LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 26, 2013

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB3390** by Hilderbran (relating to the Texas Economic Development Act; authorizing a fee.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3390, Committee Report 1st House, Substituted: a negative impact of ($430,000) through the biennium ending August 31, 2015.

The bill would result in a significant negative fiscal impact to the state beginning in fiscal year 2017.

General Revenue-Related Funds, Ten-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2014	($215,000)
2015	($215,000)
2016	($215,000)
2017	($29,715,000)
2018	($45,615,000)
2019	($95,715,000)
2020	($142,415,000)
2021	($186,815,000)
2022	($228,415,000)
2023	($267,215,000)

All Funds, Ten-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *General Revenue Fund* 1	Probable (Cost) from *Foundation School Fund* 193	Probable Revenue (Loss) from *School Districts*	Change in Number of State Employees from FY 2013
2014	($215,000)	$0	$0	2.0
2015	($215,000)	$0	$0	2.0
2016	($215,000)	$0	$0	2.0
2017	($215,000)	($29,500,000)	($45,407,550)	2.0
2018	($215,000)	($45,400,000)	($95,456,967)	2.0
2019	($215,000)	($95,500,000)	($142,156,135)	2.0
2020	($215,000)	($142,200,000)	($186,633,781)	2.0
2021	($215,000)	($186,600,000)	($228,241,272)	2.0
2022	($215,000)	($228,200,000)	($266,961,130)	2.0
2023	($215,000)	($267,000,000)	($302,750,386)	2.0

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. Section 1 of the bill would also amend "Purposes" in Tax Code, Section 313.003.

Section 1 of the bill would also amend Tax Code, Section 313.004 to clarify that only entities subject to Chapter 171 are eligible for benefits under the chapter. The bill would clarify that economic development decisions involving school district taxes should occur at the local level with oversight by the state and should be consistent with identifiable statewide economic development goals. The bill would also clarify that, in implementing Chapter 313, the comptroller should strictly interpret the criteria and selection guidelines provided by this chapter and issue certificates for limitations on appraised value only for those applications for an ad valorem tax benefit provided that they create high-paying jobs, provide a net benefit to the state over the long term and advance the economic goals of this state.

Section 1 of the bill would also 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. Subchapter D is repealed in Section 18 of the bill.

Section 2 of the bill would amend Tax Code, Section 313.021 to add "an existing building that, as a part of discrete project that increases the value and productive capacity for an existing property, is expanded" to the definition of qualified investment.

Section 2 of the bill would also amend Tax Code, Section 313.021 to require a qualifying job to be 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. The minimum required wage standard for qualifying jobs would be changed from 110 percent of the county average weekly wage for manufacturing jobs in a county to 110 percent of the county average weekly wage for all jobs in a county. In Subchapter B, all new jobs would be required to meet the minimum qualifying job wage standard, compared to 80 percent of all new jobs under current law.

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

Section 4 of the bill would amend Tax Code, Section 313.024 to define a Texas priority project as a project on which the applicant has committed to expend or allocate a qualified investment of more than $1 billion.

Section 5 of the bill would amend Tax Code, Section 313.025 to require the governing board of a school district to submit a copy of the application to the comptroller and request the comptroller conduct an economic impact evaluation of the investment proposed by the application. The bill would authorize the school board to request that the comptroller submit a recommendation as to whether the new jobs creation requirement should be reduced or waived and, if reduced, the number of new jobs that should be required. The bill would require the comptroller to provide the school board with the economic impact evaluation along with the comptroller's certificate or written explanation and recommendation, if requested, not later than the 90th day after the date the comptroller receives the application.

Section 5 of the bill would also amend Tax Code, Section 313.025 to require the Texas Education Agency to determine the effect that the applicant's proposal will have on the number or size of the school district's instructional facilities and submit a written report to the school district instead of the comptroller.

Section 5 of the bill would also amend Tax Code, Section 313.025 to require the comptroller, no later than 90 days after the receipt of the application, to issue a certificate for a limitation on appraised value of the property and provide the certificate to the governing body of the school district, or provide the governing body a written explanation of the comptroller's decision not to issue a certificate. The bill would require the comptroller, if requested by the governing body of the school district, to submit a recommendation as to whether the new jobs creation requirement should be reduced or waived and, if reduced, the number of new jobs required.

Section 5 of the bill would also amend Tax Code, Section 313.025 to require that a governing body of a school district may not approve an application unless the comptroller submits to the governing body a certificate for a limitation on appraised value of the property. The bill would authorize a governing board of a school district to waive or reduce the new jobs creation requirement only if the comptroller determines that the new jobs creation requirement exceeds the industry standard for the number of employees reasonably necessary for the operation of the facility that is described in the application and recommends waiving or reducing the requirement.

