracting major new manufacturing facilities to this state~~];

(3) a significant portion of the Texas economy continues to be based in [~~the~~] manufacturing and other capital-intensive industries [~~industry~~], and their [~~the~~] continued growth and overall health [~~of the manufacturing sector~~] serves the Texas economy well;

(4) without a vibrant, strong manufacturing sector, other sectors of the economy, especially the state's service sector, will also suffer adverse consequences; and

(5) the current property tax system of this state does

1 not favor capital-intensive businesses such as manufacturers.

2 Sec. 313.004. LEGISLATIVE INTENT. It is the intent of the
3 legislature in enacting this chapter that:

4 (1) economic development decisions should occur at the
5 local level and be consistent with identifiable statewide economic
6 development goals;

7 (2) this chapter should not be construed or
8 interpreted to allow:

9 (A) property owners to pool investments to create
10 sufficiently large investments to qualify for an ad valorem tax
11 benefit or financial benefit provided by this chapter;

12 (B) an applicant for an ad valorem tax benefit or
13 financial benefit provided by this chapter to assert that jobs will
14 be eliminated if certain investments are not made if the assertion
15 is not true; or

16 (C) an entity not subject to the franchise tax
17 imposed by Chapter 171 because of its form of business [~~a sole~~
18 ~~proprietorship, partnership, or limited liability partnership~~] to
19 receive an ad valorem tax benefit or financial benefit provided by
20 this chapter; and

21 (3) in implementing this chapter, school districts
22 should:

23 (A) strictly interpret the criteria and
24 selection guidelines provided by this chapter; and

25 (B) approve only those applications for an ad
26 valorem tax benefit or financial benefit provided by this chapter
27 that:

- 1 (i) enhance the local community;
2 (ii) improve the local public education
3 system;
4 (iii) create high-paying jobs; and
5 (iv) advance the economic development goals
6 of this state as identified by the Texas Strategic Economic
7 Development Planning Commission or its successor.

8 Sec. 313.007. EXPIRATION. Subchapters B and [7] C [~~7~~ and ~~D~~]
9 expire December 31, 2024 [~~2014~~].

10 SECTION 2. Section 313.021, Tax Code, is amended by
11 amending Subdivisions (1) and (3) and adding Subdivisions (6) and
12 (7) to read as follows:

13 (1) "Qualified investment" means:

14 (A) tangible personal property that is first
15 placed in service in this state during the applicable qualifying
16 time period that begins on or after January 1, 2002, without regard
17 to whether the property is affixed to or incorporated into real
18 property, and that is described as Section 1245 property by Section
19 1245(a), Internal Revenue Code of 1986;

20 (B) tangible personal property that is first
21 placed in service in this state during the applicable qualifying
22 time period that begins on or after January 1, 2002, without regard
23 to whether the property is affixed to or incorporated into real
24 property, and that is used in connection with the manufacturing,
25 processing, or fabrication in a cleanroom environment of a
26 semiconductor product, without regard to whether the property is
27 actually located in the cleanroom environment, including:

1 (i) integrated systems, fixtures, and
2 piping;

3 (ii) all property necessary or adapted to
4 reduce contamination or to control airflow, temperature, humidity,
5 chemical purity, or other environmental conditions or
6 manufacturing tolerances; and

7 (iii) production equipment and machinery,
8 moveable cleanroom partitions, and cleanroom lighting;

9 (C) tangible personal property that is first
10 placed in service in this state during the applicable qualifying
11 time period that begins on or after January 1, 2002, without regard
12 to whether the property is affixed to or incorporated into real
13 property, and that is used in connection with the operation of a
14 nuclear electric power generation facility, including:

15 (i) property, including pressure vessels,
16 pumps, turbines, generators, and condensers, used to produce
17 nuclear electric power; and

18 (ii) property and systems necessary to
19 control radioactive contamination;

20 (D) tangible personal property that is first
21 placed in service in this state during the applicable qualifying
22 time period that begins on or after January 1, 2002, without regard
23 to whether the property is affixed to or incorporated into real
24 property, and that is used in connection with operating an
25 integrated gasification combined cycle electric generation
26 facility, including:

