LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 9, 2013

TO: Honorable Harvey Hilderbran, Chair, House Committee on Ways & Means

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB2467** by Murphy (Relating to the Texas Economic Development Act; authorizing a fee.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2467, As Introduced: an impact of $0 through the biennium ending August 31, 2015.

However, the bill would result in a negative impact of ($18,800,000) beginning in 2016 and growing significantly in subsequent years.

General Revenue-Related Funds, Ten-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2014	$0
2015	$0
2016	($18,800,000)
2017	($90,500,000)
2018	($94,800,000)
2019	($168,200,000)
2020	($248,400,000)
2021	($327,500,000)
2022	($400,600,000)
2023	($468,700,000)

All Funds, Ten-Year Impact:

Fiscal Year	Probable (Cost) from *Foundation School Fund* 193	Probable Revenue (Loss) from *School Districts*
2014	$0	$0
2015	$0	$0
2016	($18,800,000)	($28,911,569)
2017	($90,500,000)	($94,762,597)
2018	($94,800,000)	($168,169,488)
2019	($168,200,000)	($248,416,060)
2020	($248,400,000)	($327,493,424)
2021	($327,500,000)	($400,560,509)
2022	($400,600,000)	($468,687,935)
2023	($468,700,000)	($531,549,834)

Fiscal Analysis

The bill would amend Chapter 313 of the Tax Code, relating to the Texas Economic Development Act.

Section 1 of the bill would amend legislative findings in Tax Code, Section 313.002; would amend Tax Code, Section 313.004 to clarify that only entities subject to Chapter 171 are eligible for benefits under the chapter; and would amend Tax Code, Section 313.007 to extend the expiration date of Subchapters B and C, Chapter 313, Tax Code from December 31, 2014 to December 31, 2024 but does not extend Subchapter D.

Section 2 of the bill would amend Tax Code, Section 313.021 to add as qualified investment a building or a permanent, nonremovable component of a building that, as a part of a discrete project that increases the value of building or component, is renovated, expanded or otherwise improved during the applicable qualifying time period that begins January 1, 2014 and that houses tangible personal property.

Section 2 of the bill would also amend Tax Code, Section 313.021 to require a qualifying job covered by a group health insurance plan that complies with the Patient Protection and Affordable Care Act thereby replacing an applicant's responsibility to pay at least 80 percent of the health insurance premium.

Section 2 of the bill would also amend Tax Code, Section 313.021 to add a definition of a strategic investment area as an area the comptroller determines is in a county within this state with above average unemployment and below average per capita income, an area that is a federally designated urban enterprise community or an urban enhanced enterprise community, or a defense economic readjustment zone. The bill would create a definition for a "Texas priority project" as a project on which the applicant has committed a qualified investment of more than $1 billion and that the governor has certified, in a letter provided to the applicant, is in the best interest of the economy.

Section 3 of the bill would amend Tax Code, Section 313.024 to expand the types of properties eligible for a value limitation to include a data center and a Texas priority project.

Section 4 of the bill would amend Tax Code, Section 313.024 to define data center as an establishment engaged in data processing, hosting and related services, an internet activity, or software publishing and reproduction as described by industry codes of the North American Industry Classification System.

Section 5 of the bill would amend Tax Code, Section 313.025 to make a conforming change made in Section 6 of the bill. Section 6 of the bill would amend Tax Code, Section 313.026 to require the evaluation of certain criteria in the economic impact evaluation and to eliminate several other criteria currently required in the evaluation.

Section 7 of the bill would amend Tax Code, Section 313.0265 to make conforming changes related to the repeal of Subchapter D with regards to the disclosure of appraised value limitation information.

Section 8 of the bill would amend Tax Code, Section 313.027 to extend the value limitation period from eight to ten tax years, limit the deferral date on which a qualifying time period could begin to a date later than January 1 of the fourth tax year beginning after the date the application is approved, and prohibit any payments from property owners to school districts in consideration of the execution of an agreement that are not specifically authorized by Tax Code, Sections 313.027(f)(1) or 313.027(f)(2). The bill would remove the $100 cap on payment in lieu of tax payments and prohibits any supplemental payments to a school district.

Section 9 of the bill would amend Tax Code, Section 313.0275 to allow a person to request and the comptroller to grant a waiver of a penalty imposed in the event of casualty loss.

Section 10 of the bill would amend Tax Code, Section 313.031 to authorize the comptroller by official action to establish reasonable fees to be paid by property owners who apply to a school district for a limitation on the value of the person's property under Subchapter B. The fee amount must be reasonable and may not exceed the estimated cost to the comptroller of preparing the report on compliance with agreements.

