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: **HB3591** by Hilderbran (Relating to state funding to support economic development; providing for the imposition of a fee.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3591, As Introduced: an impact of $0 through the biennium ending August 31, 2015.

Assuming full implementation of the provisions of the bill, the state would begin to incur costs beginning in fiscal year 2016.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Nine-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2014	$0
2015	$0
2016	($38,473,725)
2017	($31,660,321)
2018	($75,931,927)
2019	($69,513,954)
2020	($104,587,699)
2021	($125,835,153)
2022	($145,729,671)

All Funds, Nine-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *General Revenue Fund* 1	Probable Revenue Gain/(Loss) from *New General Revenue Dedicated - Texas Economic Development Fund*	Probable Savings/(Cost) from *New General Revenue Dedicated - Texas Economic Development Fund*	Probable Savings/(Cost) from *Foundation School Fund* 193
2014	$0	$0	$0	$0
2015	$0	$0	$0	$0
2016	($68,473,725)	$68,473,725	($68,473,725)	$30,000,000
2017	($145,160,321)	$145,160,321	($145,160,321)	$113,500,000
2018	($232,331,927)	$232,331,927	($232,331,927)	$156,400,000
2019	($327,713,954)	$327,713,954	($327,713,954)	$258,200,000
2020	($418,487,699)	$418,487,699	($418,487,699)	$313,900,000
2021	($503,435,153)	$503,435,153	($503,435,153)	$377,600,000
2022	($582,829,671)	$582,829,671	($582,829,671)	$437,100,000

Fiscal Analysis

The bill would amend Title 4, Government Code by adding Chapter 483 related to the creation of the Texas Economic Development Fund and the repeal of Chapter 313 of the Tax Code, relating to the Texas Economic Development Act.

Section 1 of the bill would create Subchapter A and a new Government Code, Section 483.001 to provide definitions for qualified investment, qualified property, qualifying job, qualifying time period, county average weekly wage for manufacturing jobs, and office. Office is defined as the Texas Economic Development and Tourism Office within the office of the governor.

Section 1 of the bill would also create a new Government Code, Section 483.002 to specify in statute purposes of Chapter 483. Section 1 of the bill would also create a new Government Code, Section 483.003 to require the expiration of the rebate program on December 31, 2020 and the expiration of the chapter on January 1, 2021.

Section 1 of the bill would also create Subchapter B and a new Government Code, Section 483.051 to outline the Texas Economic Development Fund as a dedicated account in the general revenue fund. The bill would require amounts deposited in fund to include amounts appropriated by the legislature for the fund for the purposes of the chapter, any rebate payments that are returned, interest earned on the investment of money in the fund and gifts, grants, and other donations received for the fund. The bill clarifies that money in the fund may be used only for the purposes of the chapter and would authorize the fund be used temporarily by the comptroller for cash management purposes. The administration of the fund is considered to be a trusteed program within the Texas Economic Development and Tourism Office.

Section 1 of the bill would also create Subchapter C and a new Government Code, Section 483.101 to outline the types of properties eligible for a rebate payment.

Section 1 of the bill would also create Subchapter D and a new Government Code, Section 483.151 to require the Texas Economic Development and Tourism Office to establish and administer a program to make rebate payments from money appropriated to the fund to a person who owns qualified property that meets eligibility requirements, makes the minimum amount of qualified investment on or in connection with the person's qualified property during the qualifying time period and creates the required number of qualifying jobs during each year of the agreement.

Section 1 of the bill would also create a new Government Code, Section 483.152 to allow a person to apply to the office to receive rebate payments under Chapter 483. The bill would require the application be made on the form prescribed by the office, include the information required by the office and be accompanied by an application fee. The bill would require the office to submit a copy of the application and proposed agreement between the applicant and the governor to the comptroller no later than 10 days after the office receives an application.

Section 1 of the bill would create a new Government Code, Section 483.153 to require the comptroller, no later than 91 days after the date the comptroller received a copy of the application and the proposed agreement, to determine whether the fiscal benefit to the state of the proposed qualified investment exceeds the comptroller's estimate of the rebate payments to be made under the proposed agreement by more than five percent and certify the determination to the office. The bill would require the comptroller to use accepted revenue estimating techniques, including dynamic modeling, in making a determination.

Section 1 of the bill would create a new Government Code, Section 483.154 to require the office to approve an application for the rebate if the office determines that real and personal property identified in the application as qualified property meets applicable criteria; the comptroller certifies to the office that the fiscal benefit to the state of the proposed qualified investment exceeds the comptroller's estimate of rebate payments to be made under the proposed agreement by more than five percent; and the office determines that granting approval of the application is in the best interest of this state.

Section 1 of the bill would also create a new Government Code, Section 483.155 to require the governor, if the office approves the application, to enter into a written agreement with the applicant that describes with specificity the investment that the person will make on or in connection with the person's qualified property during the qualifying time period and the number of qualifying jobs that will be created during each year of the agreement; specifies the ad valorem tax years covered by the agreement; states that the office will annually monitor the person's compliance with the terms of the agreement, including the minimum investment requirements to be made by the person; and states that if the office finds that the person has not met the minimum investment or job creation requirements for the reporting year the person may not receive a rebate for that year or if the rebate has been paid for that year, the person shall repay the rebate and any related interest to the state at the agreed rate and on the agreed terms.The bill would require the term of a rebate payment agreement not exceed 10 years.

