

AN ACT

relating to the Texas Economic Development Act; imposing a penalty.

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

SECTION 1. Sections 313.002, 313.003, 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 ad valorem taxes, it is difficult for the state to compete for new capital projects without temporarily limiting 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 serve [~~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 ad valorem [~~property~~] tax system of

1 this state does not favor capital-intensive businesses such as
2 manufacturers.

3 Sec. 313.003. PURPOSES. The purposes of this chapter are
4 to:

5 (1) encourage large-scale capital investments in this
6 state~~[, especially in school districts that have an ad valorem tax~~
7 ~~base that is less than the statewide average ad valorem tax base of~~
8 ~~school districts in this state]~~;

9 (2) create new, high-paying jobs in this state;

10 (3) attract to this state ~~[new,]~~ large-scale
11 businesses that are exploring opportunities to locate in other
12 states or other countries;

13 (4) enable state and local government officials and
14 economic development professionals to compete with other states by
15 authorizing economic development incentives that are comparable to
16 ~~[meet or exceed]~~ incentives being offered to prospective employers
17 by other states and to provide state and local officials with an
18 effective means to attract large-scale investment;

19 (5) strengthen and improve the overall performance of
20 the economy of this state;

21 (6) expand and enlarge the ad valorem ~~[property]~~ tax
22 base of this state; and

23 (7) enhance this state's economic development efforts
24 by providing state and local officials ~~[school districts]~~ with an
25 effective ~~[local]~~ economic development tool ~~[option]~~.

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

1 (1) economic development decisions involving school
2 district taxes should occur at the local level with oversight by the
3 state and should be consistent with identifiable statewide economic
4 development goals;

5 (2) this chapter should not be construed or
6 interpreted to allow:

7 (A) property owners to pool investments to create
8 sufficiently large investments to qualify for an ad valorem tax
9 benefit [~~or financial benefit~~] provided by this chapter;

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

14 (C) an entity not subject to the tax imposed by
15 Chapter 171 [~~a sole proprietorship, partnership, or limited~~
16 ~~liability partnership~~] to receive an ad valorem tax benefit [~~or~~
17 ~~financial benefit~~] provided by this chapter; [~~and~~]

18 (3) in implementing this chapter, school districts
19 should:

20 (A) strictly interpret the criteria and
21 selection guidelines provided by this chapter; and

22 (B) approve only those applications for an ad
23 valorem tax benefit [~~or financial benefit~~] provided by this chapter
24 that:

25 (i) enhance the local community;

26 (ii) improve the local public education
27 system;

1 (iii) create high-paying jobs; and
2 (iv) advance the economic development goals
3 of this state; and

4 (4) in implementing this chapter, the comptroller
5 should:

6 (A) strictly interpret the criteria and
7 selection guidelines provided by this chapter; and

8 (B) issue certificates for limitations on
9 appraised value only for those applications for an ad valorem tax
10 benefit provided by this chapter that:

11 (i) create high-paying jobs;

12 (ii) provide a net benefit to the state over
13 the long term; and

14 (iii) advance the economic development
15 goals of this state [~~as identified by the Texas Strategic Economic~~
16 ~~Development Planning Commission~~].

17 Sec. 313.007. EXPIRATION. Subchapters B and [~~7~~] C [~~7~~, ~~and D~~]
18 expire December 31, 2022 [~~2014~~].

19 SECTION 2. Subchapter A, Chapter 313, Tax Code, is amended
20 by adding Section 313.010 to read as follows:

21 Sec. 313.010. AUDIT OF AGREEMENTS BY STATE AUDITOR. (a)
22 Each year, the state auditor shall review at least three major
23 agreements, as determined by the state auditor, under this chapter
24 to determine whether:

25 (1) each agreement accomplishes the purposes of this
26 chapter as expressed in Section 313.003;

27 (2) each agreement complies with the intent of the

1 legislature in enacting this chapter as expressed in Section
2 313.004; and

3 (3) the terms of each agreement were executed in
4 compliance with the terms of this chapter.

5 (b) As part of the review, the state auditor shall make
6 recommendations relating to increasing the efficiency and
7 effectiveness of the administration of this chapter.

