

By: Hilderbran, Murphy

H.B. No. 3390

Substitute the following for H.B. No. 3390:

By: Hilderbran

C.S.H.B. No. 3390

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, 313.003, 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, 2024 [~~2014~~].

19 SECTION 2. Sections 313.021(1), (2), and (3), Tax Code, are
20 amended to read as follows:

21 (1) "Qualified investment" means:

22 (A) tangible personal property that is first
23 placed in service in this state during the applicable qualifying
24 time period that begins on or after January 1, 2002, without regard
25 to whether the property is affixed to or incorporated into real
26 property, and that is described as Section 1245 property by Section
27 1245(a), Internal Revenue Code of 1986;

1 (B) tangible personal property that is first
2 placed in service in this state during the applicable qualifying
3 time period that begins on or after January 1, 2002, without regard
4 to whether the property is affixed to or incorporated into real
5 property, and that is used in connection with the manufacturing,
6 processing, or fabrication in a cleanroom environment of a
7 semiconductor product, without regard to whether the property is
8 actually located in the cleanroom environment, including:

9 (i) integrated systems, fixtures, and
10 piping;

11 (ii) all property necessary or adapted to
12 reduce contamination or to control airflow, temperature, humidity,
13 chemical purity, or other environmental conditions or
14 manufacturing tolerances; and

15 (iii) production equipment and machinery,
16 moveable cleanroom partitions, and cleanroom lighting;

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

23 (i) property, including pressure vessels,
24 pumps, turbines, generators, and condensers, used to produce
25 nuclear electric power; and

26 (ii) property and systems necessary to
27 control radioactive contamination;

1 (D) tangible personal property that is first
2 placed in service in this state during the applicable qualifying
3 time period that begins on or after January 1, 2002, without regard
4 to whether the property is affixed to or incorporated into real
5 property, and that is used in connection with operating an
6 integrated gasification combined cycle electric generation
7 facility, including:

8 (i) property used to produce electric power
9 by means of a combined combustion turbine and steam turbine
10 application using synthetic gas or another product produced by the
11 gasification of coal or another carbon-based feedstock; or

12 (ii) property used in handling materials to
13 be used as feedstock for gasification or used in the gasification
14 process to produce synthetic gas or another carbon-based feedstock
15 for use in the production of electric power in the manner described
16 by Subparagraph (i);

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

24 (F) a building or a permanent, nonremovable
25 component of a building that is built or constructed during the
26 applicable qualifying time period that begins on or after January
27 1, 2002, and that houses tangible personal property described by

1 Paragraph (A), (B), (C), (D), or (E); or
2 (G) an existing building that, as part of a
3 discrete project that increases the value and productive capacity
4 of an existing property, is expanded.

5 (2) "Qualified property" means:

6 (A) land:

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

10 (ii) on which a person proposes to
11 construct a new building or erect or affix a new improvement that
12 does not exist before the date the person submits a complete
13 application [~~applies~~] for a limitation on appraised value under
14 this subchapter;

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

17 (iv) on which, in connection with the new
18 building or new improvement described by Subparagraph (ii), the
19 owner or lessee of, or the holder of another possessory interest in,
20 the land proposes to:

21 (a) make a qualified investment in an
22 amount equal to at least the minimum amount required by Section
23 313.023; and

24 (b) create at least 25 new jobs;

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

27 (C) tangible personal property that:

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

3 (ii) except for new equipment described in
4 Section 151.318(q) or (q-1), is first placed in service in the new
5 building or in or on the new improvement described by Paragraph
6 (A)(ii), or on the land on which that new building or new
7 improvement is located, if the personal property is ancillary and
8 necessary to the business conducted in that new building or in or on
9 that new improvement.

10 (3) "Qualifying job" means a permanent full-time job
11 that:

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

13 (B) is not transferred from one area in this
14 state to another area in this state;

15 (C) is not created to replace a previous
16 employee;

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

25 (E) pays at least 110 percent of [+

26 [~~(i) the county average weekly wage for~~
27 ~~manufacturing jobs in the county where the job is located, or~~

1 ~~[(ii)]~~ the county average weekly wage for
2 all jobs in the county where the job is located~~[, if the property~~
3 ~~owner creates more than 1,000 jobs in that county]~~.