27 (i) property used to produce electric power

1 by means of a combined combustion turbine and steam turbine
2 application using synthetic gas or another product produced by the
3 gasification of coal or another carbon-based feedstock; or

4 (ii) property used in handling materials to
5 be used as feedstock for gasification or used in the gasification
6 process to produce synthetic gas or another carbon-based feedstock
7 for use in the production of electric power in the manner described
8 by Subparagraph (i);

9 (E) tangible personal property that is first
10 placed in service in this state during the applicable qualifying
11 time period that begins on or after January 1, 2010, without regard
12 to whether the property is affixed to or incorporated into real
13 property, and that is used in connection with operating an advanced
14 clean energy project, as defined by Section 382.003, Health and
15 Safety Code; ~~or~~

16 (F) a building or a permanent, nonremovable
17 component of a building that is built or constructed during the
18 applicable qualifying time period that begins on or after January
19 1, 2002, and that houses tangible personal property described by
20 Paragraph (A), (B), (C), (D), or (E); or

21 (G) a building or a permanent, nonremovable
22 component of a building that, as part of a discrete project that
23 increases the value of the building or component, is renovated,
24 expanded, or otherwise improved during the applicable qualifying
25 time period that begins on or after January 1, 2014, and that houses
26 tangible personal property described by Paragraph (A), (B), (C),
27 (D), or (E).

1 (3) "Qualifying job" means a permanent full-time job
2 that:

3 (A) requires at least 1,600 hours of work a year;

4 (B) is not transferred from one area in this
5 state to another area in this state;

6 (C) is not created to replace a previous
7 employee;

8 (D) is covered by a group health benefit plan
9 that complies with the Patient Protection and Affordable Care Act
10 (Pub. L. No. 111-148) as amended by the Health Care and Education
11 Reconciliation Act of 2010 (Pub. L. No. 111-152) [~~for which the~~
12 ~~business offers to pay at least 80 percent of the premiums or other~~
13 ~~charges assessed for employee-only coverage under the plan,~~
14 ~~regardless of whether an employee may voluntarily waive the~~
15 ~~coverage]; and~~

16 (E) pays at least 110 percent of:

17 (i) the county average weekly wage for
18 manufacturing jobs in the county where the job is located; or

19 (ii) the county average weekly wage for all
20 jobs in the county where the job is located, if the property owner
21 creates more than 1,000 jobs in that county.

22 (6) "Strategic investment area" means an area the
23 comptroller determines under Section 313.051 is:

24 (A) a county within this state with above average
25 unemployment and below average per capita income;

26 (B) an area within this state that is a federally
27 designated urban enterprise community or an urban enhanced

1 enterprise community; or

2 (C) a defense economic readjustment zone
3 designated under Chapter 2310, Government Code.

4 (7) "Texas priority project" means a project on which
5 the applicant has committed to expend or allocate a qualified
6 investment of more than \$1 billion and that the governor has
7 certified in a letter provided to the applicant is in the best
8 interest of the economy.

9 SECTION 3. Sections 313.024(a) and (b), Tax Code, are
10 amended to read as follows:

11 (a) This subchapter and Subchapter [~~Subchapters~~] C [~~and D~~]
12 apply only to property owned by an entity to which Chapter 171
13 applies.

14 (b) To be eligible for a limitation on appraised value under
15 this subchapter, the entity must use the property for [~~in~~
16 ~~connection with~~]:

- 17 (1) manufacturing;
- 18 (2) research and development;
- 19 (3) a clean coal project, as defined by Section 5.001,
20 Water Code;
- 21 (4) an advanced clean energy project, as defined by
22 Section 382.003, Health and Safety Code;
- 23 (5) renewable energy electric generation;
- 24 (6) electric power generation using integrated
25 gasification combined cycle technology;
- 26 (7) nuclear electric power generation; [~~or~~]
- 27 (8) a data [~~computer~~] center; or

1 (9) a Texas priority project [~~primarily used in~~
2 ~~connection with one or more activities described by Subdivisions~~
3 ~~(1) through (7) conducted by the entity~~].