Section 1 of the bill would also create a new Government Code, Section 483.156 to require the office to pay a rebate for an ad valorem tax year to a person who is eligible for the payment on the first anniversary of the date when the person pays the taxes imposed by applicable school district on the qualified property. The amount of the rebate is equal to the amount of school district taxes for maintenance and operations (M&O taxes) imposed in that ad valorem tax year on the increase in appraised value of the qualified property that is attributable to the making of the proposed qualified investment.

Section 1 of the bill would also create a new Government Code, Section 483.157 to require the comptroller to monitor the fiscal benefit to the state of a qualified investment made by a rebate recipient each year. The bill would require the comptroller to certify the fact to the office and the recipient may not receive a rebate for that year if the comptroller determines that for any year the fiscal benefit to the state is less than the amount required to qualify for receipt of a rebate under this chapter. If the office has paid a rebate to the recipient before receiving the comptroller's certification under this subsection, the recipient must return the rebate payment for that year to the office.

Section 1 of the bill would also create a new Government Code, Section 483.158 to require the office to prepare a biennial report assessing the progress of each agreement authorized by Chapter 483 to the lieutenant governor, speaker, and legislature. The bill would authorize the office to require a recipient to submit information required to complete the report.

Section 1 of the bill would also create a new Government Code, Section 483.159 to require the office to adopt rules and forms necessary to implement and administer the program.

Section 2 of the bill would amend the heading of Education Code, Section 42.2515 to make conforming changes related to the repeal of Chapter 313, Tax Code. Sections 3 and 4 of the bill would amend Education Code, Sections 42.2515 and 42.302 to make conforming changes related to the repeal of Subchapter D, Chapter 313, Tax Code. Section 5 of the bill would amend Government Code, Section 403.302 to make conforming changes related to the repeal of Chapter 313, Tax Code. Section 6 of the bill would amend Government Code, Section 2303.507 to eliminate the reinvestment zone designation for appraised value limitation under Tax Code, Chapter 313 when an area is designated as an enterprise zone.

Sections 7 and 8 of the bill would amend Tax Code, Section 23.03 to make conforming changes related to the repeal of Chapter 313, Tax Code.

Section 9 of the bill would amend Tax Code, Section 312.403 to clarify that nuclear electric power generation means activities described in category 221113 of the 2002 North American Industry Classification System and strikes its reference in Chapter 313, Tax Code.

Section 10 of the bill would create Tax Code, Section 320.002 to clarify that an appraised value limitation approved before the repeal of the subchapter continues in effect and clarifies that a property's owner is still entitled to a tax credit granted if the property owner qualified for the tax credit before the repeal.

Section 11 of the bill would repeal Tax Code, Section 312.0025 related to the authority of the governing board of the school district to designate an area entirely within the territory of the school district as a reinvestment zone. Section 11 of the bill would also repeal Chapter 313, Tax Code related to the Texas Economic Development Act.

The bill would take effect on January 1, 2014.

Methodology

The bill repeals Chapter 313, which is administered by the comptroller's office, and creates a program to be administered by the governor's office. The comptroller's office would provide certain analytical services in support of the program. The Governor's office indicates they would need two additional FTEs to administer the new program.

The bill would create a program administered by the governor's office that is similar to the existing Chapter 313 program. For illustrative purposes, the proposed rebate program was compared to the existing 313 program. The new program would allow rebates for all M&O taxes paid, rather than limiting the taxable value of property as is the case under Chapter 313. Rebates would be paid from a new GR-D Fund, the Texas Economic Development Fund. The fund would consist of appropriations made by the Legislature and although future appropriations to the fund are unknown, for the purpose of this estimate it is assumed future Legislatures would fully fund the amounts needed for the rebate program.

The total number of companies that could qualify for the rebate program is unknown, but may exceed the number that is eligible for Chapter 313 under current law, due in part to the removal of Tax Code Section 313.026 (a)(9), which requires the ability of the applicant to locate or relocate in another state be taken into account when considering the projects application. This estimate assumes that 52 projects per year will enter into a rebate payment agreement beginning in 2014 and ending after 2020, when the program expires. The types of projects and associated taxable values were estimated using existing data from Ch. 313 agreements executed in tax year 2012. Rebate payments are assumed to equal the amount of M&O taxes eligible projects would pay to school districts. It is assumed that rebates would first be paid in FY 2016, as the bill specifies the rebates would be paid on the first anniversary of the date the entity pays the taxes imposed on the qualified property.

To the extent that the bill would result in increased taxable value in school districts and additional local revenue associated with that value, the state could realize savings under the Foundation School Program. For the purpose of illustration, assuming property value and local tax revenue increases concomitant with the estimated level of rebate amounts, state savings of about $30 million would be anticipated in FY16 increasing to $437 million by FY22.

Local Government Impact

Under current law, the Texas Economic Development Act expires at the end of 2014. School districts will remain in existing value limitations agreements entered into prior to expiration of the Act and state and local impact associated with those limitations will continue. However, some school districts could realize an increase in taxable values and corresponding local tax revenue, through the creation of the Texas Economic Development Fund to the extent the Fund creates an incentive for eligible projects to locate in the state that would have potentially located elsewhere in the absence of the Fund.

Source Agencies: 301 Office of the Governor, 304 Comptroller of Public Accounts

LBB Staff: UP, KK, SD, JSp