8 SECTION 3. Sections 313.021(2) and (3), Tax Code, are
9 amended to read as follows:

10 (2) "Qualified property" means:

11 (A) land:

12 (i) that is located in an area designated as
13 a reinvestment zone under Chapter 311 or 312 or as an enterprise
14 zone under Chapter 2303, Government Code;

15 (ii) on which a person proposes to
16 construct a new building or erect or affix a new improvement that
17 does not exist before the date the person submits a complete
18 application [~~applies~~] for a limitation on appraised value under
19 this subchapter;

20 (iii) that is not subject to a tax abatement
21 agreement entered into by a school district under Chapter 312; and

22 (iv) on which, in connection with the new
23 building or new improvement described by Subparagraph (ii), the
24 owner or lessee of, or the holder of another possessory interest in,
25 the land proposes to:

26 (a) make a qualified investment in an
27 amount equal to at least the minimum amount required by Section

1 313.023; and

2 (b) create at least 25 new qualifying
3 jobs;

4 (B) the new building or other new improvement
5 described by Paragraph (A)(ii); and

6 (C) tangible personal property that:

7 (i) is not subject to a tax abatement
8 agreement entered into by a school district under Chapter 312; and

9 (ii) except for new equipment described in
10 Section 151.318(q) or (q-1), is first placed in service in the new
11 building, in the newly expanded building, or in or on the new
12 improvement described by Paragraph (A)(ii), or on the land on which
13 that new building or new improvement is located, if the personal
14 property is ancillary and necessary to the business conducted in
15 that new building or in or on that new improvement.

16 (3) "Qualifying job" means a permanent full-time job
17 that:

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

19 (B) is not transferred from one area in this
20 state to another area in this state;

21 (C) is not created to replace a previous
22 employee;

23 (D) is covered by a group health benefit plan for
24 which the business offers to pay at least 80 percent of the premiums
25 or other charges assessed for employee-only coverage under the
26 plan, regardless of whether an employee may voluntarily waive the
27 coverage; and

1 (E) pays at least 110 percent of ~~[+~~
2 ~~[(i)]~~ the county average weekly wage for
3 manufacturing jobs in the county where the job is located ~~[+ or~~
4 ~~[(ii) the county average weekly wage for~~
5 ~~all jobs in the county where the job is located, if the property~~
6 ~~owner creates more than 1,000 jobs in that county]~~.

7 (F) In determining whether a property owner has created the
8 number of qualifying jobs required under this chapter, operations,
9 services and other related jobs created in connection with the
10 project, including those employed by third parties under contract,
11 may satisfy the minimum qualifying jobs requirement for the project
12 if the Texas Workforce Commission determines that the cumulative
13 economic benefits to the state of these jobs is the same or greater
14 than that associated with the minimum number of qualified jobs
15 required to be created under this chapter. The Texas Workforce
16 Commission may adopt rules to implement this subsection.

17 SECTION 4. Section 313.024, Tax Code, is amended by
18 amending Subsections (a), (b), and (d) and adding Subsection (d-2)
19 to read as follows:

20 (a) This subchapter and Subchapter ~~[Subchapters]~~ C ~~[and D]~~
21 apply only to property owned by an entity subject to the tax imposed
22 by ~~[which]~~ Chapter 171 ~~[applies]~~.

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

- 26 (1) manufacturing;
27 (2) research and development;

- 1 (3) a clean coal project, as defined by Section 5.001,
2 Water Code;
- 3 (4) an advanced clean energy project, as defined by
4 Section 382.003, Health and Safety Code;
- 5 (5) renewable energy electric generation;
- 6 (6) electric power generation using integrated
7 gasification combined cycle technology;
- 8 (7) nuclear electric power generation; ~~[or]~~
- 9 (8) a computer center primarily used in connection
10 with one or more activities described by Subdivisions (1) through
11 (7) conducted by the entity; or
- 12 (9) a Texas priority project.

13 (d) To be eligible for a limitation on appraised value under
14 this subchapter, the property owner must create the required number
15 of new ~~[at least 80 percent of all the new jobs created by the~~
16 ~~property owner must be]~~ qualifying jobs as defined by Section
17 313.021(3) and the average weekly wage for all jobs created by the
18 owner that are not qualifying jobs must exceed the county average
19 weekly wage for all jobs in the county where the jobs are located.

20 (d-2) For purposes of determining whether a property owner
21 has created the number of new qualifying jobs required for
22 eligibility for a limitation on appraised value under this
23 subchapter, the new qualifying jobs created under an agreement
24 between the property owner and another school district may be
25 included in the total number of new qualifying jobs created in
26 connection with the project if the Texas Economic Development and
27 Tourism Office determines that the projects covered by the

1 agreements constitute a single unified project. The Texas Economic
2 Development and Tourism Office may adopt rules to implement this
3 subsection.

4 SECTION 5. Section 313.024(e), Tax Code, is amended by
5 adding Subdivision (7) to read as follows:

6 (7) "Texas priority project" means a project on which
7 the applicant has committed to expend or allocate a qualified
8 investment of more than \$1 billion.