4 SECTION 4. Section 313.024(e)(6), Tax Code, is amended to
5 read as follows:

6 (6) "Data [Computer] center" means an establishment
7 primarily engaged in:

8 (A) data processing, hosting, and related
9 services described by industry code 518210 of the North American
10 Industry Classification System;

11 (B) an Internet activity described by industry
12 code 519130 of the North American Industry Classification System;
13 or

14 (C) computer software publishing and
15 reproduction described by industry code 511210 of the North
16 American Industry Classification System [~~providing electronic data~~
17 ~~processing and information storage~~].

18 SECTION 5. Section 313.025(b-1), Tax Code, is amended to
19 read as follows:

20 (b-1) The comptroller shall indicate on one copy of the
21 application the date the comptroller received the application and
22 deliver that copy to the Texas Education Agency. The Texas
23 Education Agency shall determine the effect that the applicant's
24 proposal will have on the number or size of the school district's
25 instructional facilities, as required to be included in the
26 economic impact evaluation by Section 313.026(a)(11)
27 [~~313.026(a)(9)~~], and submit a written report containing the

1 agency's determination to the comptroller. The governing body of
2 the school district shall provide any requested information to the
3 Texas Education Agency. Not later than the 45th day after the date
4 the application indicates that the comptroller received the
5 application, the Texas Education Agency shall make the required
6 determination and submit the agency's written report to the
7 comptroller. A third person contracted by the comptroller to
8 conduct an economic impact evaluation of an application is not
9 required to make a determination that the Texas Education Agency is
10 required to make and report to the comptroller under this
11 subsection.

12 SECTION 6. Section 313.026, Tax Code, is amended to read as
13 follows:

14 Sec. 313.026. ECONOMIC IMPACT EVALUATION. (a) The
15 economic impact evaluation of the application must include the
16 following:

- 17 (1) the recommendations of the comptroller;
- 18 (2) the name of the school district;
- 19 (3) the name of the applicant;
- 20 (4) a description of the general nature of the
21 applicant's investment;
- 22 (5) ~~[the relationship between the applicant's industry~~
23 ~~and the types of qualifying jobs to be created by the applicant to~~
24 ~~the long-term economic growth plans of this state as described in~~
25 ~~the strategic plan for economic development submitted by the Texas~~
26 ~~Strategic Economic Development Planning Commission under Section~~
27 ~~481.033, Government Code, as that section existed before February~~

1 ~~1, 1999,~~

2 ~~[(6)]~~ the amount ~~[relative level]~~ of the applicant's
3 intended investment ~~[per qualifying job to be created by the~~
4 ~~applicant]~~;

5 (6) ~~[(7)]~~ the number of qualifying construction and
6 operations jobs to be created by the applicant;

7 (7) ~~[(8)]~~ the wages, salaries, and benefits to be
8 offered by the applicant to qualifying job holders;

9 (8) ~~[(9)]~~ the ability of the applicant to locate or
10 relocate in another state or another region of this state;

11 (9) ~~[(10)]~~ the fiscal impact the project will have on
12 this state and individual local units of government, including:

13 (A) tax and other revenue gains, direct and
14 otherwise ~~[or indirect]~~, that would be realized during the
15 qualifying time period, the limitation period, and a period of time
16 after the limitation period considered appropriate by the
17 comptroller; and

18 (B) economic effects of the project, including
19 the impact on jobs and income, direct and otherwise, during the
20 qualifying time period, the limitation period, and a period of time
21 after the limitation period considered appropriate by the
22 comptroller;

23 (10) ~~[(11)]~~ the economic condition of the region of
24 the state at the time the person's application is being considered;

25 (11) ~~[(12) the number of new facilities built or~~
26 ~~expanded in the region during the two years preceding the date of~~
27 ~~the application that were eligible to apply for a limitation on~~

1 ~~appraised value under this subchapter;~~

2 ~~[(13)]~~ the effect of the applicant's proposal, if
3 approved, on the number or size of the school district's
4 instructional facilities, as defined by Section 46.001, Education
5 Code;

6 (12) ~~[(14) the projected market value of the~~
7 ~~qualified property of the applicant as determined by the~~
8 ~~comptroller;~~

