

By: Hilderbran

H.B. No. 3390

A BILL TO BE ENTITLED

AN ACT

relating to the Texas Economic Development Act.

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

SECTION 1. Section 313.004, Tax Code, is amended to read as follows:

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

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

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

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

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

(C) an entity not subject to the tax imposed by Chapter 171 by virtue of its business structure [~~a sole proprietorship, partnership, or limited liability partnership~~] to receive an ad valorem tax benefit or financial benefit provided by

1 this chapter; and

2 (3) in implementing this chapter, school districts and
3 the comptroller should[+]

4 ~~(A)] strictly interpret the criteria and selection~~
5 guidelines provided by this chapter [~~and~~

6 ~~(B) approve only those applications for an ad~~
7 ~~valorem tax benefit or financial benefit provided by this chapter~~
8 ~~that:~~

9 (i) ~~enhance the local community;~~

10 (ii) ~~improve the local public education~~
11 ~~system;~~

12 (iii) ~~create high-paying jobs; and~~

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

16 SECTION 2. Section 313.007, Tax Code, is amended to read as
17 follows:

18 Sec. 313.007. EXPIRATION. Subchapters B, C, and D expire
19 December 31, 2020 [~~2014~~].

20 SECTION 3. Section 323.024, Tax Code, is amended by
21 amending Subsection (b) and adding Subsection (e)(7) to read as
22 follows:

23 (b) To be eligible for a limitation on appraised value under
24 this subchapter, the entity must use the property in connection
25 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 data center.

13 (e)(7) "Data center" means a facility composed of a single
14 building or a portion of a single building specifically constructed
15 or refurbished and actually used primarily to house servers and
16 related equipment and support staff for the processing, storage,
17 and distribution of data.

18 SECTION 4. Section 313.025, Tax Code, is amended by
19 amending Subsections (b), (b-1), (c), (d), and (f-1).

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

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

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

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

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

- 15 (1) the comptroller;
- 16 (2) the Texas [~~Department of~~] Economic Development and
17 Tourism Office;
- 18 (3) the Texas Workforce Investment Council; and
- 19 (4) the Texas Workforce Commission.

20 (d) Not later than the 90th [~~Before the 91st~~] day after the
21 date the comptroller receives [~~the copy of~~] the application, the
22 comptroller shall submit [~~a recommendation~~] to the governing body
23 of the school district a recommendation as to whether the
24 application should be approved or disapproved, and, if applicable,
25 a recommendation to waive or reduce the new jobs requirement.

26 (f-1) Notwithstanding any other provision of this chapter
27 to the contrary, [~~including Section 313.003(2) or 313.004(3)(A) or~~

1 ~~(B)(iii),~~ the governing body of a school district may reduce or
2 waive the new jobs creation requirement in Section
3 313.021(2)(A)(iv)(b) or 313.051(b) and approve an application if
4 the comptroller:

5 (A) finds [~~governing body makes a finding~~] that
6 the jobs creation requirement exceeds the industry standard for the
7 number of employees reasonably necessary for the operation of the
8 facility of the property owner that is described in the
9 application; and

10 (B) recommends:

11 (i) reducing the number of new jobs
12 required; or

13 (ii) waiving the new jobs requirement.

14 SECTION 5. Section 313.026, Tax Code, is amended to read as
15 follows:

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

19 (1) the recommendations of the comptroller;
20 (2) the name of the school district;
21 (3) the name of the applicant;
22 (4) a description of [~~the general nature of~~] the
23 applicant's proposed investment;

24 (5) the relationship between the applicant's industry
25 and the types of qualifying jobs to be created by the applicant to
26 the long-term economic growth plans of this state [~~as described in~~
27 ~~the strategic plan for economic development submitted by the Texas~~

1 ~~Strategic Economic Development Planning Commission under Section~~
2 ~~481.033, Government Code, as that section existed before February~~
3 ~~1, 1999];~~

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

6 (7) the number of qualifying jobs to be created by the
7 applicant;

8 (8) the wages, salaries, and benefits to be offered by
9 the applicant to qualifying job holders;

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

12 (10) the impact the project will have on this state and
13 individual local units of government, including:

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

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

22 (11) the economic condition of the region of the state
23 at the time the person's application is being considered;

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

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

5 ~~(14)~~] the projected market value of the qualified
6 property of the applicant as determined by the comptroller;

7 (13) [~~(15)~~] the proposed limitation on appraised
8 value for the qualified property of the applicant;

9 (14) [~~(16)~~] the projected dollar amount of the taxes
10 that would be imposed on the qualified property, for each year of
11 the agreement, if the property does not receive a limitation on
12 appraised value with assumptions of the projected appreciation or
13 depreciation of the investment and projected tax rates clearly
14 stated;

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

20 (16) [~~(18)~~] the projected effect on the Foundation
21 School Program of payments to the district for each year of the
22 agreement;

23 (17) [~~(19)~~] the projected future tax credits if the
24 applicant also applies for school tax credits under Section
25 313.103; ~~and~~

26 (18) [~~(20)~~] the total amount of taxes projected to be
27 lost or gained by the district over the life of the agreement

1 computed by subtracting the projected taxes stated in Subdivision
2 (15) [~~(17)~~] from the projected taxes stated in Subdivision (14)
3 [~~(16)~~]; and

4 (19) whether the jobs creation requirement exceeds the
5 industry standard for the number of employees reasonably necessary
6 for the operation of the facility described in the application.

7 (b) Except as provided by Subsection (c), the [~~The~~]
8 comptroller's recommendations shall be based on the criteria listed
9 in Subsections (a)(5)-(18) [~~(a)(5)-(20)~~] and on any other
10 information available to the comptroller, including information
11 provided by the governing body of the school district [~~under~~
12 ~~Section 313.025(b)~~].

13 (c) The comptroller may not recommend approval of an
14 application if the comptroller determines that the net present
15 value of any projected additional state tax and fee revenue
16 generated as a direct or indirect result of the qualified
17 investment over the useful life of the qualified investment is not
18 likely to exceed the net present value of any projected increase in
19 payments to the school district under the Foundation School Program
20 resulting from the approval of the application [~~Expired~~].

21 SECTION 6. Section 313.027(i), Tax Code, is amended to read
22 as follows:

23 (i) A person and the school district may not enter into an
24 agreement under which the person agrees to provide supplemental
25 payments to a school district, including to a foundation or other
26 entity that exists to provide material or financial support to the
27 school district [~~in an amount that exceeds an amount equal to \$100~~

1 ~~per student per year in average daily attendance, as defined by~~
2 ~~Section 42.005, Education Code]~~, or for a period that exceeds the
3 period beginning with the period described by Section 313.021(4)
4 and ending with the period described by Section 313.104(2)(B) of
5 this code. This limit does not apply to amounts described by
6 Subsection (f)(1) or (2) of this section.

7 SECTION 7. Section 313.031(b), Tax Code, is amended to read
8 as follows:

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

18 SECTION 8. Section 313.105(a), Tax Code, is amended to read
19 as follows:

20 (a) If the comptroller or [~~and~~] the governing body of a
21 school district determines [~~determine~~] that a person who received a
22 tax credit under this subchapter for any reason was not entitled to
23 the credit received or was entitled to a lesser amount of credit
24 than the amount of the credit received, an additional tax is imposed
25 on the qualified property equal to the full credit or the amount of
26 the credit to which the person was not entitled, as applicable, plus
27 interest at an annual rate of seven percent calculated from the date

1 the credit was issued.

2 SECTION 9. Sections 313.008 and 313.009, Tax Code, are
3 repealed.

4 SECTION 10. This Act takes effect immediately if it
5 receives a vote of two-thirds of all the members elected to each
6 house, as provided by Section 39, Article III, Texas Constitution.
7 If this Act does not receive the vote necessary for immediate
8 effect, this Act takes effect September 1, 2013.