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

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

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

- 12 (1) manufacturing;
- 13 (2) research and development;
- 14 (3) a clean coal project, as defined by Section 5.001,
15 Water Code;
- 16 (4) an advanced clean energy project, as defined by
17 Section 382.003, Health and Safety Code;
- 18 (5) renewable energy electric generation;
- 19 (6) electric power generation using integrated
20 gasification combined cycle technology;
- 21 (7) nuclear electric power generation; ~~[or]~~
- 22 (8) a computer center primarily used in connection
23 with one or more activities described by Subdivisions (1) through
24 (7) conducted by the entity; or
- 25 (9) a Texas priority project.

26 (d) To be eligible for a limitation on appraised value under
27 this subchapter, ~~[at least 80 percent of all]~~ the new jobs created

1 by the property owner under this chapter must be qualifying jobs as
2 defined by Section 313.021(3).

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

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

8 SECTION 5. Sections 313.025(a-1), (b), (b-1), (c), (d),
9 (d-1), (e), (f-1), (g), and (i), Tax Code, are amended to read as
10 follows:

11 (a-1) Within seven days of the receipt of each document, the
12 school district shall submit to the comptroller a copy of the
13 application and the proposed agreement between the applicant and
14 the school district. If the applicant submits an economic analysis
15 of the proposed project [~~is submitted~~] to the school district, the
16 district shall submit a copy of the analysis to the comptroller. In
17 addition, the school district shall submit to the comptroller any
18 subsequent revision of or amendment to any of those documents
19 within seven days of its receipt. The comptroller shall publish
20 each document received from the school district under this
21 subsection on the comptroller's Internet website. If the school
22 district maintains a generally accessible Internet website, the
23 district shall provide on its website a link to the location of
24 those documents posted on the comptroller's website in compliance
25 with this subsection. This subsection does not require the
26 comptroller to post information that is confidential under Section
27 313.028.

1 (b) The governing body of a school district is not required
2 to consider an application for a limitation on appraised value
3 ~~[that is filed with the governing body under Subsection (a)]~~. If
4 the governing body of the school district elects ~~[does elect]~~ to
5 consider an application, the governing body shall deliver a copy
6 ~~[three copies]~~ of the application to the comptroller and request
7 that the comptroller conduct ~~[provide]~~ an economic impact
8 evaluation of the investment proposed by the application. In
9 addition, the governing body may request that the comptroller
10 submit a recommendation as to whether the new jobs creation
11 requirement should be reduced or waived and, if reduced, the number
12 of new jobs that should be required to be created. The ~~[to the~~
13 ~~school district. Except as provided by Subsection (b-1), the]~~
14 comptroller shall conduct or contract with a third person to
15 conduct the economic impact evaluation, which shall be completed
16 and provided to the governing body of the school district, along
17 with the comptroller's certificate or written explanation under
18 Subsection (d)(1) and recommendation under Subsection (d)(2), if
19 requested, as soon as practicable but not later than the 90th day
20 after the date the comptroller receives the application. The
21 governing body shall provide to the comptroller or to a third person
22 contracted by the comptroller to conduct the economic impact
23 evaluation any requested information. A methodology to allow
24 comparisons of economic impact for different schedules of the
25 addition of qualified investment or qualified property may be
26 developed as part of the economic impact evaluation. The governing
27 body shall provide a copy of the economic impact evaluation to the

1 applicant on request. The comptroller may charge the applicant
2 ~~[and collect]~~ a fee sufficient to cover the costs of providing the
3 economic impact evaluation. The governing body of a school
4 district shall approve or disapprove an application not later than
5 the 150th ~~[before the 151st]~~ day after the date the application is
6 filed, unless the economic impact evaluation has not been received
7 or an extension is agreed to by the governing body and the
8 applicant.

9 (b-1) The comptroller shall promptly deliver a ~~[indicate on~~
10 ~~one]~~ copy of the application ~~[the date the comptroller received the~~
11 ~~application and deliver that copy]~~ to the Texas Education Agency.
12 The Texas Education Agency shall determine the effect that the
13 applicant's proposal will have on the number or size of the school
14 district's instructional facilities ~~[, as required to be included~~
15 ~~in the economic impact evaluation by Section 313.026(a)(9),]~~ and
16 submit a written report containing the agency's determination to
17 the school district ~~[comptroller]~~. The governing body of the
18 school district shall provide any requested information to the
19 Texas Education Agency. Not later than the 45th day after the date
20 the Texas Education Agency receives ~~[application indicates that the~~
21 ~~comptroller received]~~ the application, the Texas Education Agency
22 shall make the required determination and submit the agency's
23 written report to the governing body of the school district
24 ~~[comptroller. A third person contracted by the comptroller to~~
25 ~~conduct an economic impact evaluation of an application is not~~
26 ~~required to make a determination that the Texas Education Agency is~~
27 ~~required to make and report to the comptroller under this~~

1 ~~subsection~~].