Section 11 of the bill would amend Tax Code, Section 313.032 to include additional data to the report on the agreements as well as delete some data currently required in the report. The bill would authorize the comptroller to use standard economic estimation techniques, including economic multipliers, in preparing a portion of the report and to require another portion of the report be based on data certified to the comptroller by each recipient of a value limitation.

Section 12 of the bill would amend Tax Code, Section 313.051 to require the comptroller, no later than September 1 of each year, to determine areas that qualify as a strategic investment area using the most recently completed full calendar year data available on that date and, no later than October 1, publish a list and map of the designated areas. The determination is effective for the following tax year. A person who enters into an agreement with a school district in a strategic investment area that qualified at the time the person and school district entered into the agreement is eligible to receive a limitation on appraised value based on the strategic investment area status, even if that status changed at a later date.

Section 13 of the bill would amend Subchapter E's title, "Availability of Tax Credit After Program Expires", by adding the phrase "Or is Repealed."

Section 14 of the bill would amend Tax Code, Section 313.171 to state the repeal of Subchapter D does not affect a property owner's entitlement to a tax credit granted prior to the repeal.

Sections 15 and 16 of the bill would amend Education Code, Sections 42.2515 and 42.302 to make conforming changes related to repeal of Subchapter D.

Section 17 of the bill would repeal Tax Code, Sections 313.008 and 313.009 regarding redundant reporting requirements.

Section 17 of the bill would also repeal Tax Code, Chapter 313, Subchapter D, "School Tax Credits." Future Chapter 313 project owners would only receive an eight-year benefit from the limitation on appraised value, with no benefit through a tax credit accruing during the two complete tax years of an agreement.

Section 18 of the bill clarifies that changes within this Act would only apply to applications filed on or after the effective date of this Act.

The bill would take effect on September 1, 2013.

Methodology

Currently, Subchapters B, C, and D of Tax Code, Chapter 313 expire December 31, 2014. The repeal of Subchapter D would eliminate the tax benefit received through the tax credit, leaving only the benefit flowing through the limitation, increased from eight years to 10 years. This estimate assumes that most projects' 10-year limitation period will begin at the beginning of the third complete tax year after the agreement is executed, and will last through the twelfth complete tax year.

Extending the expiration of Subchapters B and C of the Act would allow ten more years, or "classes," of applicant projects. This estimate assumes participation in the program of a total of 54 projects per year in each of those years. Of the 54 projects assumed for each year, 44 are modeled as manufacturing projects, eight are modeled as renewable energy projects and two are modeled as data centers. Of the 44 manufacturing projects in each class, two are modeled as "deferred" projects: one project with a two-year deferral, and one project with a four-year deferral. In addition, expanding eligibility for participation in Chapter 313 to projects renovating facilities rather than creating new facilities, would significantly increase the number of projects eligible for the Chapter's benefits. Of the 44 manufacturing projects within each annual class, 21 manufacturing projects are assumed to have applied under this "renovation" eligibility provision.

Minimum limitation amounts for this estimate were derived by applying the updated demographic and economic criteria set forth in the bill for Subchapter C eligibility in Sections 313.051(a) and (b).

Investment and taxable value estimates for each model project were derived using data from existing Chapter 313 agreements executed in 2012. Different distributions of project investment amounts or locations would result in different estimated school district Maintenance and Operation (M&O) property tax levy losses. This estimate assumes no significant avoidance of wage and job requirements through the hiring of contract personnel.

The state would incur cost under the Foundation School Program (FSP) corresponding to local M&O revenue losses. Costs of $18.8 million are estimated beginning in FY16, increasing to $94.8 million by FY18 and $468.7 million by FY23. Different distributions of project investment amounts or locations from that estimated above would affect state costs under the FSP.

The Comptroller of Public Accounts indicates they would need to hire an additionsl 2 FTEs to handle the new duties outlined in this legislation including economic impact evaluations and recommendations, and expanded data collection and reporting requirements.

The school district levy loss attributed to the Chapter 313 eligibility category of â€œTexas priority projectsâ€ created by this bill cannot be estimated, as the size and number of these projects is unknown.

Local Government Impact

School districts entering into Chapter 313 agreements would benefit from additional Foundation School Program state aid or reductions in recapture corresponding to losses in local M&O revenue resulting from the limitation on taxable value of affected property.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: UP, KK, SD, JSp