

**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: HB3390** by Hilderbran (Relating to the Texas Economic Development Act.), As  
**Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3390, As Introduced: an impact of \$0 through the biennium ending August 31, 2015.

However, the bill would result in a negative fiscal impact of (\$3,300,000) beginning in 2018 and growing significantly in subsequent years.

**General Revenue-Related Funds, Ten-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2014	\$0
2015	\$0
2016	\$0
2017	\$0
2018	(\$3,300,000)
2019	(\$49,400,000)
2020	(\$105,200,000)
2021	(\$157,600,000)
2022	(\$207,700,000)
2023	(\$256,300,000)

## All Funds, Ten-Year Impact:

<b>Fiscal Year</b>	<b>Probable (Cost) from Foundation School Fund 193</b>	<b>Probable Revenue (Loss) from School Districts</b>
2014	\$0	\$0
2015	\$0	\$0
2016	\$0	\$0
2017	\$0	\$0
2018	(\$3,300,000)	(\$43,625,011)
2019	(\$49,400,000)	(\$97,045,444)
2020	(\$105,200,000)	(\$147,188,568)
2021	(\$157,600,000)	(\$195,439,446)
2022	(\$207,700,000)	(\$241,528,425)
2023	(\$256,300,000)	(\$285,214,845)

## 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 Tax Code, Section 313.004 to clarify that only entities subject to Chapter 171 are eligible for benefits under the chapter. The bill would also clarify that, in implementing Chapter 313, school districts and now the comptroller should strictly interpret the criteria and selection guidelines provided by this chapter.

Section 2 of the bill would amend Tax Code, Section 313.007 to extend the expiration date of Subchapters B, C and D, Chapter 313, Tax Code from December 31, 2014 to December 31, 2020.

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 data center and to define data center to mean a facility composed of a single building or a portion of a single building specifically constructed or refurbished and actually used primarily to house servers and related equipment and support staff for the processing, storage, and distribution of data. The bill does not provide North American Industry Classification System code for the definition of data center.

Section 4 of bill would amend Tax Code, Section 313.025 to require the submission of the application delivered as electronic copy or paper copies. The bill would require the economic impact evaluation be completed no later than the 90th day after the date the comptroller receives the application. The bill would require the governing board of a school district to approve or disapprove an application no later than 150th day after the date of the application is filed. The bill would require the Texas Education Agency to determine the effect that the application's proposal, if approved, will have on the number or size of the school district's instructional facilities and submit the written report to the school district instead of the comptroller. The bill would require the comptroller to submit a recommendation to the governing body of the school district as to whether the application should be approved or disapproved and, if applicable, also include a recommendation to waive or reduce the new jobs requirement.

Section 5 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 to not recommend approval of an application if the comptroller determines that the net present value of any

projected additional state tax and fee revenue generated as a direct or indirect result of qualified investment over the useful life of the qualified investment is not likely to exceed the net present value of any projected increase in payments to the school district under the Foundation School Program resulting from the approval of the application.

Section 6 of the bill would amend Tax Code, Section 313.027 to prohibit any supplemental payments to a school district or other entity that exists to provide material or financial support to the school district.

Section 7 of the bill would amend Tax Code, Section 313.031 to clarify 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 8 of the bill would amend Tax Code, Section 313.105 to specify that if the comptroller or the governing body of school district determines the applicant received a tax credit and was not entitled to the credit or was entitled to lesser amount of credit, there is an additional tax imposed equal to the credit granted.

Section 9 of the bill would repeal Tax Code, Sections 313.008 and 313.009 regarding redundant reporting requirements.

The bill would take effect immediately if it receives a vote of two-thirds of all members elected to each house. Otherwise, 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. This estimate assumes that each project's 8-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, C and D of the Act would allow six more years, or "classes," of applicant projects. This estimate assumes participation in the program of a total of 33 projects per year in each of those years. Of the 33 projects assumed for each year, 23 are modeled as manufacturing projects, eight are modeled as renewable energy projects and two are modeled as data center projects. Of the 23 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 state would incur cost under the Foundation School Program (FSP) corresponding to local M&O revenue losses. Costs of \$43.6 million are estimated beginning in FY19, increasing to \$241.5 million by FY23. Different distributions of project investment amounts or locations from that estimated above would affect state costs under the FSP.

Subchapter D, Chapter 313 authorizes tax credits distributed over a period of years for school district taxes paid during the qualifying time period on the portion of property subject to Chapter 313 agreements in excess of the limitation amount. School districts are entitled to additional state aid equal to the amount of tax credits granted each year. State cost for reimbursement of tax credits anticipated for the projects assumed above would be estimated at \$3.3 million in FY18 increasing to \$14.8 million by FY23.

### **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