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

5 (1) the comptroller;

6 (2) the Texas [~~Department of~~] Economic Development and
7 Tourism Office;

8 (3) the Texas Workforce Investment Council; and

9 (4) the Texas Workforce Commission.

10 (d) Not later than the 90th [~~Before the 91st~~] day after the
11 date the comptroller receives the copy of the application, the
12 comptroller shall:

13 (1) issue a certificate for a limitation on appraised
14 value of the property and provide the certificate to the governing
15 body of the school district or provide the governing body a written
16 explanation of the comptroller's decision not to issue a
17 certificate; and

18 (2) if requested by the governing body of the school
19 district, submit [a recommendation] to the governing body a
20 recommendation [of the school district] as to whether the new jobs
21 creation requirement should be reduced or waived and, if reduced,
22 the number of new jobs that should be required to be created
23 [application should be approved or disapproved].

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

1 ~~[(1) the governing body holds a public hearing the~~
2 ~~sole purpose of which is to consider the application and the~~
3 ~~comptroller's recommendation, and~~

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

7 (e) Before approving or disapproving an application under
8 this subchapter that the governing body of the school district
9 elects to consider, the governing body ~~[of the school district]~~
10 must make a written finding as to each criterion listed in Section
11 313.026. The governing body shall deliver a copy of those findings
12 to the applicant.

13 (f-1) Notwithstanding any other provision of this chapter
14 ~~[to the contrary, including Section 313.003(2) or 313.004(3)(A) or~~
15 ~~(B)(iii)],~~ the governing body of a school district may waive or
16 reduce the new jobs creation requirement in Section
17 313.021(2)(A)(iv)(b) or 313.051(b) only ~~[and approve an~~
18 ~~application]~~ if the comptroller determines ~~[governing body makes a~~
19 ~~finding]~~ that the jobs creation requirement exceeds the industry
20 standard for the number of employees reasonably necessary for the
21 operation of the facility of the property owner that is described in
22 the application and recommends waiving or reducing the requirement.

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 6. 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 the
19 following:

20 (1) the determination [~~recommendations~~] of the
21 comptroller as to whether to issue a certificate for a limitation on
22 appraised value of the property and, if requested, the
23 recommendation of the comptroller regarding waiver or reduction of
24 the new jobs creation requirement;

25 (2) the name of the school district;

26 (3) the name of the applicant;

27 (4) a description of the [~~general nature of the~~]

1 applicant's proposed investment, including the useful life of the
2 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 amount [~~relative level~~] of the applicant's
11 investment 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 by
15 the applicant to qualifying job holders;

16 (9) the ability of the applicant to locate or relocate
17 in another state or another region of this state;

18 (10) the fiscal impact the project will have on this
19 state 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 state
2 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 (13) ~~[(15)]~~ the proposed limitation on appraised
14 value for the qualified property of the applicant;

15 (14) ~~[(16)]~~ the projected dollar amount of the taxes
16 that would be imposed on the qualified property, for each year of
17 the 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 (15) ~~[(17)]~~ the projected dollar amount of the taxes
22 that would be imposed on the qualified property, for each tax year
23 of the agreement, if the property receives a limitation on
24 appraised value with assumptions of the projected appreciation or
25 depreciation of the investment clearly stated;

26 (16) ~~[(18)]~~ the projected effect on the Foundation
27 School Program of payments to the district for each year of the

1 agreement, as determined by the school district and verified by the
2 Texas Education Agency;

3 (17) [~~(19)~~ the projected future tax credits if the
4 applicant also applies for school tax credits under Section
5 313.103; and

6 [(20)] the total amount of taxes projected to be lost
7 or gained by the district over the life of the agreement computed by
8 subtracting the projected taxes stated in Subdivision (15) [~~(17)~~]
9 from the projected taxes stated in Subdivision (14); and

10 (18) the industry standard for the number of employees
11 reasonably necessary for the operation of the facility described in
12 the application, if the school district has requested a
13 recommendation under Section 313.025(b) [~~(16)~~].

14 (b) Except as provided by Subsections (c) and (d), the [The]
15 comptroller's determination and recommendation described by
16 Subsection (a)(1) [~~recommendations~~] shall be based on the criteria
17 listed in Subsections (a)(5)-(17) or (a)(5)-(18), as appropriate,
18 [(a)(5)-(20)] and on any other information available to the
19 comptroller, including information provided by the governing body
20 of the school district [~~under Section 313.025(b)~~].

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

24 (1) the project proposed by the applicant is
25 reasonably likely to generate, before the 25th anniversary of the
26 beginning of the limitation period, tax revenue, including state
27 tax revenue, school district maintenance and operations ad valorem

1 tax revenue attributable to the project, and any other tax revenue
2 attributable to the effect of the project on the economy of the
3 state, in an amount sufficient to offset the school district
4 maintenance and operations ad valorem tax revenue lost as a result
5 of the agreement; and

6 (2) the limitation on appraised value is a significant
7 consideration by the applicant in determining whether to invest
8 capital and construct the project in this state.

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

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

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

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

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

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

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

25 SECTION 8. Sections 313.027(a), (f), (h), and (i), Tax
26 Code, are amended 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 10 [~~eight~~] tax
2 years 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 (f) In addition, the agreement:

12 (1) must incorporate each relevant provision of this
13 subchapter and, to the extent necessary, include provisions for the
14 protection of future school district revenues through the
15 adjustment of the minimum valuations, the payment of revenue
16 offsets, and other mechanisms agreed to by the property owner and
17 the school district;

18 (2) may provide that the property owner will protect
19 the school district in the event the district incurs extraordinary
20 education-related expenses related to the project that are not
21 directly funded in state aid formulas, including expenses for the
22 purchase of portable classrooms and the hiring of additional
23 personnel to accommodate a temporary increase in student enrollment
24 attributable to the project;

25 (3) must require the property owner to maintain a
26 viable presence in the school district for at least three years
27 after the date the limitation on appraised value of the owner's

1 property expires;

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

7 (5) may specify any conditions the occurrence of which
8 will require the district and the property owner to renegotiate all
9 or any part of the agreement; ~~and~~

10 (6) must specify the ad valorem tax years covered by
11 the agreement; and

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

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

24 (i) A person and the school district may not enter into an
25 agreement under which the person agrees to provide supplemental
26 payments to a school district or to an entity that exists primarily
27 to provide financial or material support to a school district in an

1 amount that exceeds an amount equal to the greater of \$100 per
2 student per year in average daily attendance, as defined by Section
3 42.005, Education Code, or \$50,000 per year, or in a tax year other
4 than a tax year in which the limitation on appraised value is in
5 effect [~~for a period that exceeds the period beginning with the~~
6 ~~period described by Section 313.021(4) and ending with the period~~
7 ~~described by Section 313.104(2)(B) of this code~~]. This subsection
8 applies only to an agreement entered into in anticipation of or in
9 consideration for a school district's approval of an application
10 for a limitation on appraised value under this subchapter. This
11 subsection does not apply to a payment under [~~limit does not apply~~
12 ~~to amounts described by~~] Subsection (f)(1) or (2) [~~of this~~
13 ~~section~~].

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

16 (d) In the event of a casualty loss that prevents a person
17 from complying with Subsection (a), the person may request and the
18 comptroller may grant a waiver of the penalty imposed under
19 Subsection (b).

20 SECTION 10. Section 313.031, Tax Code, is amended to read as
21 follows:

22 Sec. 313.031. RULES AND FORMS; FEES. (a) The comptroller
23 shall:

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

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

5 (a-1) The comptroller by official action may establish
6 reasonable nonrefundable fees to be paid by property owners who
7 apply to a school district for a limitation on the value of the
8 person's property under this subchapter. The amount of a fee must
9 be reasonable and may not exceed the estimated cost to the
10 comptroller of performing the comptroller's duties under this
11 chapter.

12 (b) The governing body of a school district by official
13 action shall establish reasonable nonrefundable application fees
14 to be paid by property owners who apply to the district for a
15 limitation on the appraised value of the person's property under
16 this subchapter. The amount of an application fee must be
17 reasonable and may not exceed the estimated cost to the district of
18 processing and acting on an application, including any cost to the
19 school district associated with [~~the cost of~~] the economic impact
20 evaluation required by Section [~~Sections~~] 313.025 [~~and 313.026~~].