9 SECTION 6. Sections 313.025(a), (a-1), (b), (b-1), (c),
10 (d), (d-1), (e), (g), and (i), Tax Code, are amended to read as
11 follows:

12 (a) The owner or lessee of, or the holder of another
13 possessory interest in, any qualified property described by Section
14 313.021(2)(A), (B), or (C) may apply to the governing body of the
15 school district in which the property is located for a limitation on
16 the appraised value for school district maintenance and operations
17 ad valorem tax purposes of the person's qualified property. An
18 application must be made on the form prescribed by the comptroller
19 and include the information required by the comptroller, and it
20 must be accompanied by:

21 (1) the application fee established by the governing
22 body of the school district;

23 (2) information sufficient to show that the real and
24 personal property identified in the application as qualified
25 property meets the applicable criteria established by Section
26 313.021(2); and

27 (3) any information required by the comptroller for

1 the purposes of [~~relating to each applicable criterion listed in~~]
2 Section 313.026.

3 (a-1) Within seven days of the receipt of each document, the
4 school district shall submit to the comptroller a copy of the
5 application and the proposed agreement between the applicant and
6 the school district. If the applicant submits an economic analysis
7 of the proposed project [~~is submitted~~] to the school district, the
8 district shall submit a copy of the analysis to the comptroller. In
9 addition, the school district shall submit to the comptroller any
10 subsequent revision of or amendment to any of those documents
11 within seven days of its receipt. The comptroller shall publish
12 each document received from the school district under this
13 subsection on the comptroller's Internet website. If the school
14 district maintains a generally accessible Internet website, the
15 district shall provide on its website a link to the location of
16 those documents posted on the comptroller's website in compliance
17 with this subsection. This subsection does not require the
18 comptroller to post information that is confidential under Section
19 313.028.

20 (b) The governing body of a school district is not required
21 to consider an application for a limitation on appraised value
22 [~~that is filed with the governing body under Subsection (a)~~]. If
23 the governing body of the school district elects [~~does elect~~] to
24 consider an application, the governing body shall deliver a copy
25 [~~three copies~~] of the application to the comptroller and request
26 that the comptroller conduct [~~provide~~] an economic impact
27 evaluation of the investment proposed by the application. The [~~te~~

1 ~~the school district. Except as provided by Subsection (b-1), the]~~
2 comptroller shall conduct or contract with a third person to
3 conduct the economic impact evaluation, which shall be completed
4 and provided to the governing body of the school district, along
5 with the comptroller's certificate or written explanation under
6 Subsection (d), as soon as practicable but not later than the 90th
7 day after the date the comptroller receives the application. The
8 governing body shall provide to the comptroller or to a third person
9 contracted by the comptroller to conduct the economic impact
10 evaluation any requested information. A methodology to allow
11 comparisons of economic impact for different schedules of the
12 addition of qualified investment or qualified property may be
13 developed as part of the economic impact evaluation. The governing
14 body shall provide a copy of the economic impact evaluation to the
15 applicant on request. The comptroller may charge the applicant
16 ~~[and collect]~~ a fee sufficient to cover the costs of providing the
17 economic impact evaluation. The governing body of a school
18 district shall approve or disapprove an application not later than
19 the 150th ~~[before the 151st]~~ day after the date the application is
20 filed, unless the economic impact evaluation has not been received
21 or an extension is agreed to by the governing body and the
22 applicant.

23 (b-1) The comptroller shall promptly deliver a ~~[indicate on~~
24 ~~one]~~ copy of the application ~~[the date the comptroller received the~~
25 ~~application and deliver that copy]~~ to the Texas Education Agency.
26 The Texas Education Agency shall determine the effect that the
27 applicant's proposal will have on the number or size of the school

1 district's instructional facilities [~~, as required to be included~~
 2 ~~in the economic impact evaluation by Section 313.026(a)(9),~~] and
 3 submit a written report containing the agency's determination to
 4 the school district [~~comptroller~~]. The governing body of the
 5 school district shall provide any requested information to the
 6 Texas Education Agency. Not later than the 45th day after the date
 7 the Texas Education Agency receives [~~application indicates that the~~
 8 ~~comptroller received~~] the application, the Texas Education Agency
 9 shall make the required determination and submit the agency's
 10 written report to the governing body of the school district
 11 [~~comptroller. A third person contracted by the comptroller to~~
 12 ~~conduct an economic impact evaluation of an application is not~~
 13 ~~required to make a determination that the Texas Education Agency is~~
 14 ~~required to make and report to the comptroller under this~~
 15 ~~subsection~~].

16 (c) In determining whether to approve [~~grant~~] an
 17 application, the governing body of the school district is entitled
 18 to request and receive assistance from:

- 19 (1) the comptroller;
- 20 (2) the Texas [~~Department of~~] Economic Development and
 21 Tourism Office;
- 22 (3) the Texas Workforce Investment Council; and
- 23 (4) the Texas Workforce Commission.

24 (d) Not later than the 90th [~~Before the 91st~~] day after the
 25 date the comptroller receives the copy of the application, the
 26 comptroller shall issue a certificate for a limitation on appraised
 27 value of the property and provide the certificate to the governing

1 body of the school district or provide the governing body a written
2 explanation of the comptroller's decision not to issue a
3 certificate [~~submit a recommendation to the governing body of the~~
4 ~~school district as to whether the application should be approved or~~
5 ~~disapproved~~].