9 ~~[(15) the proposed limitation on appraised value for~~
10 ~~the qualified property of the applicant;~~

11 ~~[(16) the projected dollar amount of the taxes that~~
12 ~~would be imposed on the qualified property, for each year of the~~
13 ~~agreement, if the property does not receive a limitation on~~
14 ~~appraised value with assumptions of the projected appreciation or~~
15 ~~depreciation of the investment and projected tax rates clearly~~
16 ~~stated;~~

17 ~~[(17) the projected dollar amount of the taxes that~~
18 ~~would be imposed on the qualified property, for each tax year of the~~
19 ~~agreement, if the property receives a limitation on appraised value~~
20 ~~with assumptions of the projected appreciation or depreciation of~~
21 ~~the investment clearly stated;~~

22 ~~[(18)]~~ the projected effect on the Foundation School
23 Program of payments to the district for each year of the agreement;
24 and

25 (13) the other states, if any, in which the applicant
26 is considering locating the project ~~[(19) the projected future tax~~
27 ~~credits if the applicant also applies for school tax credits under~~

1 ~~Section 313.103, and~~

2 ~~[(20) the total amount of taxes projected to be lost or~~
3 ~~gained by the district over the life of the agreement computed by~~
4 ~~subtracting the projected taxes stated in Subdivision (17) from the~~
5 ~~projected taxes stated in Subdivision (16)].~~

6 (b) The comptroller's recommendations shall be based on the
7 criteria listed in Subsection (a) [~~Subsections (a)(5)-(20)~~] and on
8 any other information available to the comptroller, including
9 information provided by the governing body of the school district
10 under Section 313.025(b).

11 SECTION 7. Section 313.0265(b), Tax Code, is amended to
12 read as follows:

13 (b) The comptroller shall designate the following as
14 substantive:

15 (1) each application requesting a limitation on
16 appraised value; and

17 (2) the economic impact evaluation made in connection
18 with the application[~~, and~~

19 [~~(3) each application requesting school tax credits~~
20 ~~under Section 313.103].~~

21 SECTION 8. Sections 313.027(a), (h), and (i), Tax Code, are
22 amended to read as follows:

23 (a) If the person's application is approved by the governing
24 body of the school district, for each of the first 10 [~~eight~~] tax
25 years that begin after the applicable qualifying time period, the
26 appraised value for school district maintenance and operations ad
27 valorem tax purposes of the person's qualified property as

1 described in the agreement between the person and the district
2 entered into under this section in the school district may not
3 exceed the lesser of:

4 (1) the market value of the property; or

5 (2) subject to Subsection (b), the amount agreed to by
6 the governing body of the school district.

7 (h) The agreement between the governing body of the school
8 district and the applicant may provide for a deferral of the date on
9 which the qualifying time period for the project is to commence or,
10 subsequent to the date the agreement is entered into, be amended to
11 provide for such a deferral. The agreement may not provide for the
12 deferral of the date on which the qualifying time period is to
13 commence to a date later than January 1 of the fourth tax year
14 beginning after the date the application is approved. This
15 subsection may not be construed to permit a qualifying time period
16 that has commenced to continue for more than the number of years
17 applicable to the project under Section 313.021(4).

18 (i) A person and the school district may not enter into an
19 agreement if in conjunction with the agreement any payments or
20 other benefits are to be provided by or on behalf of the person in
21 recognition or anticipation of, or in consideration for, the
22 district entering into the agreement, other than payments or
23 benefits authorized under Subsection (f)(1) or (2) ~~[under which the~~
24 ~~person agrees to provide supplemental payments to a school district~~
25 ~~in an amount that exceeds an amount equal to \$100 per student per~~
26 ~~year in average daily attendance, as defined by Section 42.005,~~
27 ~~Education Code, or for a period that exceeds the period beginning~~

1 ~~with the period described by Section 313.021(4) and ending with the~~
2 ~~period described by Section 313.104(2)(B) of this code. This limit~~
3 ~~does not apply to amounts described by Subsection (f)(1) or (2) of~~
4 ~~this section].~~

5 SECTION 9. Section 313.0275, Tax Code, is amended by adding
6 Subsection (d) to read as follows:

7 (d) In the event of a casualty loss that prevents a person
8 from complying with Subsection (a), the person may request and the
9 comptroller may grant a waiver of the penalty imposed under
10 Subsection (b).