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

24 (a) Before the beginning of each regular session of the
25 legislature, the comptroller shall submit to the lieutenant
26 governor, the speaker of the house of representatives, and each
27 other member of the legislature a report on the agreements entered

1 into under this chapter that includes:

2 (1) an assessment of the following with regard to the
3 agreements entered into under this chapter, considered in the
4 aggregate:

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

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

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

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

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

16 (F) the total fiscal effect on the state and
17 local governments; and

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

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

25 (B) [(2)] the number of qualifying jobs each
26 recipient created;

27 (C) [(3)] the total amount of wages and the

1 median wage of the qualifying ~~[new]~~ jobs each recipient created;

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

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

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

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

12 (H) ~~[(8)]~~ the dollar amount of the taxes that
13 would have been imposed on the qualified property if the property
14 had not received a limitation on appraised value; and

15 (I) ~~[(9)]~~ the dollar amount of the taxes imposed
16 on the qualified property~~;~~

17 ~~[(10) the number of new jobs created by each recipient~~
18 ~~in each sector of the North American Industry Classification~~
19 ~~System; and~~

20 ~~[(11) of the number of new jobs each recipient~~
21 ~~created, the number of jobs created that provide health benefits~~
22 ~~for employees].~~

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

26 (c) The portion of the report described by Subsection (a)(2)
27 must be based on data certified to the comptroller by each recipient

1 or former recipient of a limitation on appraised value under this
2 chapter.

3 (d) The comptroller may require a recipient or former
4 recipient of a limitation on appraised value under this chapter to
5 submit, on a form the comptroller provides, information required to
6 complete the report.

7 SECTION 12. The heading to Subchapter C, Chapter 313, Tax
8 Code, is amended to read as follows:

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

11 SECTION 13. Section 313.051, Tax Code, is amended to read as
12 follows:

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

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

18 (2) an area within this state that is a federally
19 designated urban enterprise community or an urban enhanced
20 enterprise community; or

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

23 (a-1) This subchapter applies only to a school district that
24 has territory in:

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

1 (2) a county:

2 (A) that has a population of less than 50,000;

3 and

4 (B) in which, from 2000 [~~1990~~] to 2010 [~~2000~~],
5 according to the federal decennial census, the population:

6 (i) remained the same;

7 (ii) decreased; or

8 (iii) increased, but at a rate of not more
9 than the average rate of increase in the state during that period
10 [~~three percent per annum~~].

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

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

24 (b) The governing body of a school district to which this
25 subchapter applies may enter into an agreement in the same manner as
26 a school district to which Subchapter B applies may do so under
27 Subchapter B, subject to Sections 313.052-313.054. Except as

1 otherwise provided by this subchapter, the provisions of Subchapter
2 B apply to a school district to which this subchapter applies. For
3 purposes of this subchapter, a property owner is required to create
4 [~~only~~] at least 10 new jobs on the owner's qualified property. At
5 least 80 percent of all the new jobs created must be qualifying jobs
6 as defined by Section 313.021(3) [~~, except that, for a school~~
7 ~~district described by Subsection (a)(2), each qualifying job must~~
8 ~~pay at least 110 percent of the average weekly wage for~~
9 ~~manufacturing jobs in the region designated for the regional~~
10 ~~planning commission, council of governments, or similar regional~~
11 ~~planning agency created under Chapter 391, Local Government Code,~~
12 ~~in which the district is located].~~

13 SECTION 14. The heading to Subchapter E, Chapter 313, Tax
14 Code, is amended to read as follows:

15 SUBCHAPTER E. AVAILABILITY OF TAX CREDIT AFTER PROGRAM
16 EXPIRES OR IS REPEALED

17 SECTION 15. Section 313.171(b), Tax Code, is amended to
18 read as follows:

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

23 SECTION 16. Section 42.2515(a), Education Code, is amended
24 to read as follows:

25 (a) For each school year, a school district, including a
26 school district that is otherwise ineligible for state aid under
27 this chapter, is entitled to state aid in an amount equal to the

1 amount of all tax credits credited against ad valorem taxes of the
2 district in that year under former Subchapter D, Chapter 313, Tax
3 Code.

4 SECTION 17. Section 42.302(e), Education Code, is amended
5 to read as follows:

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

10 SECTION 18. The following provisions of the Tax Code are
11 repealed:

12 (1) Sections 313.008, 313.009, and 313.021(5); and

13 (2) Subchapter D, Chapter 313.

14 SECTION 19. Chapter 313, Tax Code, as amended by this Act,
15 applies only to an application filed under that chapter on or after
16 the effective date of this Act. An application filed under that
17 chapter before the effective date of this Act is governed by the law
18 in effect on the date the application was filed, and the former law
19 is continued in effect for that purpose.

20 SECTION 20. The comptroller shall make the initial
21 determination under Section 313.051(a-3), Tax Code, as added by
22 this Act, not later than September 1, 2014, and shall publish the
23 initial list and map required by that subsection not later than
24 October 1, 2014.

25 SECTION 21. This Act takes effect January 1, 2014.