Section 6 of the bill would amend Tax Code, Section 313.026 to require the comptroller to evaluate certain criteria in the economic impact evaluation and to eliminate several other criteria currently required in the evaluation. The bill would require the comptroller not to issue a certificate for a limitation on appraised value unless the comptroller determines that the project proposed by the applicant is reasonably likely to generate, before the 25th anniversary of the beginning of the limitation period, tax revenue, including state tax revenue, school district maintenance and operations ad valorem tax revenue attributable to the project, and any other tax revenue attributable to the effect of the project on the economy of the state, in an amount sufficient to offset the school district maintenance and operations ad valorem tax revenue lost as a result of the agreement and that the limitation on appraised value is a significant consideration by the applicant in determining whether to invest capital and construct the project in this state. If the comptroller makes a qualitative determination that other considerations associated with the project result in a net positive benefit to the state, the comptroller may issue the certificate.

Section 7 of the bill would amend Tax Code, Section 313.0265 to make conforming changes related to the repeal of Subchapter D.

Section 8 of the bill would amend Tax Code, Section 313.027 to extend the value limitation period from eight to ten tax years and to limit the deferral date on which a qualifying time period could begin to a date not later than January 1 of the sixth tax year after the date the application is approved. The bill would prohibit any supplemental payments from property owners to school districts, or to an entity that exists primarily to provide financial or material support to the school district, in an amount that exceeds an amount equal to the greater of $100 per student per year in average daily attendance or $50,000 per year, or in a tax year other than a tax year in which the limitation on appraised value is in effect.

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 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 performing the comptroller's duties.

Section 10 of the bill would also amend Tax Code, Section 313.031 to clarify that the amount of the application fee may not exceed the estimated cost to the district of processing and acting on an application, including any costs to the school district associated with the economic impact evaluation.

Section 11 of the bill would amend Tax Code, Section 313.021 to modify the types of data the comptroller must include in the required "Report on Compliance with Agreements." The bill would require the report include an assessment of agreements considered in the aggregate. The bill would authorize the comptroller to use standard economic estimation techniques, including economic multipliers in preparing the report. The bill would require that data must be based on data certified to the comptroller by each recipient, or former recipient of a limitation on appraised value.

Section 12 of the bill would change Subchapter C's title, "Limitation on Appraised Value of Property in Strategic Investment Area or Certain Rural Districts."

Section 13 the bill would also amend Tax Code, Section 313.051 to create a definition of a strategic investment area as an area the comptroller determines is a county within this state with unemployment above the state average and per capita income below the state average, an area within this state that is a federally designated urban enterprise community or an urban enhanced enterprise community, or a defense economic readjustment zone designated under Chapter 2310, Government Code.

Section 13 of the would amend Tax Code, 313.051 to require the comptroller to determine demographic eligibility under Subchapter C using the latest two federal censuses and to also consider the average rate of population increase in the state during the same period.

Section 13 of the bill would also amend Tax Code, Section 313.051 to require the comptroller, not later than September 1 of each year, to determine areas that qualify as a strategic investment areas using the most recently completed full calendar year data available on that date and, not later than October 1, publish a list and map of the designated areas. The determination would be effective for the following tax year.

Section 13 of the bill would also amend Tax Code, Section 313.051, Subchapter C, to require a property owner to create at least 10 new jobs. The bill would remove a requirement for school districts under Subchapter C that each qualifying job must pay at least 110 percent of the average weekly wage for manufacturing jobs in a region designated for a regional planning commission.

Section 14 of the bill would amend Subchapter E's title to, "Availability of Tax Credit after Program Expires Or is Repealed."

Section 15 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 16 and 17 of the bill would amend Education Code, Sections 42.2515 and 42.302 to make conforming changes related to repeal of Subchapter D.

Section 18 of the bill would repeal Tax Code, Sections 313.008 and 313.009 regarding redundant reporting requirements, as well as Section 313.021(5), the definition of county average weekly wage for manufacturing jobs.

Section 18 of the bill would also repeal Tax Code, Chapter 313, Subchapter D, "School Tax Credits." Future Chapter 313 project owners would receive a ten-year benefit from the limitation on appraised value, with no benefit through a tax credit.

Section 19 of the bill clarifies that changes within this Act would only apply to applications filed on or after the effective date of this Act.

Section 20 of the bill clarifies the comptroller shall make the initial determinations of areas that qualify as a strategic investment not later than September 1, 2014 and shall publish the initial list and map required not later than October 1, 2014.

The bill would take effect January 1, 2014.

Methodology

Currently, Subchapters B, C, and D of Tax Code, Chapter 313 expire December 31, 2014.

The estimate assumes a 10 year limitation period but no tax credit benefit.

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 39 projects per year in each of those years. Of the 39 projects assumed for each year, 24 are modeled as manufacturing projects, eight are modeled as renewable energy projects and seven are modeled as expansions. Of the 24 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.

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 proposed reduction in the wage standard would allow more applicants to access the program, with a commensurate increase in school levy loss. However, it is assumed that the requirement that all new jobs in Subchapter B be qualifying jobs offsets a part of that loss.

The state would incur cost under the Foundation School Program (FSP) corresponding to local M&O revenue losses. Costs of $29.5 million are estimated beginning in FY17, increasing to $45.4 million by FY18 and $267.0 million by FY23. Different distributions of project investment amounts or locations from that estimated above would affect state costs under the FSP.

The Comptroller's office indicates it would be necessary to hire two FTEs to handle the new duties outlined in this legislation including expanded economic impact evaluations and recommendations, expanded data collection and reporting, and additional applications due to amended eligibility requirements.

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