6 (d-1) The governing body of a school district may not
7 approve an application unless [~~that~~] the comptroller submits to the
8 governing body a certificate for a limitation on appraised value of
9 the property [~~has recommended should be disapproved only if:~~

10 [~~(1) the governing body holds a public hearing the~~
11 ~~sole purpose of which is to consider the application and the~~
12 ~~comptroller's recommendation; and~~

13 [~~(2) at a subsequent meeting of the governing body~~
14 ~~held after the date of the public hearing, at least two-thirds of~~
15 ~~the members of the governing body vote to approve the application~~].

16 (e) Before approving or disapproving an application under
17 this subchapter that the governing body of the school district
18 elects to consider, the governing body [~~of the school district~~]
19 must make a written finding as to any criteria considered by the
20 comptroller in conducting the economic impact evaluation under
21 [~~each criterion listed in~~] Section 313.026. The governing body
22 shall deliver a copy of those findings to the applicant.

23 (g) The Texas [~~Department of~~] Economic Development and
24 Tourism Office or its successor may recommend that a school
25 district approve an application [~~grant a person a limitation on~~
26 ~~appraised value~~] under this chapter. In determining whether to
27 approve [~~grant~~] an application, the governing body of the school

1 district shall consider any recommendation made by the Texas
2 [~~Department of~~] Economic Development and Tourism Office or its
3 successor.

4 (i) If the comptroller's determination under Subsection (h)
5 that the property does not meet the requirements of Section 313.024
6 for eligibility for a limitation on appraised value under this
7 subchapter becomes final, the comptroller is not required to
8 provide an economic impact evaluation of the application or to
9 submit a certificate for a limitation on appraised value of the
10 property or a written explanation of the decision not to issue a
11 certificate [~~recommendation to the school district as to whether~~
12 ~~the application should be approved or disapproved], and the
13 governing body of the school district may not grant the
14 application.~~

15 SECTION 7. Section 313.026, Tax Code, is amended to read as
16 follows:

17 Sec. 313.026. ECONOMIC IMPACT EVALUATION. (a) The
18 economic impact evaluation of the application must include any
19 information the comptroller determines is necessary or helpful to:

20 (1) the governing body of the school district in
21 determining whether to approve the application under Section
22 313.025; or

23 (2) the comptroller in determining whether to issue a
24 certificate for a limitation on appraised value of the property
25 under Section 313.025 [~~the following:~~

26 [~~(1) the recommendations of the comptroller,~~

27 [~~(2) the name of the school district,~~

- 1 ~~[(3) the name of the applicant,~~
- 2 ~~[(4) the general nature of the applicant's investment,~~
- 3 ~~[(5) the relationship between the applicant's industry~~
4 ~~and the types of qualifying jobs to be created by the applicant to~~
5 ~~the long-term economic growth plans of this state as described in~~
6 ~~the strategic plan for economic development submitted by the Texas~~
7 ~~Strategic Economic Development Planning Commission under Section~~
8 ~~481.033, Government Code, as that section existed before February~~
9 ~~1, 1999,~~
- 10 ~~[(6) the relative level of the applicant's investment~~
11 ~~per qualifying job to be created by the applicant,~~
- 12 ~~[(7) the number of qualifying jobs to be created by the~~
13 ~~applicant,~~
- 14 ~~[(8) the wages, salaries, and benefits to be offered~~
15 ~~by the applicant to qualifying job holders,~~
- 16 ~~[(9) the ability of the applicant to locate or~~
17 ~~relocate in another state or another region of this state,~~
- 18 ~~[(10) the impact the project will have on this state~~
19 ~~and individual local units of government, including:~~
- 20 ~~[(A) tax and other revenue gains, direct or~~
21 ~~indirect, that would be realized during the qualifying time period,~~
22 ~~the limitation period, and a period of time after the limitation~~
23 ~~period considered appropriate by the comptroller, and~~
- 24 ~~[(B) economic effects of the project, including~~
25 ~~the impact on jobs and income, during the qualifying time period,~~
26 ~~the limitation period, and a period of time after the limitation~~
27 ~~period considered appropriate by the comptroller,~~

1 ~~[(11) the economic condition of the region of the~~
2 ~~state at the time the person's application is being considered;~~

3 ~~[(12) the number of new facilities built or expanded~~
4 ~~in the region during the two years preceding the date of the~~
5 ~~application that were eligible to apply for a limitation on~~
6 ~~appraised value under this subchapter;~~

7 ~~[(13) the effect of the applicant's proposal, if~~
8 ~~approved, on the number or size of the school district's~~
9 ~~instructional facilities, as defined by Section 46.001, Education~~
10 ~~Code;~~

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

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

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

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

26 ~~[(18) the projected effect on the Foundation School~~
27 ~~Program of payments to the district for each year of the agreement;~~

1 ~~[(19) the projected future tax credits if the~~
2 ~~applicant also applies for school tax credits under Section~~
3 ~~313.103, and~~

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

8 (b) Except as provided by Subsections (c) and (d), the [The]
9 comptroller's determination whether to issue a certificate for a
10 limitation on appraised value under this chapter for property
11 described in the application [recommendations] shall be based on
12 the economic impact evaluation described by Subsection (a)
13 [criteria listed in Subsections (a)(5)-(20)] and on any other
14 information available to the comptroller, including information
15 provided by the governing body of the school district ~~[under~~
16 ~~Section 313.025(b)]~~.