11 SECTION 10. Section 313.031, Tax Code, is amended by
12 amending Subsection (a) and adding Subsection (a-1) to read as
13 follows:

14 (a) The comptroller shall:

15 (1) adopt rules and forms necessary for the
16 implementation and administration of this chapter, including rules
17 for determining whether a property owner's property qualifies as a
18 qualified investment under Section 313.021(1); and

19 (2) provide without charge one copy of the rules and
20 forms to any school district and to any person who states that the
21 person intends to apply for a limitation on appraised value under
22 this subchapter ~~[or a tax credit under Subchapter D].~~

23 (a-1) The comptroller by official action may establish
24 reasonable nonrefundable fees to be paid by property owners who
25 apply to a school district for a limitation on the value of the
26 person's property under this subchapter. The amount of a fee must
27 be reasonable and may not exceed the estimated cost to the

1 comptroller of preparing the report required by Section 313.032.

2 SECTION 11. Section 313.032, Tax Code, is amended by
3 amending Subsections (a) and (c) and adding Subsection (b-1) to
4 read as follows:

5 (a) Before the beginning of each regular session of the
6 legislature, the comptroller shall submit to the lieutenant
7 governor, the speaker of the house of representatives, and each
8 other member of the legislature a report on the agreements entered
9 into under this chapter that includes:

10 (1) an assessment of the following with regard to the
11 agreements entered into under this chapter, considered in the
12 aggregate:

13 (A) the total number of jobs created, direct and
14 otherwise, in this state;

15 (B) the total effect on personal income, direct
16 and otherwise, in this state;

17 (C) the effect, direct and otherwise, on the
18 total amount of investment in this state;

19 (D) the effect, direct and otherwise, on the
20 total taxable value of property on the tax rolls in this state,
21 including property for which the limitation period has expired;

22 (E) the total value of property not on the tax
23 rolls in this state as a result of agreements entered into under
24 this chapter; and

25 (F) the total fiscal effect, direct and
26 otherwise, on the state and local governments; and

27 (2) an assessment of [~~assessing~~] the progress of each

1 agreement made under this chapter that states [~~. The report must be~~
2 ~~based on data certified to the comptroller by each recipient of a~~
3 ~~limitation on appraised value under this subchapter and state]~~ for
4 each agreement:

5 (A) [~~(1)~~] the number of new [~~qualifying~~] jobs
6 each recipient of a limitation on appraised value committed to
7 create;

8 (B) [~~(2)~~] the number of new [~~qualifying~~] jobs
9 each recipient created;

10 (C) [~~(3)~~] the total amount of wages [~~median wage~~]
11 of the new jobs each recipient created;

12 (D) [~~(4)~~] the amount of the qualified investment
13 each recipient committed to spend or allocate for each project;

14 (E) [~~(5)~~] the amount of the [~~qualified~~]
15 investment each recipient spent or allocated for each project;

16 (F) [~~(6)~~] the market value of the [~~qualified~~]
17 property of each recipient as determined by the applicable chief
18 appraiser, including property that is no longer eligible for a
19 limitation on appraised value under the agreement;

20 (G) [~~(7)~~] the limitation on appraised value for
21 the qualified property of each recipient; and

22 (H) [~~(8)~~] ~~the dollar amount of the taxes that~~
23 ~~would have been imposed on the qualified property if the property~~
24 ~~had not received a limitation on appraised value,~~

25 [~~(9)~~] the dollar amount of the taxes imposed on the
26 qualified property[~~,~~

27 [~~(10)~~] ~~the number of new jobs created by each recipient~~

1 ~~in each sector of the North American Industry Classification~~
2 ~~System; and~~

3 ~~[(11) of the number of new jobs each recipient~~
4 ~~created, the number of jobs created that provide health benefits~~
5 ~~for employees].~~

6 (b-1) In preparing the portion of the report described by
7 Subsection (a)(1), the comptroller may use standard economic
8 estimation techniques, including economic multipliers.

9 (c) The portion of the report described by Subsection (a)(2)
10 must be based on data certified to the comptroller by each recipient
11 of a limitation on appraised value under this chapter. The
12 comptroller may require a recipient to submit, on a form the
13 comptroller provides, information required to complete the portion
14 of the report described by that subdivision.

15 SECTION 12. Section 313.051, Tax Code, is amended by
16 amending Subsection (a) and adding Subsections (a-2), (a-3), and
17 (a-4) to read as follows:

18 (a) This subchapter applies only to a school district that
19 has territory in:

20 (1) an area that qualifies ~~[qualified]~~ as a strategic
21 investment area ~~[under Subchapter O, Chapter 171, immediately~~
22 ~~before that subchapter expired]; or~~

23 (2) a county:

24 (A) that has a population of less than 50,000;
25 and

26 (B) in which, ~~[from 1990 to 2000,]~~ according to
27 the most recent federal decennial census as compared to the

1 preceding census, the population:

2 (i) remained the same;

3 (ii) decreased; or

4 (iii) increased, but at a rate of not more
5 than three percent per annum.

6 (a-2) Not later than September 1 of each year, the
7 comptroller shall determine areas that qualify as a strategic
8 investment area using the most recently completed full calendar
9 year data available on that date and, not later than October 1,
10 shall publish a list and map of the designated areas.

11 (a-3) A determination under Subsection (a-2) is effective
12 for the following tax year for purposes of this subchapter.

13 (a-4) Notwithstanding Subsection (a)(1), a person who
14 enters into an agreement with a school district to which Subsection
15 (a)(1) applied at the time the person and the school district
16 entered into the agreement is eligible to receive a limitation on
17 appraised value under this subchapter in accordance with the terms
18 of the agreement regardless of whether the district ceases to be
19 described by Subsection (a)(1) after the date the person and the
20 district entered into the agreement.

21 SECTION 13. The heading to Subchapter E, Chapter 313, Tax
22 Code, is amended to read as follows:

23 SUBCHAPTER E. AVAILABILITY OF TAX CREDIT AFTER PROGRAM EXPIRES OR
24 IS REPEALED

25 SECTION 14. Section 313.171(b), Tax Code, is amended to
26 read as follows:

27 (b) The repeal [~~expiration~~] of Subchapter D does not affect

1 a property owner's entitlement to a tax credit granted under
2 Subchapter D if the property owner qualified for the tax credit
3 before the repeal [~~expiration~~] of Subchapter D.

4 SECTION 15. Section 42.2515(a), Education Code, is amended
5 to read as follows:

6 (a) For each school year, a school district, including a
7 school district that is otherwise ineligible for state aid under
8 this chapter, is entitled to state aid in an amount equal to the
9 amount of all tax credits credited against ad valorem taxes of the
10 district in that year under former Subchapter D, Chapter 313, Tax
11 Code.

12 SECTION 16. Section 42.302(e), Education Code, is amended
13 to read as follows:

14 (e) For purposes of this section, school district taxes for
15 which credit is granted under former Subchapter D, Chapter 313, Tax
16 Code, are considered taxes collected by the school district as if
17 the taxes were paid when the credit for the taxes was granted.

18 SECTION 17. The following provisions of the Tax Code are
19 repealed:

- 20 (1) Sections 313.008 and 313.009; and
21 (2) Subchapter D, Chapter 313.

22 SECTION 18. Chapter 313, Tax Code, as amended by this Act,
23 applies only to an application filed under that chapter on or after
24 the effective date of this Act. An application filed under that
25 chapter before the effective date of this Act is governed by the law
26 in effect on the date the application was filed, and the former law
27 is continued in effect for that purpose.

1 SECTION 19. The comptroller shall make the initial
2 determination under Section 313.051(a-2), Tax Code, as added by
3 this Act, not later than September 1, 2014, and shall publish the
4 initial list and map required by that subsection not later than
5 October 1, 2014.

6 SECTION 20. This Act takes effect September 1, 2013.