17 (c) The comptroller may not issue a certificate for a
18 limitation on appraised value under this chapter for property
19 described in an application unless the comptroller determines that:

20 (1) the project proposed by the applicant is
21 reasonably likely to generate, before the 25th anniversary of the
22 beginning of the limitation period, tax revenue, including state
23 tax revenue, school district maintenance and operations ad valorem
24 tax revenue attributable to the project, and any other tax revenue
25 attributable to the effect of the project on the economy of the
26 state, in an amount sufficient to offset the school district
27 maintenance and operations ad valorem tax revenue lost as a result

1 of the agreement; and

2 (2) the limitation on appraised value is a determining
3 factor in the applicant's decision to invest capital and construct
4 the project in this state.

5 (d) The comptroller shall state in writing the basis for the
6 determinations made under Subsections (c)(1) and (2).

7 (e) The applicant may submit information to the comptroller
8 that would provide a basis for an affirmative determination under
9 Subsection (c)(2).

10 (f) Notwithstanding Subsections (c) and (d), if the
11 comptroller makes a qualitative determination that other
12 considerations associated with the project result in a net positive
13 benefit to the state, the comptroller may issue the certificate.

14 SECTION 8. Section 313.0265(b), Tax Code, is amended to
15 read as follows:

16 (b) The comptroller shall designate the following as
17 substantive:

18 (1) each application requesting a limitation on
19 appraised value; and

20 (2) the economic impact evaluation made in connection
21 with the application [~~and~~

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

24 SECTION 9. Section 313.027, Tax Code, is amended by
25 amending Subsections (a), (f), (h), and (i) and adding Subsections
26 (a-1) and (j) to read as follows:

27 (a) If the person's application is approved by the governing

1 body of the school district, [~~for each of the first eight tax years~~
2 ~~that begin after the applicable qualifying time period,~~] the
3 appraised value for school district maintenance and operations ad
4 valorem tax purposes of the person's qualified property as
5 described in the agreement between the person and the district
6 entered into under this section in the school district may not
7 exceed the lesser of:

- 8 (1) the market value of the property; or
9 (2) subject to Subsection (b), the amount agreed to by
10 the governing body of the school district.

11 (a-1) The agreement must:

12 (1) provide that the limitation under Subsection (a)
13 applies for a period of 10 years; and

14 (2) specify the beginning date of the limitation,
15 which must be January 1 of the first tax year that begins after:

16 (A) the application date;

17 (B) the qualifying time period; or

18 (C) the date commercial operations begin at the
19 site of the project.

20 (f) In addition, the agreement:

21 (1) must incorporate each relevant provision of this
22 subchapter and, to the extent necessary, include provisions for the
23 protection of future school district revenues through the
24 adjustment of the minimum valuations, the payment of revenue
25 offsets, and other mechanisms agreed to by the property owner and
26 the school district;

27 (2) may provide that the property owner will protect

1 the school district in the event the district incurs extraordinary
2 education-related expenses related to the project that are not
3 directly funded in state aid formulas, including expenses for the
4 purchase of portable classrooms and the hiring of additional
5 personnel to accommodate a temporary increase in student enrollment
6 attributable to the project;

7 (3) must require the property owner to maintain a
8 viable presence in the school district for at least five [~~three~~]
9 years after the date the limitation on appraised value of the
10 owner's property expires;

11 (4) must provide for the termination of the agreement,
12 the recapture of ad valorem tax revenue lost as a result of the
13 agreement if the owner of the property fails to comply with the
14 terms of the agreement, and payment of a penalty or interest, or
15 both, on that recaptured ad valorem tax revenue;

16 (5) may specify any conditions the occurrence of which
17 will require the district and the property owner to renegotiate all
18 or any part of the agreement; [~~and~~]

19 (6) must specify the ad valorem tax years covered by
20 the agreement; and

21 (7) must be in a form approved by the comptroller.

22 (h) The agreement between the governing body of the school
23 district and the applicant may provide for a deferral of the date on
24 which the qualifying time period for the project is to commence or,
25 subsequent to the date the agreement is entered into, be amended to
26 provide for such a deferral. The agreement may not provide for the
27 deferral of the date on which the qualifying time period is to

1 commence to a date later than January 1 of the fourth tax year that
2 begins after the date the application is approved except that if the
3 agreement is one of a series of agreements related to the same
4 project, the agreement may provide for the deferral of the date on
5 which the qualifying time period is to commence to a date not later
6 than January 1 of the sixth tax year that begins after the date the
7 application is approved. This subsection may not be construed to
8 permit a qualifying time period that has commenced to continue for
9 more than the number of years applicable to the project under
10 Section 313.021(4).

11 (i) A person and the school district may not enter into an
12 agreement under which the person agrees to provide supplemental
13 payments to a school district or any other entity on behalf of a
14 school district in an amount that exceeds an amount equal to the
15 greater of \$100 per student per year in average daily attendance, as
16 defined by Section 42.005, Education Code, or \$50,000 per year, or
17 for a period that exceeds the period beginning with the period
18 described by Section 313.021(4) and ending December 31 of the third
19 tax year after the date the person's eligibility for a limitation
20 under this chapter expires [~~with the period described by Section~~
21 ~~313.104(2)(B) of this code~~]. This limit does not apply to amounts
22 described by Subsection (f)(1) or (2) [~~of this section~~].

23 (j) An agreement under this chapter must disclose any
24 consideration promised in conjunction with the application and the
25 limitation.

26 SECTION 10. Section 313.0275, Tax Code, is amended by
27 amending Subsection (a) and adding Subsection (d) to read as

1 follows:

2 (a) Notwithstanding any other provision of this chapter to
3 the contrary, a person with whom a school district enters into an
4 agreement under this subchapter must make the minimum amount of
5 qualified investment during the qualifying time period [~~and create~~
6 ~~the required number of qualifying jobs during each year of the~~
7 ~~agreement~~].

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

12 SECTION 11. Subchapter B, Chapter 313, Tax Code, is amended
13 by adding Section 313.0276 to read as follows:

14 Sec. 313.0276. PENALTY FOR FAILURE TO COMPLY WITH
15 JOB-CREATION REQUIREMENTS. (a) The comptroller shall conduct an
16 annual review and issue a determination as to whether a person with
17 whom a school district has entered into an agreement under this
18 chapter satisfied in the preceding year the requirements of this
19 chapter regarding the creation of the required number of qualifying
20 jobs. If the comptroller makes an adverse determination in the
21 review, the comptroller shall notify the person of the cause of the
22 adverse determination and the corrective measures necessary to
23 remedy the determination.

24 (b) If a person who receives an adverse determination fails
25 to remedy the determination following notification of the
26 determination and the comptroller makes an adverse determination
27 with respect to the person's compliance in the following year, the

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

5 (c) If a person who receives an adverse determination under
6 Subsection (b) fails to comply with that subsection following
7 notification of the determination and receives an adverse
8 determination in the following year, the comptroller shall impose a
9 penalty on the person. The penalty is in an amount equal to the
10 amount computed by:

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

14 (2) multiplying the amount computed under Subdivision
15 (1) by the average annual wage for all jobs in the county during the
16 most recent four quarters for which data is available.

17 (d) Notwithstanding Subsection (c), if a person receives an
18 adverse determination and the comptroller has previously imposed a
19 penalty on the person under this section one or more times, the
20 comptroller shall impose a penalty on the person in an amount equal
21 to the amount computed by multiplying the amount computed under
22 Subsection (c)(1) by an amount equal to twice the amount computed
23 under Subsection (c)(2).

24 (e) Notwithstanding Subsections (c) and (d), a penalty
25 imposed under this section may not exceed an amount equal to the
26 difference between the amount of the ad valorem tax benefit
27 received by the person under the agreement in the preceding year and

1 the amount of any supplemental payments made to the school district
2 in that year.

3 (f) A job created by a person that is not a qualifying job
4 because the job does not meet a numerical requirement of Section
5 313.021(3)(A), (D), or (E) is considered for purposes of this
6 section to be a nonqualifying job only if the job fails to meet the
7 numerical requirement by at least 10 percent.

8 (g) An adverse determination under this section is a
9 deficiency determination under Section 111.008. A penalty imposed
10 under this section is an amount the comptroller is required to
11 collect, receive, administer, or enforce, and the determination is
12 subject to the payment and redetermination requirements of Sections
13 111.0081 and 111.009.

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

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

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

25 (k) A person may contest a determination by the comptroller
26 to rescind an agreement between the person and a school district
27 under this chapter pursuant to Subsection (j) by filing suit

1 against the comptroller and the attorney general. The district
2 courts of Travis County have exclusive, original jurisdiction of a
3 suit brought under this subsection. This subsection prevails over
4 a provision of Chapter 25, Government Code, to the extent of any
5 conflict.

6 (l) If a person files suit under Subsection (k) and the
7 comptroller's determination to rescind the agreement is upheld on
8 appeal, the person shall pay to the comptroller any tax that would
9 have been due and payable to the school district during the pendency
10 of the appeal, including statutory interest and penalties imposed
11 on delinquent taxes under Sections 111.060 and 111.061.

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

15 SECTION 12. Section 313.031, Tax Code, is amended to read as
16 follows:

17 Sec. 313.031. RULES AND FORMS; FEES. (a) The comptroller
18 shall:

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

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

27 (b) The governing body of a school district by official

1 action shall establish reasonable nonrefundable application fees
2 to be paid by property owners who apply to the district for a
3 limitation on the appraised value of the person's property under
4 this subchapter. The amount of an application fee must be
5 reasonable and may not exceed the estimated cost to the district of
6 processing and acting on an application, including any cost to the
7 school district associated with [~~the cost of~~] the economic impact
8 evaluation required by Section [~~Sections~~] 313.025 [~~and 313.026~~].

9 SECTION 13. Section 313.032, Tax Code, is amended by
10 amending Subsections (a) and (c) and adding Subsections (b-1) and
11 (d) to read as follows:

12 (a) Before the beginning of each regular session of the
13 legislature, the comptroller shall submit to the lieutenant
14 governor, the speaker of the house of representatives, and each
15 other member of the legislature a report on the agreements entered
16 into under this chapter that includes:

17 (1) an assessment of the following with regard to the
18 agreements entered into under this chapter, considered in the
19 aggregate:

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

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

24 (C) the total amount of investment in this state;

25 (D) the total taxable value of property on the
26 tax rolls in this state, including property for which the
27 limitation period has expired;

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

4 (F) the total fiscal effect on the state and
5 local governments; and

6 (2) an assessment of ~~[assessing]~~ the progress of each
7 agreement made under this chapter that states ~~[. The report must be~~
8 ~~based on data certified to the comptroller by each recipient of a~~
9 ~~limitation on appraised value under this subchapter and state]~~ for
10 each agreement:

11 (A) ~~[(1)]~~ the number of qualifying jobs each
12 recipient of a limitation on appraised value committed to create;

13 (B) ~~[(2)]~~ the number of qualifying jobs each
14 recipient created;

15 (C) ~~[(3)]~~ the total amount of wages and the
16 median wage of the new qualifying jobs each recipient created;

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

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

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

25 (G) ~~[(7)]~~ the limitation on appraised value for
26 the qualified property of each recipient;

27 (H) ~~[(8)]~~ the dollar amount of the taxes that

1 would have been imposed on the qualified property if the property
2 had not received a limitation on appraised value; and

3 (I) [~~(9)~~] the dollar amount of the taxes imposed
4 on the qualified property[~~+~~

5 [~~(10) the number of new jobs created by each recipient~~
6 ~~in each sector of the North American Industry Classification~~
7 ~~System; and~~

8 [~~(11) of the number of new jobs each recipient~~
9 ~~created, the number of jobs created that provide health benefits~~
10 ~~for employees]~~.

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

14 (c) The portion of the report described by Subsection (a)(2)
15 must be based on data certified to the comptroller by each recipient
16 or former recipient of a limitation on appraised value under this
17 chapter.

18 (d) The comptroller may require a recipient or former
19 recipient of a limitation on appraised value under this chapter to
20 submit, on a form the comptroller provides, information required to
21 complete the report.

22 SECTION 14. Subchapter B, Chapter 313, Tax Code, is amended
23 by adding Section 313.033 to read as follows:

24 Sec. 313.033. REPORT ON COMPLIANCE WITH JOB-CREATION
25 REQUIREMENTS. Each recipient of a limitation on appraised value
26 under this chapter shall submit to the comptroller an annual report
27 on a form provided by the comptroller that provides information

1 sufficient to document the number of qualifying jobs created.

2 SECTION 15. The heading to Subchapter C, Chapter 313, Tax
3 Code, is amended to read as follows:

4 SUBCHAPTER C. LIMITATION ON APPRAISED VALUE OF PROPERTY IN
5 STRATEGIC INVESTMENT AREA OR CERTAIN RURAL SCHOOL DISTRICTS

6 SECTION 16. Section 313.051, Tax Code, is amended to read as
7 follows:

8 Sec. 313.051. APPLICABILITY. (a) In this section,
9 "strategic investment area" means an area the comptroller
10 determines under Subsection (a-3) is:

11 (1) a county within this state with unemployment above
12 the state average and per capita income below the state average;

13 (2) an area within this state that is a federally
14 designated urban enterprise community or an urban enhanced
15 enterprise community; or

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

18 (a-1) 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 2000 [~~1990~~] to 2010 [~~2000~~],
27 according to the federal decennial census, the population:

1 (i) remained the same;
2 (ii) decreased; or
3 (iii) increased, but at a rate of not more
4 than the average rate of increase in the state during that period
5 ~~[three percent per annum]~~.

6 (a-2) ~~[(a-1)]~~ Notwithstanding Subsection (a-1) ~~[(a)]~~, if on
7 January 1, 2002, this subchapter applied to a school district in
8 whose territory is located a federal nuclear facility, this
9 subchapter continues to apply to the school district regardless of
10 whether the school district ceased or ceases to be described by
11 Subsection (a-1) ~~[(a)]~~ after that date.

12 (a-3) Not later than September 1 of each year, the
13 comptroller shall determine areas that qualify as a strategic
14 investment area using the most recently completed full calendar
15 year data available on that date and, not later than October 1,
16 shall publish a list and map of the designated areas. A
17 determination under this subsection is effective for the following
18 tax year for purposes of this subchapter.

19 (b) The governing body of a school district to which this
20 subchapter applies may enter into an agreement in the same manner as
21 a school district to which Subchapter B applies may do so under
22 Subchapter B, subject to Sections 313.052-313.054. Except as
23 otherwise provided by this subchapter, the provisions of Subchapter
24 B apply to a school district to which this subchapter applies. For
25 purposes of this subchapter, a property owner is required to create
26 ~~[only]~~ at least 10 new qualifying jobs as defined by Section
27 313.021(3) on the owner's qualified property. ~~[At least 80 percent~~

1 ~~of all the new jobs created must be qualifying jobs as defined by~~
2 ~~Section 313.021(3), except that, for a school district described by~~
3 ~~Subsection (a)(2), each qualifying job must pay at least 110~~
4 ~~percent of the average weekly wage for manufacturing jobs in the~~
5 ~~region designated for the regional planning commission, council of~~
6 ~~governments, or similar regional planning agency created under~~
7 ~~Chapter 391, Local Government Code, in which the district is~~
8 ~~located.]~~

9 SECTION 17. Section 313.054(a), Tax Code, is amended to
10 read as follows:

11 (a) For a school district to which this subchapter applies,
12 the amount agreed to by the governing body of the district under
13 Section 313.027(a)(2) must be an amount in accordance with the
14 following, according to the category established by Section 313.052
15 to which the school district belongs:

16	CATEGORY	MINIMUM AMOUNT OF LIMITATION
17	I	\$30 million
18	II	<u>\$25</u> [\$20] million
19	III	<u>\$20</u> [\$10] million
20	IV	<u>\$15</u> [\$5] million
21	V	<u>\$10</u> [\$1] million

22 SECTION 18. The heading to Subchapter E, Chapter 313, Tax
23 Code, is amended to read as follows:

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

26 SECTION 19. Section 313.171(b), Tax Code, is amended to
27 read as follows:

1 (b) The repeal [~~expiration~~] of Subchapter D does not affect
2 a property owner's entitlement to a tax credit granted under
3 Subchapter D if the property owner qualified for the tax credit
4 before the repeal [~~expiration~~] of Subchapter D.

5 SECTION 20. Section 42.2515(a), Education Code, is amended
6 to read as follows:

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

13 SECTION 21. Section 42.302(e), Education Code, is amended
14 to read as follows:

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

19 SECTION 22. The following provisions of the Tax Code are
20 repealed:

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

23 SECTION 23. (a) Except as provided by Subsection (b) of
24 this section, Chapter 313, Tax Code, as amended by this Act, applies
25 only to an application filed under that chapter on or after the
26 effective date of this Act. An application filed under that chapter
27 before the effective date of this Act is governed by the law in

1 effect on the date the application was filed, and the former law is
2 continued in effect for that purpose.

3 (b) An agreement entered into on or after January 1, 2013,
4 pursuant to an application filed under Chapter 313, Tax Code,
5 before the effective date of this Act may condition eligibility for
6 a limitation on appraised value under Subchapter B or C of that
7 chapter, as applicable, on compliance with the provisions of that
8 chapter, as amended by this Act, relating to the creation of new
9 jobs, including Section 313.021(3), Tax Code, and Section
10 313.024(d) or 313.051(b), Tax Code, as applicable.

11 SECTION 24. The comptroller shall make the initial
12 determination under Section 313.051(a-3), Tax Code, as added by
13 this Act, not later than September 1, 2014, and shall publish the
14 initial list and map required by that subsection not later than
15 October 1, 2014.

16 SECTION 25. This Act takes effect January 1, 2014.

President of the Senate

Speaker of the House

I certify that H.B. No. 3390 was passed by the House on May 4, 2013, by the following vote: Yeas 129, Nays 7, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 3390 on May 24, 2013, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 3390 on May 26, 2013, by the following vote: Yeas 138, Nays 6, 2 present, not voting.

Chief Clerk of the House

H.B. No. 3390

I certify that H.B. No. 3390 was passed by the Senate, with amendments, on May 21, 2013, by the following vote: Yeas 29, Nays 2; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 3390 on May 26, 2013, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor