

SENATE AMENDMENTS

2nd Printing

By: Hilderbran, Murphy, Eiland,
J. Davis of Harris, Oliveira

H.B. No. 3390

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the Texas Economic Development Act and the Tax
3 Increment Financing Act; authorizing a fee.

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

5 SECTION 1. Sections 313.002, 313.003, 313.004, and 313.007,
6 Tax Code, are amended to read as follows:

7 Sec. 313.002. FINDINGS. The legislature finds that:

8 (1) many states have enacted aggressive economic
9 development laws designed to attract large employers, create jobs,
10 and strengthen their economies;

11 (2) given Texas' relatively high ad valorem taxes, it
12 is difficult for the state to compete for new capital projects
13 without temporarily limiting ad valorem taxes imposed on new
14 capital investments [~~the State of Texas has slipped in its national~~
15 ~~ranking each year between 1993 and 2000 in terms of attracting major~~
16 ~~new manufacturing facilities to this state~~];

17 (3) a significant portion of the Texas economy
18 continues to be based in [~~the~~] manufacturing and other
19 capital-intensive industries [~~industry~~], and their [~~the~~] continued
20 growth and overall health serve [~~of the manufacturing sector~~
21 ~~serves~~] the Texas economy well;

22 (4) without a vibrant, strong manufacturing sector,
23 other sectors of the economy, especially the state's service
24 sector, will also suffer adverse consequences; and

1 (5) the current ad valorem [~~property~~] tax system of
2 this state does not favor capital-intensive businesses such as
3 manufacturers.

4 Sec. 313.003. PURPOSES. The purposes of this chapter are
5 to:

6 (1) encourage large-scale capital investments in this
7 state [~~, especially in school districts that have an ad valorem tax~~
8 ~~base that is less than the statewide average ad valorem tax base of~~
9 ~~school districts in this state~~];

10 (2) create new, high-paying jobs in this state;

11 (3) attract to this state [~~new,~~] large-scale
12 businesses that are exploring opportunities to locate in other
13 states or other countries;

14 (4) enable state and local government officials and
15 economic development professionals to compete with other states by
16 authorizing economic development incentives that are comparable to
17 [~~meet or exceed~~] incentives being offered to prospective employers
18 by other states and to provide state and local officials with an
19 effective means to attract large-scale investment;

20 (5) strengthen and improve the overall performance of
21 the economy of this state;

22 (6) expand and enlarge the ad valorem [~~property~~] tax
23 base of this state; and

24 (7) enhance this state's economic development efforts
25 by providing state and local officials [~~school districts~~] with an
26 effective [~~local~~] economic development tool [~~option~~].

27 Sec. 313.004. LEGISLATIVE INTENT. It is the intent of the

1 legislature in enacting this chapter that:

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

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

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

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

15 (C) an entity not subject to the tax imposed by
16 Chapter 171 [~~a sole proprietorship, partnership, or limited~~
17 ~~liability partnership~~] to receive an ad valorem tax benefit [~~or~~
18 ~~financial benefit~~] provided by this chapter; [~~and~~]

19 (3) in implementing this chapter, school districts
20 should:

21 (A) strictly interpret the criteria and
22 selection guidelines provided by this chapter; and

23 (B) approve only those applications for an ad
24 valorem tax benefit [~~or financial benefit~~] provided by this chapter
25 that:

26 (i) enhance the local community;

27 (ii) improve the local public education

1 system;

2 (iii) create high-paying jobs; and

3 (iv) advance the economic development goals
4 of this state; and

5 (4) in implementing this chapter, the comptroller
6 should:

7 (A) strictly interpret the criteria and
8 selection guidelines provided by this chapter; and

9 (B) issue certificates for limitations on
10 appraised value only for those applications for an ad valorem tax
11 benefit provided by this chapter that:

12 (i) create high-paying jobs;

13 (ii) provide a net benefit to the state over
14 the long term; and

15 (iii) advance the economic development
16 goals of this state [~~as identified by the Texas Strategic Economic~~
17 ~~Development Planning Commission~~].

18 Sec. 313.007. EXPIRATION. Subchapters B and [~~7~~] C [~~7~~ and ~~D~~]
19 expire December 31, 2024 [~~2014~~].

20 SECTION 2. Subchapter A, Chapter 313, Tax Code, is amended
21 by adding Section 313.010 to read as follows:

22 Sec. 313.010. AUDIT OF AGREEMENTS BY STATE AUDITOR. (a)
23 Each year, the state auditor shall review at least three major
24 agreements, as determined by the state auditor, under this chapter
25 to determine whether:

26 (1) each agreement accomplishes the purposes of this
27 chapter as expressed in Section 313.003;

1 (2) each agreement complies with the intent of the
2 legislature in enacting this chapter as expressed in Section
3 313.004; and

4 (3) the terms of each agreement were executed in
5 compliance with the terms of this chapter.

6 (b) As part of the review, the state auditor shall make
7 recommendations relating to increasing the efficiency and
8 effectiveness of the administration of this chapter.

9 SECTION 3. Sections 313.021(1), (2), and (3), Tax Code, are
10 amended to read as follows:

11 (1) "Qualified investment" means:

12 (A) tangible personal property that is first
13 placed in service in this state during the applicable qualifying
14 time period that begins on or after January 1, 2002, without regard
15 to whether the property is affixed to or incorporated into real
16 property, and that is described as Section 1245 property by Section
17 1245(a), Internal Revenue Code of 1986;

18 (B) tangible personal property that is first
19 placed in service in this state during the applicable qualifying
20 time period that begins on or after January 1, 2002, without regard
21 to whether the property is affixed to or incorporated into real
22 property, and that is used in connection with the manufacturing,
23 processing, or fabrication in a cleanroom environment of a
24 semiconductor product, without regard to whether the property is
25 actually located in the cleanroom environment, including:

26 (i) integrated systems, fixtures, and
27 piping;

1 (ii) all property necessary or adapted to
2 reduce contamination or to control airflow, temperature, humidity,
3 chemical purity, or other environmental conditions or
4 manufacturing tolerances; and

5 (iii) production equipment and machinery,
6 moveable cleanroom partitions, and cleanroom lighting;

7 (C) tangible personal property that is first
8 placed in service in this state during the applicable qualifying
9 time period that begins on or after January 1, 2002, without regard
10 to whether the property is affixed to or incorporated into real
11 property, and that is used in connection with the operation of a
12 nuclear electric power generation facility, including:

13 (i) property, including pressure vessels,
14 pumps, turbines, generators, and condensers, used to produce
15 nuclear electric power; and

16 (ii) property and systems necessary to
17 control radioactive contamination;

18 (D) tangible personal property that is first
19 placed in service in this state during the applicable qualifying
20 time period that begins on or after January 1, 2002, without regard
21 to whether the property is affixed to or incorporated into real
22 property, and that is used in connection with operating an
23 integrated gasification combined cycle electric generation
24 facility, including:

25 (i) property used to produce electric power
26 by means of a combined combustion turbine and steam turbine
27 application using synthetic gas or another product produced by the

1 gasification of coal or another carbon-based feedstock; or

2 (ii) property used in handling materials to
3 be used as feedstock for gasification or used in the gasification
4 process to produce synthetic gas or another carbon-based feedstock
5 for use in the production of electric power in the manner described
6 by Subparagraph (i);

7 (E) tangible personal property that is first
8 placed in service in this state during the applicable qualifying
9 time period that begins on or after January 1, 2010, without regard
10 to whether the property is affixed to or incorporated into real
11 property, and that is used in connection with operating an advanced
12 clean energy project, as defined by Section 382.003, Health and
13 Safety Code; ~~or~~

14 (F) a building or a permanent, nonremovable
15 component of a building that is built or constructed during the
16 applicable qualifying time period that begins on or after January
17 1, 2002, and that houses tangible personal property described by
18 Paragraph (A), (B), (C), (D), or (E); or

19 (G) an existing building that, as part of a
20 discrete project that increases the value and productive capacity
21 of an existing property, is expanded.

22 (2) "Qualified property" means:

23 (A) land:

24 (i) that is located in an area designated as
25 a reinvestment zone under Chapter 311 or 312 or as an enterprise
26 zone under Chapter 2303, Government Code;

27 (ii) on which a person proposes to:

1 (a) construct a new building or erect
2 or affix a new improvement that does not exist before the date the
3 person submits a complete application [~~applies~~] for a limitation on
4 appraised value under this subchapter; or

5 (b) expand an existing building as
6 described by Subdivision (1)(G);

7 (iii) that is not subject to a tax abatement
8 agreement entered into by a school district under Chapter 312; and

9 (iv) on which, in connection with the new
10 building, ~~or~~ new improvement, or expanded building described by
11 Subparagraph (ii), the owner or lessee of, or the holder of another
12 possessory interest in, the land proposes to:

13 (a) make a qualified investment in an
14 amount equal to at least the minimum amount required by Section
15 313.023; and

16 (b) create at least 25 new qualifying
17 jobs;

18 (B) the new building, ~~or~~ other new improvement, or
19 or expanded building described by Paragraph (A)(ii); and

20 (C) tangible personal property that:

21 (i) is not subject to a tax abatement
22 agreement entered into by a school district under Chapter 312; and

23 (ii) except for new equipment described in
24 Section 151.318(q) or (q-1), is first placed in service in the new
25 building, ~~or~~ in or on the new improvement, or in the expanded
26 building described by Paragraph (A)(ii), or on the land on which
27 that new building, ~~or~~ new improvement, or expanded building is

1 located, if the personal property is ancillary and necessary to the
2 business conducted in that new building, ~~[or]~~ in or on that new
3 improvement, or in that expanded building.

4 (3) "Qualifying job" means a permanent full-time job
5 that:

6 (A) requires at least 1,600 hours of work a year;

7 (B) is not transferred from one area in this
8 state to another area in this state;

9 (C) is not created to replace a previous
10 employee;

11 (D) is covered by a group health benefit plan for
12 which the business offers to pay at least 80 percent of the premiums
13 or other charges assessed for employee-only coverage under the
14 plan, regardless of whether an employee may voluntarily waive the
15 coverage; and

16 (E) pays at least 110 percent of ~~[+~~

17 ~~[(i) the county average weekly wage for
18 manufacturing jobs in the county where the job is located, or~~

19 ~~[(ii)] the county average weekly wage for
20 all jobs in the county where the job is located[, if the property
21 owner creates more than 1,000 jobs in that county].~~

22 (F) In determining whether a property owner has created the
23 number of qualifying jobs required under this chapter, operations,
24 services and other related jobs created in connection with the
25 project, including those employed by third parties under contract,
26 may satisfy the minimum qualifying jobs requirement for the project
27 if the Texas Workforce Commission determines that the cumulative

1 economic benefits to the state of these jobs is the same or greater
2 than that associated with the minimum number of qualified jobs
3 required to be created under this chapter. The Texas Workforce
4 Commission may adopt rules to implement this subsection.

5 SECTION 4. Section 313.023, Tax Code, is amended to read as
6 follows:

7 Sec. 313.023. MINIMUM AMOUNTS OF QUALIFIED INVESTMENT AND
8 NUMBER OF NEW QUALIFYING JOBS TO BE CREATED. (a) For each category
9 of school district established by Section 313.022, the minimum
10 amount of a qualified investment under Section
11 313.021(2)(A)(iv)(a) is as follows:

CATEGORY	MINIMUM QUALIFIED INVESTMENT
I	\$100 million
II	\$80 million
III	\$60 million
IV	\$40 million
V	\$20 million

18 (b) Notwithstanding Section 313.021(2)(A)(iv)(b), if the
19 property owner makes a qualified investment in an amount equal to at
20 least:

21 (1) two times the minimum qualified investment for the
22 applicable category of school district but less than three times
23 that amount, the number of new qualifying jobs the property owner is
24 required to create is equal to 75 percent of the number required by
25 that sub-subparagraph;

26 (2) three times the minimum qualified investment for
27 the applicable category of school district but less than four times

1 that amount, the number of new qualifying jobs the property owner is
2 required to create is equal to 50 percent of the number required by
3 that sub-subparagraph;

4 (3) four times the minimum qualified investment for
5 the applicable category of school district but less than five times
6 that amount, the number of new qualifying jobs the property owner is
7 required to create is equal to 25 percent of the number required by
8 that sub-subparagraph; and

9 (4) five times the minimum qualified investment for
10 the applicable category of school district, the property owner is
11 not required to create any new qualifying jobs.

12 SECTION 5. Section 313.024, Tax Code, is amended by
13 amending Subsections (a), (b), and (d) and adding Subsection (d-2)
14 to read as follows:

15 (a) This subchapter and Subchapter ~~[Subchapters]~~ C ~~[and D]~~
16 apply only to property owned by an entity subject to the tax imposed
17 by ~~[which]~~ Chapter 171 ~~[applies]~~.

18 (b) To be eligible for a limitation on appraised value under
19 this subchapter, the entity must use the property for ~~[in~~
20 ~~connection with]~~:

- 21 (1) manufacturing;
22 (2) research and development;
23 (3) a clean coal project, as defined by Section 5.001,
24 Water Code;
25 (4) an advanced clean energy project, as defined by
26 Section 382.003, Health and Safety Code;
27 (5) renewable energy electric generation;

1 (6) electric power generation using integrated
2 gasification combined cycle technology;

3 (7) nuclear electric power generation; ~~[or]~~

4 (8) a data ~~[computer]~~ center; or ~~[primarily used in~~
5 ~~connection with one or more activities described by Subdivisions~~
6 ~~(1) through (7) conducted by the entity]~~

7 (9) a Texas priority project.

8 (d) To be eligible for a limitation on appraised value under
9 this subchapter, the property owner must create the required number
10 of new ~~[at least 80 percent of all the new jobs created by the~~
11 ~~property owner must be]~~ qualifying jobs as defined by Section
12 313.021(3).

13 (d-2) For purposes of determining whether a property owner
14 has created the number of new qualifying jobs required for
15 eligibility for a limitation on appraised value under this
16 subchapter, the new qualifying jobs created under an agreement
17 between the property owner and another school district may be
18 included in the total number of new qualifying jobs created in
19 connection with the project if the Texas Economic Development and
20 Tourism Office determines that the projects covered by the
21 agreements constitute a single unified project. The Texas Economic
22 Development and Tourism Office may adopt rules to implement this
23 subsection.

24 SECTION 6. Section 313.024(e), Tax Code, is amended by
25 amending Subdivision (6) and adding Subdivision (7) to read as
26 follows:

27 (6) "Data ~~[Computer]~~ center" means an establishment

1 primarily engaged in:

2 (A) data processing, hosting, and related
3 services described by industry code 518210 of the North American
4 Industry Classification System;

5 (B) an Internet activity described by industry
6 code 519130 of the North American Industry Classification System;

7 or

8 (C) computer software publishing and
9 reproduction described by industry code 511210 of the North
10 American Industry Classification System; or

11 (D) on-site management and operation of clients'
12 computer systems or data processing facilities described by
13 industry code 541513 of the North American Industry Classification
14 System;

15 (E) primarily used in connection with one or more
16 activities described by Subdivisions (1) through (7) conducted by
17 the entity [~~providing electronic data processing and information~~
18 ~~storage~~].

19 (7) "Texas priority project" means a project on which
20 the applicant has committed to expend or allocate a qualified
21 investment of more than \$1 billion.

22 SECTION 7. Sections 313.025(a), (a-1), (b), (b-1), (c),
23 (d), (d-1), (e), (f-1), (g), and (i), Tax Code, are amended to read
24 as follows:

25 (a) The owner or lessee of, or the holder of another
26 possessory interest in, any qualified property described by Section
27 313.021(2)(A), (B), or (C) may apply to the governing body of the

1 school district in which the property is located for a limitation on
2 the appraised value for school district maintenance and operations
3 ad valorem tax purposes of the person's qualified property. An
4 application must be made on the form prescribed by the comptroller
5 and include the information required by the comptroller, and it
6 must be accompanied by:

7 (1) the application fee established by the governing
8 body of the school district;

9 (2) information sufficient to show that the real and
10 personal property identified in the application as qualified
11 property meets the applicable criteria established by Section
12 313.021(2); and

13 (3) any information required by the comptroller for
14 the purposes of [~~relating to each applicable criterion listed in~~]
15 Section 313.026.

16 (a-1) Within seven days of the receipt of each document, the
17 school district shall submit to the comptroller a copy of the
18 application and the proposed agreement between the applicant and
19 the school district. If the applicant submits an economic analysis
20 of the proposed project [~~is submitted~~] to the school district, the
21 district shall submit a copy of the analysis to the comptroller. In
22 addition, the school district shall submit to the comptroller any
23 subsequent revision of or amendment to any of those documents
24 within seven days of its receipt. The comptroller shall publish
25 each document received from the school district under this
26 subsection on the comptroller's Internet website. If the school
27 district maintains a generally accessible Internet website, the

1 district shall provide on its website a link to the location of
2 those documents posted on the comptroller's website in compliance
3 with this subsection. This subsection does not require the
4 comptroller to post information that is confidential under Section
5 313.028.

6 (b) The governing body of a school district is not required
7 to consider an application for a limitation on appraised value
8 [~~that is filed with the governing body under Subsection (a)~~]. If
9 the governing body of the school district elects [~~does elect~~] to
10 consider an application, the governing body shall deliver a copy
11 [~~three copies~~] of the application to the comptroller and request
12 that the comptroller conduct [~~provide~~] an economic impact
13 evaluation of the investment proposed by the application. The [~~to~~
14 ~~the school district. Except as provided by Subsection (b-1), the~~]
15 comptroller shall conduct or contract with a third person to
16 conduct the economic impact evaluation, which shall be completed
17 and provided to the governing body of the school district, along
18 with the comptroller's certificate or written explanation under
19 Subsection (d), as soon as practicable but not later than the 90th
20 day after the date the comptroller receives the application. The
21 governing body shall provide to the comptroller or to a third person
22 contracted by the comptroller to conduct the economic impact
23 evaluation any requested information. A methodology to allow
24 comparisons of economic impact for different schedules of the
25 addition of qualified investment or qualified property may be
26 developed as part of the economic impact evaluation. The governing
27 body shall provide a copy of the economic impact evaluation to the

1 applicant on request. The comptroller may charge the applicant
2 ~~[and collect]~~ a fee sufficient to cover the costs of providing the
3 economic impact evaluation. The governing body of a school
4 district shall approve or disapprove an application not later than
5 the 150th ~~[before the 151st]~~ day after the date the application is
6 filed, unless the economic impact evaluation has not been received
7 or an extension is agreed to by the governing body and the
8 applicant.

9 (b-1) The comptroller shall promptly deliver a ~~[indicate on~~
10 ~~one]~~ copy of the application ~~[the date the comptroller received the~~
11 ~~application and deliver that copy]~~ to the Texas Education Agency.
12 The Texas Education Agency shall determine the effect that the
13 applicant's proposal will have on the number or size of the school
14 district's instructional facilities ~~[, as required to be included~~
15 ~~in the economic impact evaluation by Section 313.026(a)(9),]~~ and
16 submit a written report containing the agency's determination to
17 the school district ~~[comptroller]~~. The governing body of the
18 school district shall provide any requested information to the
19 Texas Education Agency. Not later than the 45th day after the date
20 the Texas Education Agency receives ~~[application indicates that the~~
21 ~~comptroller received]~~ the application, the Texas Education Agency
22 shall make the required determination and submit the agency's
23 written report to the governing body of the school district
24 ~~[comptroller. A third person contracted by the comptroller to~~
25 ~~conduct an economic impact evaluation of an application is not~~
26 ~~required to make a determination that the Texas Education Agency is~~
27 ~~required to make and report to the comptroller under this~~

1 subsection].

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

- 5 (1) the comptroller;
- 6 (2) the Texas [~~Department of~~] Economic Development and
7 Tourism Office;
- 8 (3) the Texas Workforce Investment Council; and
- 9 (4) the Texas Workforce Commission.

10 (d) Not later than the 90th [~~Before the 91st~~] day after the
11 date the comptroller receives the copy of the application, the
12 comptroller shall issue a certificate for a limitation on appraised
13 value of the property and provide the certificate to the governing
14 body of the school district or provide the governing body a written
15 explanation of the comptroller's decision not to issue a
16 certificate [~~submit a recommendation to the governing body of the~~
17 ~~school district as to whether the application should be approved or~~
18 ~~disapproved~~].

19 (d-1) The governing body of a school district may not
20 approve an application unless [~~that~~] the comptroller submits to the
21 governing body a certificate for a limitation on appraised value of
22 the property [~~has recommended should be disapproved only if:~~

23 [~~(1) the governing body holds a public hearing the~~
24 ~~sole purpose of which is to consider the application and the~~
25 ~~comptroller's recommendation; and~~

26 [~~(2) at a subsequent meeting of the governing body~~
27 ~~held after the date of the public hearing, at least two-thirds of~~

1 ~~the members of the governing body vote to approve the application].~~

2 (e) Before approving or disapproving an application under
3 this subchapter that the governing body of the school district
4 elects to consider, the governing body [~~of the school district~~]
5 must make a written finding as to any criteria considered by the
6 comptroller in conducting the economic impact evaluation under
7 [~~each criterion listed in~~] Section 313.026. The governing body
8 shall deliver a copy of those findings to the applicant.

9 (f-1) Notwithstanding any other provision of this chapter
10 [~~to the contrary, including Section 313.003(2) or 313.004(3)(A) or~~
11 ~~(B)(iii)]~~, the governing body of a school district may waive or
12 reduce the new qualifying jobs creation requirement in Section
13 313.021(2)(A)(iv)(b) or 313.051(b) only [~~and approve an~~
14 ~~application~~] if the Texas Workforce Commission determines
15 [~~governing body makes a finding~~] that the jobs creation requirement
16 exceeds the industry standard for the number of employees
17 reasonably necessary for the operation of the facility of the
18 property owner that is described in the application and recommends
19 waiving or reducing the requirement. The governing body of a school
20 district may request that the Texas Workforce Commission provide a
21 recommendation as to whether the new qualifying jobs creation
22 requirement should be reduced or waived and, if reduced, the number
23 of new qualifying jobs that should be required to be created. If
24 the Texas Workforce Commission receives a request from the
25 governing body of a school district under this subsection, not
26 later than the 60th day after the date of receipt of the request the
27 commission shall submit to the governing body a recommendation as

1 to whether the new qualifying jobs creation requirement should be
2 reduced or waived and, if reduced, the number of new qualifying jobs
3 that should be required to be created.

4 (g) The Texas [~~Department of~~] Economic Development and
5 Tourism Office or its successor may recommend that a school
6 district approve an application [~~grant a person a limitation on~~
7 ~~appraised value~~] under this chapter. In determining whether to
8 approve [~~grant~~] an application, the governing body of the school
9 district shall consider any recommendation made by the Texas
10 [~~Department of~~] Economic Development and Tourism Office or its
11 successor.

12 (i) If the comptroller's determination under Subsection (h)
13 that the property does not meet the requirements of Section 313.024
14 for eligibility for a limitation on appraised value under this
15 subchapter becomes final, the comptroller is not required to
16 provide an economic impact evaluation of the application or to
17 submit a certificate for a limitation on appraised value of the
18 property or a written explanation of the decision not to issue a
19 certificate [~~recommendation to the school district as to whether~~
20 ~~the application should be approved or disapproved~~], and the
21 governing body of the school district may not grant the
22 application.

23 SECTION 8. Section 313.026, Tax Code, is amended to read as
24 follows:

25 Sec. 313.026. ECONOMIC IMPACT EVALUATION. (a) The
26 economic impact evaluation of the application must include any
27 information the comptroller determines is necessary or helpful to:

1 (1) the governing body of the school district in
2 determining whether to approve the application under Section
3 313.025; or

4 (2) the comptroller in determining whether to issue a
5 certificate for a limitation on appraised value of the property
6 under Section 313.025 [the following:]

7 ~~[(1) the recommendations of the comptroller,]~~

8 ~~[(2) the name of the school district,]~~

9 ~~[(3) the name of the applicant,]~~

10 ~~[(4) the general nature of the applicant's investment,]~~

11 ~~[(5) the relationship between the applicant's industry~~
12 ~~and the types of qualifying jobs to be created by the applicant to~~
13 ~~the long-term economic growth plans of this state as described in~~
14 ~~the strategic plan for economic development submitted by the Texas~~
15 ~~Strategic Economic Development Planning Commission under Section~~
16 ~~481.033, Government Code, as that section existed before February~~
17 ~~1, 1999,]~~

18 ~~[(6) the relative level of the applicant's investment~~
19 ~~per qualifying job to be created by the applicant,]~~

20 ~~[(7) the number of qualifying jobs to be created by the~~
21 ~~applicant,]~~

22 ~~[(8) the wages, salaries, and benefits to be offered~~
23 ~~by the applicant to qualifying job holders,]~~

24 ~~[(9) the ability of the applicant to locate or~~
25 ~~relocate in another state or another region of this state,]~~

26 ~~[(10) the impact the project will have on this state~~
27 ~~and individual local units of government, including:]~~

1 ~~[(A) tax and other revenue gains, direct or~~
2 ~~indirect, that would be realized during the qualifying time period,~~
3 ~~the limitation period, and a period of time after the limitation~~
4 ~~period considered appropriate by the comptroller, and~~

5 ~~[(B) economic effects of the project, including~~
6 ~~the impact on jobs and income, during the qualifying time period,~~
7 ~~the limitation period, and a period of time after the limitation~~
8 ~~period considered appropriate by the comptroller,;~~

9 ~~[(11) the economic condition of the region of the~~
10 ~~state at the time the person's application is being considered,;~~

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

15 ~~[(13) the effect of the applicant's proposal, if~~
16 ~~approved, on the number or size of the school district's~~
17 ~~instructional facilities, as defined by Section 46.001, Education~~
18 ~~Code,;~~

19 ~~[(14) the projected market value of the qualified~~
20 ~~property of the applicant as determined by the comptroller,;~~

21 ~~[(15) the proposed limitation on appraised value for~~
22 ~~the qualified property of the applicant,;~~

23 ~~[(16) the projected dollar amount of the taxes that~~
24 ~~would be imposed on the qualified property, for each year of the~~
25 ~~agreement, if the property does not receive a limitation on~~
26 ~~appraised value with assumptions of the projected appreciation or~~
27 ~~depreciation of the investment and projected tax rates clearly~~

1 ~~stated,~~

2 ~~[(17) the projected dollar amount of the taxes that~~
3 ~~would be imposed on the qualified property, for each tax year of the~~
4 ~~agreement, if the property receives a limitation on appraised value~~
5 ~~with assumptions of the projected appreciation or depreciation of~~
6 ~~the investment clearly stated,~~

7 ~~[(18) the projected effect on the Foundation School~~
8 ~~Program of payments to the district for each year of the agreement,~~

9 ~~[(19) the projected future tax credits if the~~
10 ~~applicant also applies for school tax credits under Section~~
11 ~~313.103, and~~

12 ~~[(20) the total amount of taxes projected to be lost or~~
13 ~~gained by the district over the life of the agreement computed by~~
14 ~~subtracting the projected taxes stated in Subdivision (17) from the~~
15 ~~projected taxes stated in Subdivision (16)].~~

16 (b) Except as provided by Subsections (c) and (d), the [The]
17 comptroller's determination whether to issue a certificate for a
18 limitation on appraised value under this chapter for property
19 described in the application [recommendations] shall be based on
20 the economic impact evaluation described by Subsection (a)
21 [criteria listed in Subsections (a)(5)-(20)] and on any other
22 information available to the comptroller, including information
23 provided by the governing body of the school district ~~[under~~
24 ~~Section 313.025(b)]~~.

25 (c) The comptroller may not issue a certificate for a
26 limitation on appraised value under this chapter for property
27 described in an application unless the comptroller determines that:

1 (1) the project proposed by the applicant is
2 reasonably likely to generate, before the 25th anniversary of the
3 beginning of the limitation period, tax revenue, including state
4 tax revenue, school district maintenance and operations ad valorem
5 tax revenue attributable to the project, and any other tax revenue
6 attributable to the effect of the project on the economy of the
7 state, in an amount sufficient to offset the school district
8 maintenance and operations ad valorem tax revenue lost as a result
9 of the agreement; and

10 (2) the limitation on appraised value is a significant
11 consideration by the applicant in determining whether to invest
12 capital and construct the project in this state.

13 (d) The comptroller shall state in writing the basis for the
14 determinations made under Subsections (c)(1) and (2).

15 (e) Notwithstanding Subsections (c) and (d), if the
16 comptroller makes a qualitative determination that other
17 considerations associated with the project result in a net positive
18 benefit to the state, the comptroller may issue the certificate.

19 SECTION 9. Section 313.0265(b), Tax Code, is amended to
20 read as follows:

21 (b) The comptroller shall designate the following as
22 substantive:

23 (1) each application requesting a limitation on
24 appraised value; and

25 (2) the economic impact evaluation made in connection
26 with the application [~~and~~

27 [~~(3) each application requesting school tax credits~~

1 ~~under Section 313.103].~~

2 SECTION 10. Sections 313.027(a), (f), (h), and (i), Tax
3 Code, are amended to read as follows:

4 (a) If the person's application is approved by the governing
5 body of the school district, for each of the first 10 [~~eight~~] tax
6 years that begin after the applicable qualifying time period, the
7 appraised value for school district maintenance and operations ad
8 valorem tax purposes of the person's qualified property as
9 described in the agreement between the person and the district
10 entered into under this section in the school district may not
11 exceed the lesser of:

- 12 (1) the market value of the property; or
13 (2) subject to Subsection (b), the amount agreed to by
14 the governing body of the school district.

15 (f) In addition, the agreement:

16 (1) must incorporate each relevant provision of this
17 subchapter and, to the extent necessary, include provisions for the
18 protection of future school district revenues through the
19 adjustment of the minimum valuations, the payment of revenue
20 offsets, and other mechanisms agreed to by the property owner and
21 the school district;

22 (2) may provide that the property owner will protect
23 the school district in the event the district incurs extraordinary
24 education-related expenses related to the project that are not
25 directly funded in state aid formulas, including expenses for the
26 purchase of portable classrooms and the hiring of additional
27 personnel to accommodate a temporary increase in student enrollment

1 attributable to the project;

2 (3) must require the property owner to maintain a
3 viable presence in the school district for at least three years
4 after the date the limitation on appraised value of the owner's
5 property expires;

6 (4) must provide for the termination of the agreement,
7 the recapture of ad valorem tax revenue lost as a result of the
8 agreement if the owner of the property fails to comply with the
9 terms of the agreement, and payment of a penalty or interest, or
10 both, on that recaptured ad valorem tax revenue;

11 (5) may specify any conditions the occurrence of which
12 will require the district and the property owner to renegotiate all
13 or any part of the agreement; ~~and~~

14 (6) must specify the ad valorem tax years covered by
15 the agreement; and

16 (7) must be in a form approved by the comptroller.

17 (h) The agreement between the governing body of the school
18 district and the applicant may provide for a deferral of the date on
19 which the qualifying time period for the project is to commence or,
20 subsequent to the date the agreement is entered into, be amended to
21 provide for such a deferral. The agreement may not provide for the
22 deferral of the date on which the qualifying time period is to
23 commence to a date later than January 1 of the sixth tax year
24 beginning after the date the application is approved. This
25 subsection may not be construed to permit a qualifying time period
26 that has commenced to continue for more than the number of years
27 applicable to the project under Section 313.021(4).

1 (i) A person and the school district may not enter into an
2 agreement under which the person agrees to provide supplemental
3 payments to a school district or to an entity that exists primarily
4 to provide financial or material support to a school district in an
5 amount that exceeds an amount equal to the greater of \$100 per
6 student per year in average daily attendance, as defined by Section
7 42.005, Education Code, or \$50,000 per year, or for a period of more
8 than 14 years [~~for a period that exceeds the period beginning with~~
9 ~~the period described by Section 313.021(4) and ending with the~~
10 ~~period described by Section 313.104(2)(B) of this code~~]. This
11 subsection applies only to an agreement entered into in
12 anticipation of or in consideration for a school district's
13 approval of an application for a limitation on appraised value
14 under this subchapter. This subsection does not apply to a payment
15 under [~~limit does not apply to amounts described by~~] Subsection
16 (f)(1) or (2) [~~of this section~~].

17 SECTION 11. Section 313.0275, Tax Code, is amended by
18 adding Subsection (d) to read as follows:

19 (d) In the event of a casualty loss that prevents a person
20 from complying with Subsection (a), the person may request and the
21 comptroller may grant a waiver of the penalty imposed under
22 Subsection (b).

23 SECTION 12. Section 313.031, Tax Code, is amended to read as
24 follows:

25 Sec. 313.031. RULES AND FORMS; FEES. (a) The comptroller
26 shall:

27 (1) adopt rules and forms necessary for the

1 implementation and administration of this chapter, including rules
2 for determining whether a property owner's property qualifies as a
3 qualified investment under Section 313.021(1); and

4 (2) provide without charge one copy of the rules and
5 forms to any school district and to any person who states that the
6 person intends to apply for a limitation on appraised value under
7 this subchapter [~~or a tax credit under Subchapter D~~].

8 (a-1) The comptroller by official action may establish
9 reasonable nonrefundable fees to be paid by property owners who
10 apply to a school district for a limitation on the value of the
11 person's property under this subchapter. The amount of a fee must
12 be reasonable and may not exceed the estimated cost to the
13 comptroller of performing the comptroller's duties under this
14 chapter.

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

24 SECTION 13. Section 313.032, Tax Code, is amended by
25 amending Subsections (a) and (c) and adding Subsections (b-1) and
26 (d) to read as follows:

27 (a) Before the beginning of each regular session of the

1 legislature, the comptroller shall submit to the lieutenant
2 governor, the speaker of the house of representatives, and each
3 other member of the legislature a report on the agreements entered
4 into under this chapter that includes:

5 (1) an assessment of the following with regard to the
6 agreements entered into under this chapter, considered in the
7 aggregate:

8 (A) the total number of jobs created, direct and
9 otherwise, in this state;

10 (B) the total effect on personal income, direct
11 and otherwise, in this state;

12 (C) the total amount of investment in this state;

13 (D) the total taxable value of property on the
14 tax rolls in this state, including property for which the
15 limitation period has expired;

16 (E) the total value of property not on the tax
17 rolls in this state as a result of agreements entered into under
18 this chapter; and

19 (F) the total fiscal effect on the state and
20 local governments; and

21 (2) an assessment of [assessing] the progress of each
22 agreement made under this chapter that states [~~The report must be~~
23 ~~based on data certified to the comptroller by each recipient of a~~
24 ~~limitation on appraised value under this subchapter and state] for
25 each agreement:~~

26 (A) [~~1~~] the number of qualifying jobs each
27 recipient of a limitation on appraised value committed to create;

1 (B) [~~(2)~~] the number of qualifying jobs each
2 recipient created;

3 (C) [~~(3)~~] the total amount of wages and the
4 median wage of the new qualifying jobs each recipient created;

5 (D) [~~(4)~~] the amount of the qualified investment
6 each recipient committed to spend or allocate for each project;

7 (E) [~~(5)~~] the amount of the qualified investment
8 each recipient spent or allocated for each project;

9 (F) [~~(6)~~] the market value of the qualified
10 property of each recipient as determined by the applicable chief
11 appraiser, including property that is no longer eligible for a
12 limitation on appraised value under the agreement;

13 (G) [~~(7)~~] the limitation on appraised value for
14 the qualified property of each recipient;

15 (H) [~~(8)~~] the dollar amount of the taxes that
16 would have been imposed on the qualified property if the property
17 had not received a limitation on appraised value; and

18 (I) [~~(9)~~] the dollar amount of the taxes imposed
19 on the qualified property[~~+~~

20 [~~(10)~~ ~~the number of new jobs created by each recipient~~
21 ~~in each sector of the North American Industry Classification~~
22 ~~System, and~~

23 [~~(11)~~ ~~of the number of new jobs each recipient~~
24 ~~created, the number of jobs created that provide health benefits~~
25 ~~for employees].~~

26 (b-1) In preparing the portion of the report described by
27 Subsection (a)(1), the comptroller may use standard economic

1 estimation techniques, including economic multipliers.

2 (c) The portion of the report described by Subsection (a)(2)
3 must be based on data certified to the comptroller by each recipient
4 or former recipient of a limitation on appraised value under this
5 chapter.

6 (d) The comptroller may require a recipient or former
7 recipient of a limitation on appraised value under this chapter to
8 submit, on a form the comptroller provides, information required to
9 complete the report.

10 SECTION 14. The heading to Subchapter C, Chapter 313, Tax
11 Code, is amended to read as follows:

12 SUBCHAPTER C. LIMITATION ON APPRAISED VALUE OF PROPERTY IN
13 STRATEGIC INVESTMENT AREA OR CERTAIN RURAL SCHOOL DISTRICTS

14 SECTION 15. Section 313.051, Tax Code, is amended to read as
15 follows:

16 Sec. 313.051. APPLICABILITY. (a) In this section,
17 "strategic investment area" means an area the comptroller
18 determines under Subsection (a-3) is:

19 (1) a county within this state with unemployment above
20 the state average and per capita income below the state average;

21 (2) an area within this state that is a federally
22 designated urban enterprise community or an urban enhanced
23 enterprise community; or

24 (3) a defense economic readjustment zone designated
25 under Chapter 2310, Government Code.

26 (a-1) This subchapter applies only to a school district that
27 has territory in:

1 (1) an area that qualifies [~~qualified~~] as a strategic
2 investment area [~~under Subchapter O, Chapter 171, immediately~~
3 ~~before that subchapter expired~~]; or

4 (2) a county:

5 (A) that has a population of less than 50,000;
6 and

7 (B) in which, from 2000 [~~1990~~] to 2010 [~~2000~~],
8 according to the federal decennial census, the population:

- 9 (i) remained the same;
10 (ii) decreased; or
11 (iii) increased, but at a rate of not more
12 than the average rate of increase in the state during that period
13 [~~three percent per annum~~].

14 (a-2) [~~(a-1)~~] Notwithstanding Subsection (a-1) [~~(a)~~], if on
15 January 1, 2002, this subchapter applied to a school district in
16 whose territory is located a federal nuclear facility, this
17 subchapter continues to apply to the school district regardless of
18 whether the school district ceased or ceases to be described by
19 Subsection (a-1) [~~(a)~~] after that date.

20 (a-3) Not later than September 1 of each year, the
21 comptroller shall determine areas that qualify as a strategic
22 investment area using the most recently completed full calendar
23 year data available on that date and, not later than October 1,
24 shall publish a list and map of the designated areas. A
25 determination under this subsection is effective for the following
26 tax year for purposes of this subchapter.

27 (b) The governing body of a school district to which this

1 subchapter applies may enter into an agreement in the same manner as
 2 a school district to which Subchapter B applies may do so under
 3 Subchapter B, subject to Sections 313.052-313.054. Except as
 4 otherwise provided by this subchapter, the provisions of Subchapter
 5 B apply to a school district to which this subchapter applies. For
 6 purposes of this subchapter, a property owner is required to create
 7 ~~[only]~~ at least 10 new qualifying jobs as defined by Section
 8 313.021(3) on the owner's qualified property. Section 313.023(b)
 9 does not apply to a school district to which this subchapter
 10 applies. ~~[At least 80 percent of all the new jobs created must be~~
 11 ~~qualifying jobs as defined by Section 313.021(3), except that, for~~
 12 ~~a school district described by Subsection (a)(2), each qualifying~~
 13 ~~job must pay at least 110 percent of the average weekly wage for~~
 14 ~~manufacturing jobs in the region designated for the regional~~
 15 ~~planning commission, council of governments, or similar regional~~
 16 ~~planning agency created under Chapter 391, Local Government Code,~~
 17 ~~in which the district is located.]~~

18 SECTION 16. The heading to Subchapter E, Chapter 313, Tax
 19 Code, is amended to read as follows:

20 SUBCHAPTER E. AVAILABILITY OF TAX CREDIT AFTER PROGRAM
 21 EXPIRES OR IS REPEALED

22 SECTION 17. Section 313.171(b), Tax Code, is amended to
 23 read as follows:

24 (b) The repeal ~~[expiration]~~ of Subchapter D does not affect
 25 a property owner's entitlement to a tax credit granted under
 26 Subchapter D if the property owner qualified for the tax credit
 27 before the repeal ~~[expiration]~~ of Subchapter D.

1 SECTION 18. Section 311.014, Tax Code, is amended by adding
2 Subsection (f) to read as follows:

3 (f) Money in the tax increment fund for a reinvestment zone
4 may be transferred to the tax increment fund for an adjacent zone
5 if:

6 (1) the taxing units that participate in the zone from
7 which the money is to be transferred participate in the adjacent
8 zone and vice versa;

9 (2) each participating taxing unit has agreed to
10 deposit the same portion of its tax increment in the fund for each
11 zone;

12 (3) each participating taxing unit has agreed to the
13 transfer; and

14 (4) the holders of any tax increment bonds or notes
15 issued for the zone from which the money is to be transferred have
16 agreed to the transfer.

17 SECTION 19. Section 42.2515(a), Education Code, is amended
18 to read as follows:

19 (a) For each school year, a school district, including a
20 school district that is otherwise ineligible for state aid under
21 this chapter, is entitled to state aid in an amount equal to the
22 amount of all tax credits credited against ad valorem taxes of the
23 district in that year under former Subchapter D, Chapter 313, Tax
24 Code.

25 SECTION 20. Section 42.302(e), Education Code, is amended
26 to read as follows:

27 (e) For purposes of this section, school district taxes for

1 which credit is granted under former Subchapter D, Chapter 313, Tax
2 Code, are considered taxes collected by the school district as if
3 the taxes were paid when the credit for the taxes was granted.

4 SECTION 21. The following provisions of the Tax Code are
5 repealed:

- 6 (1) Sections 313.008, 313.009, and 313.021(5); and
- 7 (2) Subchapter D, Chapter 313.

8 SECTION 22. (a) Except as provided by Subsection (b) of
9 this section, Chapter 313, Tax Code, as amended by this Act, applies
10 only to an application filed under that chapter on or after the
11 effective date of this Act. An application filed under that chapter
12 before the effective date of this Act is governed by the law in
13 effect on the date the application was filed, and the former law is
14 continued in effect for that purpose.

15 (b) An agreement entered into on or after January 1, 2013,
16 pursuant to an application filed under Chapter 313, Tax Code,
17 before the effective date of this Act may condition eligibility for
18 a limitation on appraised value under Subchapter B or C of that
19 chapter, as applicable, on compliance with the provisions of that
20 chapter, as amended by this Act, relating to the creation of new
21 qualifying jobs, including Section 313.021(3), Tax Code, and
22 Section 313.024(d) or 313.051(b), Tax Code, as applicable.

23 SECTION 23. The comptroller shall make the initial
24 determination under Section 313.051(a-3), Tax Code, as added by
25 this Act, not later than September 1, 2014, and shall publish the
26 initial list and map required by that subsection not later than
27 October 1, 2014.

1 SECTION 24. This Act takes effect January 1, 2014.

ADOPTED

MAY 21 2013

Leroy Spaw
Secretary of the Senate

By: Hilderbran (Devell)

H.B. No. 3390

Substitute the following for H.B. No. 3390:

By: Devell

C.S. H.B. No. 3390

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the Texas Economic Development Act.

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

4 SECTION 1. Sections 313.002 and 313.004, Tax Code, are
5 amended to read as follows:

6 Sec. 313.002. FINDINGS. The legislature finds that:

7 (1) many states have enacted aggressive economic
8 development laws designed to attract large employers, create jobs,
9 and strengthen their economies;

10 (2) given Texas' relatively high ad valorem taxes, it
11 is difficult for the state to compete for new capital projects
12 without some kind of temporary limit on ad valorem taxes imposed on
13 new capital investments [the State of Texas has slipped in its
14 national ranking each year between 1993 and 2000 in terms of
15 attracting major new manufacturing facilities to this state];

16 (3) a significant portion of the Texas economy
17 continues to be based in [~~the~~] manufacturing and other
18 capital-intensive industries [~~industry~~], and their [~~the~~] continued
19 growth and overall health serve [~~of the manufacturing sector~~
20 ~~serves~~] the Texas economy well; and

21 (4) without a vibrant, strong manufacturing sector,
22 other sectors of the economy, especially the state's service
23 sector, will also suffer adverse consequences [~~, and~~

24 [~~(5) the current property tax system of this state~~

1 ~~does not favor capital-intensive businesses such as~~
2 ~~manufacturers].~~

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

5 (1) economic development decisions should occur at the
6 local level and be consistent with identifiable statewide economic
7 development goals;

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

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

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

17 (C) an entity not subject to the franchise tax
18 imposed by Chapter 171 because of its form of business [~~a sole~~
19 ~~proprietorship, partnership, or limited liability partnership]~~ to
20 receive an ad valorem tax benefit or financial benefit provided by
21 this chapter; and

22 (3) in implementing this chapter, school districts
23 should:

24 (A) strictly interpret the criteria and
25 selection guidelines provided by this chapter; and

26 (B) approve only those applications for an ad
27 valorem tax benefit or financial benefit provided by this chapter

1 that:

- 2 (i) enhance the local community;
- 3 (ii) improve the local public education
4 system;
- 5 (iii) create high-paying jobs; and
- 6 (iv) advance the economic development goals
7 of this state as identified by the Texas Strategic Economic
8 Development Planning Commission or its successor.

9 SECTION 2. Section 313.021, Tax Code, is transferred to
10 Subchapter A, Chapter 313, Tax Code, redesignated as Section
11 313.0045, Tax Code, and amended to read as follows:

12 Sec. 313.0045 [~~313.021~~]. DEFINITIONS. (a) In this chapter
13 [~~subchapter~~]:

14 (1) "Qualified investment" means:

15 (A) tangible personal property that is first
16 placed in service in this state during the applicable qualifying
17 time period that begins on or after January 1, 2002, without regard
18 to whether the property is affixed to or incorporated into real
19 property, and that is described as Section 1245 property by Section
20 1245(a), Internal Revenue Code of 1986;

21 (B) tangible personal property that is first
22 placed in service in this state during the applicable qualifying
23 time period that begins on or after January 1, 2002, without regard
24 to whether the property is affixed to or incorporated into real
25 property, and that is used in connection with the manufacturing,
26 processing, or fabrication in a cleanroom environment of a
27 semiconductor product, without regard to whether the property is

1 actually located in the cleanroom environment, including:

2 (i) integrated systems, fixtures, and
3 piping;

4 (ii) all property necessary or adapted to
5 reduce contamination or to control airflow, temperature, humidity,
6 chemical purity, or other environmental conditions or
7 manufacturing tolerances; and

8 (iii) production equipment and machinery,
9 moveable cleanroom partitions, and cleanroom lighting;

10 (C) tangible personal property that is first
11 placed in service in this state during the applicable qualifying
12 time period that begins on or after January 1, 2002, without regard
13 to whether the property is affixed to or incorporated into real
14 property, and that is used in connection with the operation of a
15 nuclear electric power generation facility, including:

16 (i) property, including pressure vessels,
17 pumps, turbines, generators, and condensers, used to produce
18 nuclear electric power; and

19 (ii) property and systems necessary to
20 control radioactive contamination;

21 (D) tangible personal property that is first
22 placed in service in this state during the applicable qualifying
23 time period that begins on or after January 1, 2002, without regard
24 to whether the property is affixed to or incorporated into real
25 property, and that is used in connection with operating an
26 integrated gasification combined cycle electric generation
27 facility, including:

1 (i) property used to produce electric power
2 by means of a combined combustion turbine and steam turbine
3 application using synthetic gas or another product produced by the
4 gasification of coal or another carbon-based feedstock; or

5 (ii) property used in handling materials to
6 be used as feedstock for gasification or used in the gasification
7 process to produce synthetic gas or another carbon-based feedstock
8 for use in the production of electric power in the manner described
9 by Subparagraph (i);

10 (E) tangible personal property that is first
11 placed in service in this state during the applicable qualifying
12 time period [~~that begins on or after January 1, 2010~~], without
13 regard to whether the property is affixed to or incorporated into
14 real property, and that is used in connection with operating an
15 advanced clean energy project, as defined by Section 382.003,
16 Health and Safety Code; [~~or~~]

17 (F) a building or a permanent, nonremovable
18 component of a building that is built or constructed during the
19 applicable qualifying time period that begins on or after January
20 1, 2002, and that houses tangible personal property described by
21 Paragraph (A), (B), (C), (D), or (E); or

22 (G) an existing building that, as part of a
23 discrete project that increases the value of an existing property,
24 is renovated, expanded, or otherwise improved.

25 (2) "Qualified property" means:

26 (A) land:

27 (i) that is located in an area designated as

1 a reinvestment zone under Chapter 311 or 312 or as an enterprise
2 zone under Chapter 2303, Government Code;

3 (ii) on which a person proposes to
4 construct a new building or erect or affix a new improvement that
5 does not exist before the date the person applies for a limitation
6 on appraised value under this subchapter;

7 (iii) that is not subject to a tax abatement
8 agreement entered into by a school district under Chapter 312; and

9 (iv) on which, in connection with the new
10 building or new improvement described by Subparagraph (ii), the
11 owner or lessee of, or the holder of another possessory interest in,
12 the land proposes to:

13 (a) make a qualified investment in an
14 amount equal to at least the minimum amount required by Section
15 313.023; and

16 (b) create at least 25 new jobs;

17 (B) the new building or other new improvement
18 described by Paragraph (A)(ii); and

19 (C) tangible personal property that:

20 (i) is not subject to a tax abatement
21 agreement entered into by a school district under Chapter 312; and

22 (ii) except for new equipment described in
23 Section 151.318(q) or (q-1), is first placed in service in the new
24 building or in or on the new improvement described by Paragraph
25 (A)(ii), or on the land on which that new building or new
26 improvement is located, if the personal property is ancillary and
27 necessary to the business conducted in that new building or in or on

1 that new improvement.

2 (3) "Qualifying job" means a permanent full-time job
3 that:

4 (A) requires at least 1,600 hours of work a year;

5 (B) is not transferred from one area in this
6 state to another area in this state;

7 (C) is not created to replace a previous
8 employee;

9 (D) is covered by a group health benefit plan
10 that complies with the Patient Protection and Affordable Care Act
11 (Pub. L. No. 111-148) as amended by the Health Care and Education
12 Reconciliation Act of 2010 (Pub. L. No. 111-152), or a successor law
13 ~~[for which the business offers to pay at least 80 percent of the~~
14 ~~premiums or other charges assessed for employee-only coverage under~~
15 ~~the plan, regardless of whether an employee may voluntarily waive~~
16 ~~the coverage]; and~~

17 (E) pays at least 110 percent of the lesser of:

18 (i) the county average weekly wage for
19 manufacturing jobs in the county where the job is located; or

20 (ii) the county average weekly wage for all
21 jobs in the county where the job is located, if the property owner
22 creates more than 1,000 jobs in that county.

23 (4) "Qualifying time period" means:

24 (A) the period that begins on the date that a
25 person's application for a limitation on appraised value under this
26 chapter ~~[subchapter]~~ is approved by the governing body of the
27 school district and ends on December 31 of the second tax year that

1 begins after that date, except as provided by Paragraph (B) or (C)
2 of this subdivision or Section 313.014(h) [~~313.027(h)~~];

3 (B) in connection with a nuclear electric power
4 generation facility, the first seven tax years that begin on or
5 after the third anniversary of the date the school district
6 approves the property owner's application for a limitation on
7 appraised value under this chapter [~~subchapter~~], unless a shorter
8 time period is agreed to by the governing body of the school
9 district and the property owner; or

10 (C) in connection with an advanced clean energy
11 project, as defined by Section 382.003, Health and Safety Code, the
12 first five tax years that begin on or after the third anniversary of
13 the date the school district approves the property owner's
14 application for a limitation on appraised value under this chapter
15 [~~subchapter~~], unless a shorter time period is agreed to by the
16 governing body of the school district and the property owner.

17 (5) "County average weekly wage for manufacturing
18 jobs" means:

19 (A) the average weekly wage in a county for
20 manufacturing jobs during the most recent four quarterly periods
21 for which data is available at the time a person submits an
22 application for a limitation on appraised value under this chapter
23 [~~subchapter~~], as computed by the Texas Workforce Commission; or

24 (B) the average weekly wage for manufacturing
25 jobs in the region designated for the regional planning commission,
26 council of governments, or similar regional planning agency created
27 under Chapter 391, Local Government Code, in which the county is

1 located during the most recent four quarterly periods for which
2 data is available at the time a person submits an application for a
3 limitation on appraised value under this chapter [~~subchapter~~], as
4 computed by the Texas Workforce Commission.

5 (6) "Texas priority project" means a project
6 designated by the governor:

7 (A) on which the applicant has committed to
8 expend or allocate a qualified investment of more than \$1 billion;
9 and

10 (B) that the governor has certified in a letter
11 provided to the applicant is in the best interest of the state
12 economy.

13 (b) Unless this chapter defines a word or phrase used in
14 this chapter, Section 1.04 or any other section of Title 1 or this
15 title that defines the word or phrase or ascribes a meaning to the
16 word or phrase applies to the word or phrase used in this chapter.

17 SECTION 3. Section 313.006(a), Tax Code, is amended to read
18 as follows:

19 (a) In this section, "impact fee" means a charge or
20 assessment imposed against a qualified property [~~as defined by~~
21 ~~Section 313.021,~~] in order to generate revenue for funding or
22 recouping the costs of capital improvements or facility expansions
23 for water, wastewater, or storm water services or for roads
24 necessitated by or attributable to property that receives a
25 limitation on appraised value under this chapter.

26 SECTION 4. Section 313.007, Tax Code, is amended to read as
27 follows:

1 Sec. 313.007. EXPIRATION. Subchapters A-1, B, and C [~~and~~
2 D] expire December 31, 2020 [~~2014~~].

3 SECTION 5. Chapter 313, Tax Code, is amended by adding
4 Subchapter A-1, and a heading is added to that subchapter to read as
5 follows:

6 SUBCHAPTER A-1. ELIGIBILITY, APPLICATION, AND REPORTING

7 SECTION 6. Sections 313.024, 313.025, 313.026, 313.0265,
8 313.027, 313.0275, 313.028, 313.030, 313.031, and 313.032, Tax
9 Code, are transferred to Subchapter A-1, Chapter 313, Tax Code, as
10 added by this Act, redesignated as Sections 313.011, 313.012,
11 313.013, 313.0135, 313.014, 313.0145, 313.015, 313.016, 313.017,
12 and 313.018, Tax Code, and amended to read as follows:

13 Sec. 313.011 [~~313.024~~]. ELIGIBLE PROPERTY. (a) This
14 chapter applies [~~subchapter and Subchapters C and D apply~~] only to
15 property owned by an entity to which Chapter 171 applies.

16 (b) To be eligible for a limitation on appraised value under
17 this chapter [~~subchapter~~], the entity must use the property in
18 connection with:

- 19 (1) manufacturing;
- 20 (2) research and development;
- 21 (3) a clean coal project, as defined by Section 5.001,
22 Water Code;
- 23 (4) an advanced clean energy project, as defined by
24 Section 382.003, Health and Safety Code;
- 25 (5) renewable energy electric generation;
- 26 (6) electric power generation using integrated
27 gasification combined cycle technology;

- 1 (7) nuclear electric power generation; ~~[or]~~
2 (8) a computer center primarily used in connection
3 with one or more activities described by Subdivisions (1) through
4 (7) conducted by the entity; or
5 (9) a Texas priority project.

6 (c) For purposes of determining an applicant's eligibility
7 for a limitation under this chapter ~~[subchapter]~~:

8 (1) the land on which a building or component of a
9 building described by Section 313.0045(a)(1)(E) ~~[313.021(1)(E)]~~ is
10 located is not considered a qualified investment;

11 (2) property that is leased under a capitalized lease
12 may be considered a qualified investment;

13 (3) property that is leased under an operating lease
14 may not be considered a qualified investment; and

15 (4) property that is owned by a person other than the
16 applicant and that is pooled or proposed to be pooled with property
17 owned by the applicant may not be included in determining the amount
18 of the applicant's qualifying investment.

19 (d) To be eligible for a limitation on appraised value under
20 this chapter ~~[subchapter]~~, at least 80 percent of all the new jobs
21 created by the property owner must be qualifying jobs ~~[as defined by~~
22 ~~Section 313.021(3)]~~.

23 (e) In this section:

24 (1) "Manufacturing" means an establishment primarily
25 engaged in activities described in sectors 31-33 of the 2007 North
26 American Industry Classification System.

27 (2) "Renewable energy electric generation" means an

1 establishment primarily engaged in activities described in
2 category 221119 of the 1997 North American Industry Classification
3 System.

4 (3) "Integrated gasification combined cycle
5 technology" means technology used to produce electricity in a
6 combined combustion turbine and steam turbine application using
7 synthetic gas or another product produced from the gasification of
8 coal or another carbon-based feedstock, including related
9 activities such as materials-handling and gasification of coal or
10 another carbon-based feedstock.

11 (4) "Nuclear electric power generation" means
12 activities described in category 221113 of the 2002 North American
13 Industry Classification System.

14 (5) "Research and development" means an establishment
15 primarily engaged in activities described in category 541710 of the
16 2002 North American Industry Classification System.

17 (6) "Computer center" means an establishment
18 primarily engaged in providing electronic data processing and
19 information storage.

20 Sec. 313.012 [~~313.025~~]. APPLICATION; ACTION ON
21 APPLICATION. (a) The owner or lessee of, or the holder of another
22 possessory interest in, any qualified property [~~described by~~
23 ~~Section 313.021(2)(A), (B), or (C)]~~ may apply to the governing body
24 of the school district in which the property is located for a
25 limitation on the appraised value for school district maintenance
26 and operations ad valorem tax purposes of the person's qualified
27 property. An application must be made on the form prescribed by

1 the comptroller and include the information required by the
2 comptroller, and it must be accompanied by:

3 (1) the application fee established by the governing
4 body of the school district;

5 (2) information sufficient to show that the real and
6 personal property identified in the application as qualified
7 property meets the applicable criteria established by Section
8 313.0045(a)(2) [~~313.021(2)~~]; and

9 (3) information relating to each applicable criterion
10 listed in Section 313.013 [~~313.026~~].

11 (a-1) Within seven days of the receipt of each document, the
12 school district shall submit to the comptroller a copy of the
13 application and the agreement between the applicant and the school
14 district. If an economic analysis of the proposed project is
15 submitted to the school district, the district shall submit a copy
16 of the analysis to the comptroller. In addition, the school
17 district shall submit to the comptroller any subsequent revision of
18 or amendment to any of those documents within seven days of its
19 receipt. The comptroller shall publish each document received from
20 the school district under this subsection on the comptroller's
21 Internet website. If the school district maintains a generally
22 accessible Internet website, the district shall provide on its
23 website a link to the location of those documents posted on the
24 comptroller's website in compliance with this subsection. This
25 subsection does not require the comptroller to post information
26 that is confidential under Section 313.015 [~~313.028~~].

27 (b) The governing body of a school district is not required

1 to consider an application for a limitation on appraised value that
2 is filed with the governing body under Subsection (a). If the
3 governing body of the school district does elect to consider an
4 application, the governing body shall deliver three copies of the
5 application to the comptroller and request that the comptroller
6 provide an economic impact evaluation of the application to the
7 school district. Except as provided by Subsection (b-1), the
8 comptroller shall conduct or contract with a third person to
9 conduct the evaluation, which shall be completed and provided to
10 the governing body of the school district as soon as practicable.
11 The governing body shall provide to the comptroller or third person
12 any requested information. A methodology to allow comparisons of
13 economic impact for different schedules of the addition of
14 qualified investment or qualified property may be developed as part
15 of the economic impact evaluation. The governing body shall
16 provide a copy of the evaluation to the applicant on request. The
17 comptroller may charge and collect a fee sufficient to cover the
18 costs of providing the economic impact evaluation. The governing
19 body of a school district shall approve or disapprove an
20 application before the 151st day after the date the application is
21 filed, unless the economic impact evaluation has not been received
22 or an extension is agreed to by the governing body and the
23 applicant.

24 (b-1) The comptroller shall indicate on one copy of the
25 application the date the comptroller received the application and
26 deliver that copy to the Texas Education Agency. The Texas
27 Education Agency shall determine the effect that the applicant's

1 proposal will have on the number or size of the school district's
2 instructional facilities, as required to be included in the
3 economic impact evaluation by Section 313.013(a)(11)
4 [~~313.026(a)(9)~~], and submit a written report containing the
5 agency's determination to the comptroller. The governing body of
6 the school district shall provide any requested information to the
7 Texas Education Agency. Not later than the 45th day after the date
8 the application indicates that the comptroller received the
9 application, the Texas Education Agency shall make the required
10 determination and submit the agency's written report to the
11 comptroller. A third person contracted by the comptroller to
12 conduct an economic impact evaluation of an application is not
13 required to make a determination that the Texas Education Agency is
14 required to make and report to the comptroller under this
15 subsection.

16 (c) In determining whether to grant an application, the
17 governing body of the school district is entitled to request and
18 receive assistance from:

- 19 (1) the comptroller;
- 20 (2) the Texas [~~Department of~~] Economic Development and
21 Tourism Office;
- 22 (3) the Texas Workforce Investment Council; and
- 23 (4) the Texas Workforce Commission.

24 (d) Before the 91st day after the date the comptroller
25 receives the copy of the application, the comptroller shall submit
26 a recommendation to the governing body of the school district as to
27 whether the application should be approved or disapproved. The

1 comptroller may recommend to the governing body of the school
2 district that the application be approved only if the comptroller
3 determines that the limitation on appraised value is a significant
4 consideration by the applicant in determining whether to invest
5 capital and construct the project in this state.

6 (d-1) The governing body of a school district may approve an
7 application that the comptroller has recommended should be
8 disapproved only if:

9 (1) the governing body holds a public hearing the sole
10 purpose of which is to consider the application and the
11 comptroller's recommendation; and

12 (2) at a subsequent meeting of the governing body held
13 after the date of the public hearing, at least two-thirds of the
14 members of the governing body vote to approve the application.

15 (e) Before approving or disapproving an application under
16 this chapter [~~subchapter~~] that the governing body elects to
17 consider, the governing body of the school district must make a
18 written finding as to each criterion listed in Section 313.013
19 [~~313.026~~]. The governing body shall deliver a copy of those
20 findings to the applicant.

21 (f) The governing body may approve an application only if
22 the governing body finds that the information in the application is
23 true and correct, finds that the applicant is eligible for the
24 limitation on the appraised value of the person's qualified
25 property, and determines that granting the application is in the
26 best interest of the school district and this state.

27 (f-1) Notwithstanding any other provision of this chapter

1 to the contrary, including Section 313.003(2) or 313.004(3)(A) or
2 (B)(iii), the governing body of a school district may waive the new
3 jobs creation requirement in Section 313.0045(a)(2)(A)(iv)(b)
4 [~~313.021(2)(A)(iv)(b)~~] or 313.051(b) and approve an application if
5 the governing body makes a finding that the jobs creation
6 requirement exceeds the industry standard for the number of
7 employees reasonably necessary for the operation of the facility of
8 the property owner that is described in the application.

9 (g) The Texas [~~Department of~~] Economic Development and
10 Tourism Office or its successor may recommend that a school
11 district grant a person a limitation on appraised value under this
12 chapter. In determining whether to grant an application, the
13 governing body of the school district shall consider any
14 recommendation made by the Texas [~~Department of~~] Economic
15 Development and Tourism Office or its successor.

16 (h) After receiving a copy of the application, the
17 comptroller shall determine whether the property meets the
18 requirements of Section 313.011 [~~313.024~~] for eligibility for a
19 limitation on appraised value under this chapter [~~subchapter~~]. The
20 comptroller shall notify the governing body of the school district
21 of the comptroller's determination and provide the applicant an
22 opportunity for a hearing before the determination becomes final.
23 A hearing under this subsection is a contested case hearing and
24 shall be conducted by the State Office of Administrative Hearings
25 in the manner provided by Section 2003.101, Government Code. The
26 applicant has the burden of proof on each issue in the hearing. The
27 applicant may seek judicial review of the comptroller's

1 determination in a Travis County district court under the
2 substantial evidence rule as provided by Subchapter G, Chapter
3 2001, Government Code.

4 (i) If the comptroller's determination under Subsection (h)
5 that the property does not meet the requirements of Section 313.011
6 [~~313.024~~] for eligibility for a limitation on appraised value under
7 this chapter [~~subchapter~~] becomes final, the comptroller is not
8 required to provide an economic impact evaluation of the
9 application or to submit a recommendation to the school district as
10 to whether the application should be approved or disapproved, and
11 the governing body of the school district may not grant the
12 application.

13 Sec. 313.013 [~~313.026~~]. ECONOMIC IMPACT EVALUATION. (a)
14 The economic impact evaluation of the application must include the
15 following:

- 16 (1) the recommendations of the comptroller;
- 17 (2) the name of the school district;
- 18 (3) the name of the applicant;
- 19 (4) a description of the general nature of the
20 applicant's investment;
- 21 (5) [~~the relationship between the applicant's industry~~
22 ~~and the types of qualifying jobs to be created by the applicant to~~
23 ~~the long-term economic growth plans of this state as described in~~
24 ~~the strategic plan for economic development submitted by the Texas~~
25 ~~Strategic Economic Development Planning Commission under Section~~
26 ~~481.033, Government Code, as that section existed before February~~
27 ~~1, 1999,~~

1 ~~[(6)]~~ the amount [~~relative level~~] of the applicant's
2 intended investment [~~per qualifying job to be created by the~~
3 ~~applicant~~];

4 (6) [~~(7)~~] the number of qualifying, construction, and
5 operations jobs to be created by the applicant;

6 (7) [~~(8)~~] the wages, salaries, and benefits to be
7 offered by the applicant to qualifying, construction, and
8 operations job holders;

9 (8) [~~(9)~~] the ability of the applicant to locate or
10 relocate in another state or another region of this state;

11 (9) [~~(10)~~] the fiscal impact the project will have on
12 this state and individual local units of government, including:

13 (A) tax and other revenue gains, direct and
14 otherwise [~~or indirect~~], that would be realized during the
15 construction and operation of the facility, including [~~qualifying~~
16 ~~time period,~~] the limitation period [~~7~~] and a period of time after
17 the limitation period considered appropriate by the comptroller;
18 and

19 (B) economic effects of the project, including
20 the impact on jobs and income, direct and otherwise, during the
21 construction and operation of the facility, including [~~qualifying~~
22 ~~time period,~~] the limitation period [~~7~~] and a period of time after
23 the limitation period considered appropriate by the comptroller;

24 (10) [~~(11)~~] the economic condition of the region of
25 the state at the time the person's application is being considered;

26 (11) [~~(12)~~] ~~the number of new facilities built or~~
27 ~~expanded in the region during the two years preceding the date of~~

1 ~~the application that were eligible to apply for a limitation on~~
2 ~~appraised value under this subchapter,~~

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

7 (12) ~~(14)~~ the projected market value of the
8 qualified property of the applicant as determined by the
9 comptroller;

10 (13) ~~(15)~~ the proposed limitation on appraised
11 value for the qualified property of the applicant;

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

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

23 (16) ~~(18)~~ the projected effect on the Foundation
24 School Program of payments to the district for each year of the
25 agreement; and

26 (17) ~~(19) the projected future tax credits if the~~
27 ~~applicant also applies for school tax credits under Section~~

1 ~~313.103, and~~

2 [~~20~~] the total amount of taxes projected to be lost
3 or gained by the district over the life of the agreement computed by
4 subtracting the projected taxes stated in Subdivision (15) [~~17~~]
5 from the projected taxes stated in Subdivision (14) [~~16~~].

6 (b) The comptroller's recommendations shall be based on the
7 criteria listed in Subsection (a) [~~Subsections (a)(5)-(20)~~] and on
8 any other information available to the comptroller, including
9 information provided by the governing body of the school district
10 under Section 313.012(b) [~~313.025(b)~~].

11 Sec. 313.0135 [~~313.0265~~]. DISCLOSURE OF APPRAISED VALUE
12 LIMITATION INFORMATION. (a) The comptroller shall post on the
13 comptroller's Internet website each document or item of information
14 the comptroller designates as substantive before the 15th day after
15 the date the document or item of information was received or
16 created. Each document or item of information must continue to be
17 posted until the appraised value limitation expires.

18 (b) The comptroller shall designate the following as
19 substantive:

20 (1) each application requesting a limitation on
21 appraised value; and

22 (2) the economic impact evaluation made in connection
23 with the application [~~and~~

24 [~~(3) each application requesting school tax credits~~
25 ~~under Section 313.103~~].

26 (c) If a school district maintains a generally accessible
27 Internet website, the district shall maintain a link on its

1 Internet website to the area of the comptroller's Internet website
2 where information on each of the district's agreements to limit
3 appraised value is maintained.

4 Sec. 313.014 [~~313.027~~]. LIMITATION ON APPRAISED VALUE;
5 AGREEMENT. (a) If the person's application is approved by the
6 governing body of the school district, [~~for each of the first eight~~
7 ~~tax years that begin after the applicable qualifying time period,~~]
8 the appraised value for school district maintenance and operations
9 ad valorem tax purposes of the person's qualified property as
10 described in the agreement between the person and the district
11 entered into under this section in the school district may not
12 exceed the lesser of:

13 (1) the market value of the property; or
14 (2) [~~subject to Subsection (b),~~] the amount agreed to
15 by the governing body of the school district under Subchapter B or
16 C, as applicable.

17 (b) The agreement must:
18 (1) provide that the limitation under Subsection (a)
19 applies for a period of 10 years; and
20 (2) specify the beginning date of the limitation,
21 which must be January 1 of the first tax year that begins after:

22 (A) the application date;
23 (B) the qualifying time period; or
24 (C) the date commercial operations begin at the
25 site of the project. [~~amount agreed to by the governing body of a~~
26 ~~school district under Subsection (a)(2) must be an amount in~~
27 ~~accordance with the following, according to the category~~

1 ~~established by Section 313.022 to which the school district~~
2 ~~belongs:~~

3	CATEGORY	MINIMUM AMOUNT OF LIMITATION
4	I	\$100 million
5	II	\$80 million
6	III	\$60 million
7	IV	\$40 million
8	V	\$20 million]

9 (c) The limitation amounts prescribed under Subchapter B or
10 C, as applicable, [~~listed in Subsection (b)~~] are minimum amounts. A
11 school district, regardless of category, may agree to a greater
12 amount than those amounts.

13 (d) The governing body of the school district and the
14 property owner shall enter into a written agreement for the
15 implementation of the limitation on appraised value under this
16 chapter [~~subchapter~~] on the owner's qualified property.

17 (e) The agreement must describe with specificity the
18 qualified investment that the person will make on or in connection
19 with the person's qualified property that is subject to the
20 limitation on appraised value under this chapter [~~subchapter~~].
21 Other property of the person that is not specifically described in
22 the agreement is not subject to the limitation unless the governing
23 body of the school district, by official action, provides that the
24 other property is subject to the limitation.

25 (f) In addition, the agreement:

26 (1) must incorporate each relevant provision of this
27 chapter [~~subchapter~~] and, to the extent necessary, include

1 provisions for the protection of future school district revenues
2 through the adjustment of the minimum valuations, the payment of
3 revenue offsets, and other mechanisms agreed to by the property
4 owner and the school district;

5 (2) may provide that the property owner will protect
6 the school district in the event the district incurs extraordinary
7 education-related expenses related to the project that are not
8 directly funded in state aid formulas, including expenses for the
9 purchase of portable classrooms and the hiring of additional
10 personnel to accommodate a temporary increase in student enrollment
11 attributable to the project;

12 (3) must require the property owner to maintain a
13 viable presence in the school district for at least five [~~three~~]
14 years after the date the limitation on appraised value of the
15 owner's property expires;

16 (4) must provide for the termination of the agreement,
17 the recapture of ad valorem tax revenue lost as a result of the
18 agreement if the owner of the property fails to comply with the
19 terms of the agreement, and payment of a penalty or interest, or
20 both, on that recaptured ad valorem tax revenue;

21 (5) may specify any conditions the occurrence of which
22 will require the district and the property owner to renegotiate all
23 or any part of the agreement; and

24 (6) must specify the ad valorem tax years covered by
25 the agreement.

26 (g) When appraising a person's qualified property subject
27 to a limitation on appraised value under this section, the chief

1 appraiser shall determine the market value of the property and
2 include both the market value and the appropriate value under
3 Subsection (a) in the appraisal records.

4 (h) The agreement between the governing body of the school
5 district and the applicant may provide for a deferral of the date on
6 which the qualifying time period for the project is to commence or,
7 subsequent to the date the agreement is entered into, be amended to
8 provide for such a deferral. The agreement may not provide for the
9 deferral of the date on which the qualifying time period is to
10 commence to a date later than January 1 of the fourth tax year that
11 begins after the date the application is approved except that if the
12 agreement is one of a series of agreements related to the same
13 project, the agreement may provide for the deferral of the date on
14 which the qualifying time period is to commence to a date not later
15 than January 1 of the sixth tax year that begins after the date the
16 application is approved. This subsection may not be construed to
17 permit a qualifying time period that has commenced to continue for
18 more than the number of years applicable to the project under
19 Section 313.0045(a)(4) [~~313.021(4)~~].

20 (i) A person and the school district may not enter into an
21 agreement under which the person agrees to provide supplemental
22 payments to a school district or any other entity on behalf of a
23 school district in an amount that exceeds an amount equal to \$100
24 per student per year in average daily attendance, as defined by
25 Section 42.005, Education Code, or for a period that exceeds the
26 period beginning with the period described by Section
27 313.0045(a)(4) [~~313.021(4)~~] and ending December 31 of the third tax

1 year after the date the person's eligibility for a limitation under
2 this chapter expires [~~with the period described by Section~~
3 ~~313.104(2)(B) of this code~~]. This limit does not apply to amounts
4 described by Subsection (f)(1) or (2) [~~of this section~~].

5 (j) An agreement under this chapter must disclose any
6 consideration promised in conjunction with the application and the
7 limitation.

8 Sec. 313.0145 [~~313.0275~~]. RECAPTURE OF AD VALOREM TAX
9 REVENUE LOST. (a) Notwithstanding any other provision of this
10 chapter to the contrary, a person with whom a school district enters
11 into an agreement under this chapter [~~subchapter~~] must make the
12 minimum amount of qualified investment [~~during the qualifying time~~
13 ~~period~~] and create the required number of qualifying jobs during
14 each year of the agreement.

15 (b) If in any tax year a property owner fails to comply with
16 Subsection (a), the property owner is liable to this state for a
17 penalty equal to the amount computed by subtracting from the market
18 value of the property for that tax year the value of the property as
19 limited by the agreement and multiplying the difference by the
20 maintenance and operations tax rate of the school district for that
21 tax year.

22 (c) A penalty imposed under Subsection (b) becomes
23 delinquent if not paid on or before February 1 of the following tax
24 year. Section 33.01 applies to the delinquent penalty in the manner
25 that section applies to delinquent taxes.

26 (d) In the event of a casualty loss, a person with whom a
27 school district enters into an agreement under this chapter may

1 request and the school district may grant a waiver of the
2 requirements of this section.

3 Sec. 313.015 [~~313.028~~]. CERTAIN BUSINESS INFORMATION
4 CONFIDENTIAL. Information provided to a school district in
5 connection with an application for a limitation on appraised value
6 under this chapter [~~subchapter~~] that describes the specific
7 processes or business activities to be conducted or the specific
8 tangible personal property to be located on real property covered
9 by the application shall be segregated in the application from
10 other information in the application and is confidential and not
11 subject to public disclosure unless the governing body of the
12 school district approves the application. Other information in the
13 custody of a school district or the comptroller in connection with
14 the application, including information related to the economic
15 impact of a project or the essential elements of eligibility under
16 this chapter, such as the nature and amount of the projected
17 investment, employment, wages, and benefits, may not be considered
18 confidential business information if the governing body of the
19 school district agrees to consider the application. Information in
20 the custody of a school district or the comptroller if the governing
21 body approves the application is not confidential under this
22 section.

23 Sec. 313.016 [~~313.030~~]. PROPERTY NOT ELIGIBLE FOR TAX
24 ABATEMENT. Property subject to a limitation on appraised value in a
25 tax year under this chapter [~~subchapter~~] is not eligible for tax
26 abatement by a school district under Chapter 312 in that tax year.

27 Sec. 313.017 [~~313.031~~]. RULES AND FORMS; FEES. (a) The

1 comptroller shall:

2 (1) adopt rules and forms necessary for the
3 implementation and administration of this chapter, including rules
4 for determining whether a property owner's property qualifies as a
5 qualified investment under Section 313.0045(a)(1) [~~313.021(1)~~];
6 and

7 (2) provide without charge one copy of the rules and
8 forms to any school district and to any person who states that the
9 person intends to apply for a limitation on appraised value under
10 this chapter [~~subchapter or a tax credit under Subchapter D~~].

11 (b) The governing body of a school district by official
12 action shall establish reasonable nonrefundable application fees
13 to be paid by property owners who apply to the district for a
14 limitation on the appraised value of the person's property under
15 this chapter [~~subchapter~~]. The amount of an application fee must be
16 reasonable and may not exceed the estimated cost to the district of
17 processing and acting on an application, including the cost of the
18 economic impact evaluation required by Sections 313.012 [~~313.025~~]
19 and 313.013 [~~313.026~~].

20 Sec. 313.018 [~~313.032~~]. REPORT ON COMPLIANCE WITH
21 AGREEMENTS. (a) Before the beginning of each regular session of
22 the legislature, the comptroller shall submit to the lieutenant
23 governor, the speaker of the house of representatives, and each
24 other member of the legislature a report on the agreements entered
25 into under this chapter that includes:

26 (1) an assessment of the following with regard to the
27 agreements entered into under this chapter, considered in the

1 aggregate:

2 (A) the total number of jobs created, direct and
3 otherwise, in this state;

4 (B) the total effect on personal income, direct
5 and otherwise, in this state;

6 (C) the effect, direct and otherwise, on the
7 total amount of investment in this state;

8 (D) the effect, direct and otherwise, on the
9 total taxable value of property on the tax rolls in this state,
10 including property for which the limitation period has expired;

11 (E) the total value of property not on the tax
12 rolls in this state as a result of agreements entered into under
13 this chapter; and

14 (F) the total fiscal effect, direct and
15 otherwise, on the state and local governments; and

16 (2) an assessment of [assessing] the progress of each
17 agreement made under this chapter that states [~~The report must be~~
18 ~~based on data certified to the comptroller by each recipient of a~~
19 ~~limitation on appraised value under this subchapter and state] for
20 each agreement:~~

21 (A) [~~+1~~] the number of new qualifying jobs each
22 recipient of a limitation on appraised value committed to create;

23 (B) [~~+2~~] the number of new qualifying jobs each
24 recipient created;

25 (C) [~~+3~~] the total amount of wages [~~median wage~~]
26 of the new jobs each recipient created;

27 (D) [~~+4~~] the amount of the qualified investment

1 each recipient committed to spend or allocate for each project;

2 (E) [~~(5)~~] the amount of the ~~[qualified]~~
3 investment each recipient spent or allocated for each project;

4 (F) [~~(6)~~] the market value of the qualified
5 property of each recipient as determined by the applicable chief
6 appraiser, including property for which the limitation period has
7 expired;

8 (G) [~~(7)~~] the limitation on appraised value for
9 the qualified property of each recipient;

10 (H) [~~(8)~~] the dollar amount of the taxes that
11 would have been imposed on the qualified property if the property
12 had not received a limitation on appraised value; and

13 (I) [~~(9)~~] the dollar amount of the taxes imposed
14 on the qualified property[+

15 ~~[(10) the number of new jobs created by each recipient~~
16 ~~in each sector of the North American Industry Classification~~
17 ~~System, and~~

18 ~~[(11) of the number of new jobs each recipient~~
19 ~~created, the number of jobs created that provide health benefits~~
20 ~~for employees].~~

21 (b) The report may not include information that is
22 confidential by law.

23 (b-1) In preparing the portion of the report described by
24 Subsection (a)(1), the comptroller may use standard economic
25 estimation techniques, including economic multipliers.

26 (c) The portion of the report described by Subsection (a)(2)
27 must be based on data certified to the comptroller by each recipient

1 of a limitation on appraised value under this chapter. The
2 comptroller may require a recipient to submit, on a form the
3 comptroller provides, information required to prepare ~~[complete]~~
4 the portion of the report described by that subdivision.

5 SECTION 7. The heading to Subchapter B, Chapter 313, Tax
6 Code, is amended to read as follows:

7 SUBCHAPTER B. GENERAL LIMITATION ON APPRAISED VALUE OF CERTAIN
8 PROPERTY USED TO CREATE JOBS

9 SECTION 8. Section 313.022(b), Tax Code, is amended to read
10 as follows:

11 (b) For purposes of determining the required minimum amount
12 of a qualified investment under Section 313.0045(a)(2)(A)(iv)(a)
13 [~~313.021(2)(A)(iv)(a)~~], and the minimum amount of a limitation on
14 appraised value under this subchapter [~~Section 313.027(b)~~], school
15 districts to which this subchapter applies are categorized
16 according to the taxable value of property in the district for the
17 preceding tax year determined under Subchapter M, Chapter 403,
18 Government Code, as follows:

19	CATEGORY	TAXABLE VALUE OF PROPERTY
20	I	\$10 billion or more
21	II	\$1 billion or more but less than \$10 billion
22	III	\$500 million or more but less than \$1 billion
23	IV	\$100 million or more but less than \$500 million
24	V	less than \$100 million

25 SECTION 9. Section 313.023, Tax Code, is amended to read as
26 follows:

27 Sec. 313.023. MINIMUM AMOUNTS OF QUALIFIED INVESTMENT. For

1 each category of school district established by Section 313.022,
2 the minimum amount of a qualified investment under Section
3 313.0045(a)(2)(A)(iv)(a) [~~313.021(2)(A)(iv)(a)~~] is as follows:

4	CATEGORY	MINIMUM QUALIFIED INVESTMENT
5	I	\$100 million
6	II	\$80 million
7	III	\$60 million
8	IV	\$40 million
9	V	\$20 million

10 SECTION 10. Subchapter B, Chapter 313, Tax Code, is amended
11 by adding Section 313.0235 to read as follows:

12 Sec. 313.0235. LIMITATION ON APPRAISED VALUE. For a school
13 district to which this subchapter applies, the amount agreed to by
14 the governing body of the school district must be an amount in
15 accordance with the following, according to the category
16 established by Section 313.022 to which the school district
17 belongs:

18	<u>CATEGORY</u>	<u>MINIMUM AMOUNT OF LIMITATION</u>
19	<u>I</u>	<u>\$100 million</u>
20	<u>II</u>	<u>\$80 million</u>
21	<u>III</u>	<u>\$60 million</u>
22	<u>IV</u>	<u>\$40 million</u>
23	<u>V</u>	<u>\$20 million</u>

24 SECTION 11. The heading to Subchapter C, Chapter 313, Tax
25 Code, is amended to read as follows:

1 SUBCHAPTER C. LIMITATION ON APPRAISED VALUE OF PROPERTY IN CERTAIN
2 [RURAL] SCHOOL DISTRICTS

3 SECTION 12. Sections 313.051(a) and (b), Tax Code, are
4 amended to read as follows:

5 (a) This subchapter applies only to a school district that
6 has territory in:

7 (1) an area located in:

8 (A) a county with unemployment above the state
9 average and per capita income below the state average;

10 (B) a federally designated urban enterprise
11 community or an urban enhanced enterprise community; or

12 (C) a defense economic readjustment zone
13 designated under Chapter 2310, Government Code [~~that qualified as a~~
14 ~~strategic investment area under Subchapter O, Chapter 171,~~
15 ~~immediately before that subchapter expired]~~; or

16 (2) a county:

17 (A) that has a population of less than 50,000;
18 and

19 (B) in which, during the decade preceding [~~from~~
20 ~~1990 to 2000, according to~~] the most recent federal decennial
21 census, the population:

22 (i) remained the same;

23 (ii) decreased; or

24 (iii) increased, but at a rate of not more
25 than three percent per annum.

26 (b) [~~The governing body of a school district to which this~~
27 ~~subchapter applies may enter into an agreement in the same manner as~~

1 ~~a school district to which Subchapter B applies may do so under~~
2 ~~Subchapter B, subject to Sections 313.052-313.054.]~~ Except as
3 otherwise provided by this subchapter, the provisions of Subchapter
4 A-1 [~~B~~] apply to a school district to which this subchapter
5 applies. For purposes of this subchapter, a property owner is
6 required to create only at least 10 new jobs on the owner's
7 qualified property. At least 80 percent of all the new jobs created
8 must be qualifying jobs [~~as defined by Section 313.021(3)~~], except
9 that, for a school district described by Subsection (a)(2), each
10 qualifying job must pay at least 110 percent of the average weekly
11 wage for manufacturing jobs in the region designated for the
12 regional planning commission, council of governments, or similar
13 regional planning agency created under Chapter 391, Local
14 Government Code, in which the district is located.

15 SECTION 13. Sections 313.052 and 313.053, Tax Code, are
16 amended to read as follows:

17 Sec. 313.052. CATEGORIZATION OF SCHOOL DISTRICTS. For
18 purposes of determining the required minimum amount of a qualified
19 investment under Section 313.0045(a)(2)(A)(iv)(a)
20 [~~313.021(2)(A)(iv)(a)~~] and the minimum amount of a limitation on
21 appraised value under this subchapter, school districts to which
22 this subchapter applies are categorized according to the taxable
23 value of industrial property in the district for the preceding tax
24 year determined under Subchapter M, Chapter 403, Government Code,
25 as follows:

26	CATEGORY	TAXABLE VALUE OF INDUSTRIAL PROPERTY
27	I	\$200 million or more

1	II	\$90 million or more but less than \$200 million
2	III	\$1 million or more but less than \$90 million
3	IV	\$100,000 or more but less than \$1 million
4	V	less than \$100,000

5 Sec. 313.053. MINIMUM AMOUNTS OF QUALIFIED INVESTMENT. For
6 each category of school district established by Section 313.052,
7 the minimum amount of a qualified investment under Section
8 313.0045(a)(2)(A)(iv)(a) [~~313.021(2)(A)(iv)(a)~~] is as follows:

9	CATEGORY	MINIMUM QUALIFIED INVESTMENT
10	I	\$30 million
11	II	\$20 million
12	III	\$10 million
13	IV	\$5 million
14	V	\$1 million

15 SECTION 14. Section 313.054(a), Tax Code, is amended to
16 read as follows:

17 (a) For a school district to which this subchapter applies,
18 the amount agreed to by the governing body of the district [~~under~~
19 ~~Section 313.027(a)(2)~~] must be an amount in accordance with the
20 following, according to the category established by Section 313.052
21 to which the school district belongs:

22	CATEGORY	MINIMUM AMOUNT OF LIMITATION
23	I	\$30 million
24	II	\$20 million
25	III	\$10 million
26	IV	\$5 million
27	V	\$1 million

1 SECTION 15. The heading to Subchapter E, Chapter 313, Tax
2 Code, is amended to read as follows:

3 SUBCHAPTER E. EFFECT [~~AVAILABILITY~~] OF [~~TAX CREDIT AFTER~~] PROGRAM
4 EXPIRATION OR REPEAL [~~EXPIRES~~]

5 SECTION 16. Section 313.171, Tax Code, is amended to read as
6 follows:

7 Sec. 313.171. SAVING PROVISIONS. (a) A limitation on
8 appraised value approved under Subchapter A-1, B, or C before the
9 expiration of that subchapter continues in effect according to that
10 subchapter as that subchapter existed immediately before its
11 expiration, and that law is continued in effect for purposes of the
12 limitation on appraised value.

13 (b) The repeal [~~expiration~~] of Subchapter D does not affect
14 a property owner's entitlement to a tax credit granted under
15 Subchapter D if the property owner qualified for the tax credit
16 before the repeal [~~expiration~~] of Subchapter D.

17 SECTION 17. Section 42.2515(a), Education Code, is amended
18 to read as follows:

19 (a) For each school year, a school district, including a
20 school district that is otherwise ineligible for state aid under
21 this chapter, is entitled to state aid in an amount equal to the
22 amount of all tax credits credited against ad valorem taxes of the
23 district in that year under former Subchapter D, Chapter 313, Tax
24 Code.

25 SECTION 18. Section 42.302(e), Education Code, is amended
26 to read as follows:

27 (e) For purposes of this section, school district taxes for

1 which credit is granted under former Subchapter D, Chapter 313, Tax
2 Code, are considered taxes collected by the school district as if
3 the taxes were paid when the credit for the taxes was granted.

4 SECTION 19. The following provisions of the Tax Code are
5 repealed:

6 (1) Sections 313.005, 313.008, and 313.009; and

7 (2) Subchapter D, Chapter 313.

8 SECTION 20. Chapter 313, Tax Code, as amended by this Act,
9 applies only to an application filed under that chapter on or after
10 the effective date of this Act. An application filed under that
11 chapter before the effective date of this Act is governed by the law
12 in effect on the date the application was filed, and the former law
13 is continued in effect for that purpose.

14 SECTION 21. This Act takes effect January 1, 2014.

ADOPTED

MAY 21 2013

FLOOR AMENDMENT NO. 1

Antony Spaw
Secretary of the Senate

BY: *Donald*

Amend C.S.H.B. No. 3390 (senate committee printing) as follows:

(1) In SECTION 2 of the bill, at the end of redesignated and amended Section 313.0045(a)(1)(E), Tax Code (page 3, line 9), strike "[~~or~~]" and substitute "or".

(2) In SECTION 2 of the bill, in redesignated and amended Section 313.0045(a)(1), Tax Code (page 3, lines 10 through 17), strike Paragraphs (F) and (G) and substitute the following:

(F) a building or a permanent, nonremovable component of a building that is built or constructed during the applicable qualifying time period that begins on or after January 1, 2002, and that houses tangible personal property described by Paragraph (A), (B), (C), (D), or (E).

(3) In SECTION 2 of the bill, in redesignated and amended Section 313.0045(a)(3), Tax Code (page 3, lines 56 through 63), strike Paragraph (D) of the subdivision and substitute the following:

(D) is covered by a group health benefit plan for which the business offers to pay at least 80 percent of the premiums or other charges assessed for employee-only coverage under the plan, regardless of whether an employee may voluntarily waive the coverage; and

(4) In SECTION 2 of the bill, in redesignated and amended Section 313.0045(a), Tax Code (page 4, lines 37 through 44), strike proposed Subdivision (6).

(5) In SECTION 6 of the bill, in redesignated and amended Section 313.011(b), Tax Code, at the end of Subdivision (7) (page

5, line 18), strike "[~~or~~]" and substitute "or".

(6) In SECTION 6 of the bill, in redesignated and amended Section 313.011(b), Tax Code (page 5, lines 19 through 22), strike Subdivisions (8) and (9) and substitute the following:

(8) a computer center primarily used in connection with one or more activities described by Subdivisions (1) through (7) conducted by the entity.

ADOPTED

MAY 21 2013

Atty Gen
Secretary of the Senate

FLOOR AMENDMENT NO. 2

BY: *D. J. [Signature]*

Amend C.S.H.B. No. 3390 (senate committee printing) as follows:

(1) In SECTION 10 of the bill (page 13, lines 44 through 55), strike proposed Section 313.0235, Tax Code, and substitute the following:

Sec. 313.0235. LIMITATION ON APPRAISED VALUE. For a school district to which this subchapter applies, the amount agreed to by the governing body of the school district must be an amount in accordance with the following, according to the category established by Section 313.022 to which the school district belongs:

<u>CATEGORY</u>	<u>MINIMUM AMOUNT OF LIMITATION</u>
<u>I</u>	<u>\$100 million</u>
<u>II</u>	<u>\$90 million</u>
<u>III</u>	<u>\$80 million</u>
<u>IV</u>	<u>\$70 million</u>
<u>V</u>	<u>\$60 million</u>

(2) In SECTION 13 of the bill, in amended Section 313.052, Tax Code (page 14, lines 35 and 36), strike "[313.021(2)(A)(iv)(a)] and the minimum amount of a limitation on appraised value under this subchapter" and substitute "[313.021(2)(A)(iv)(a) and the ~~minimum amount of a limitation on appraised value under this subchapter~~"]".

(3) Strike SECTION 14 of the bill (page 14, lines 57 through 69) and substitute the following:

SECTION 14. Section 313.054, Tax Code, is amended to read as follows:

Sec. 313.054. LIMITATION ON APPRAISED VALUE. (a) For a school district to which this subchapter applies, the amount agreed to by the governing body of the district [~~under Section~~

~~313.027(a)(2)~~ must be at least \$60 million. [~~an amount in accordance with the following, according to the category established by Section 313.052 to which the school district belongs:~~

[~~CATEGORY MINIMUM AMOUNT OF LIMITATION~~

[~~I \$30 million~~

[~~II \$20 million~~

[~~III \$10 million~~

[~~IV \$5 million~~

[~~V \$1 million~~]

(b) The limitation amount [~~amounts~~] listed in Subsection (a) is a [~~are~~] minimum amount [~~amounts~~]. A school district [~~regardless of category,~~] may agree to a greater amount than that amount [~~those amounts~~].

ADOPTED

MAY 21 2013

FLOOR AMENDMENT NO. 3

Latacy Spaul
Secretary of the Senate

BY: *D. Powell*

Amend C.S.H.B. No. 3390 (senate committee printing) as follows:

(1) In SECTION 6 of the bill, in redesignated and amended Section 313.012, Tax Code (page 7, lines 11 through 28), strike Subsections (d) and (d-1) of the section and substitute the following:

(d) Before the 91st day after the date the comptroller receives the copy of the application, the comptroller shall submit a recommendation to the governing body of the school district as to whether the application should be approved or disapproved.

(d-1) The governing body of a school district may not approve an application unless ~~[that]~~ the comptroller recommends approval of the application ~~[has recommended should be disapproved only if:~~

~~[(1) the governing body holds a public hearing the sole purpose of which is to consider the application and the comptroller's recommendation; and~~

~~[(2) at a subsequent meeting of the governing body held after the date of the public hearing, at least two-thirds of the members of the governing body vote to approve the application].~~

(2) In SECTION 6 of the bill, in redesignated and amended Section 313.013, Tax Code (page 9, lines 17 through 21), strike Subsection (b) of the section and substitute the following:

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

313.012(b) [313.025(b)].

(c) The comptroller shall conduct a study to determine the net present value of any tax revenue anticipated to be generated, directly or otherwise, as a result of the project before the 25th anniversary of the beginning of the limitation period, including tax revenue anticipated to be generated during the construction of the project, and the net present value of the ad valorem tax benefit provided for the project under the proposed agreement. The comptroller may request that an applicant provide information necessary for the comptroller to make the determination. The comptroller may not recommend approval of the application unless the comptroller certifies that:

(1) the net present value of any tax revenue anticipated to be generated, directly or otherwise, as a result of the project before the 25th anniversary of the beginning of the limitation period, including tax revenue anticipated to be generated during the construction of the project, is likely to exceed the net present value of the ad valorem tax benefit provided for the project under the proposed agreement; and

(2) 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.

FLOOR AMENDMENT NO. 4

BY: Wendy K Davis

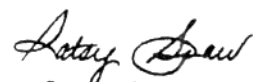
1 Amend Amendment No. 3 by Devell to C.S.H.B.

2 No. 3390 as follows:

3 In SECTION ² of the amendment, in added Section
4 (Tax Code) 313.013(c)(2), ² strike "the limitation on appraised value is a
5 significant consideration by the applicant in determining
6 whether" and substitute "on the basis of tangible evidence
7 submitted by the applicant that the limitation on appraised
8 value is a determining factor in the applicant's decision".

ADOPTED

MAY 21 2013


Secretary of the Senate

ADOPTED

FLOOR AMENDMENT NO. 5

MAY 21 2013

Atty. Gen.
Secretary of the Senate

BY: *Dewell*

1 Amend C.S.H.B. No. 3390 (senate committee printing) by
2 adding the following appropriately numbered SECTION to the bill
3 and renumbering the subsequent SECTIONS of the bill accordingly:

4 SECTION __. Subchapter A-1, Tax Code, as added by this
5 Act, is amended by adding Sections 313.0146 and 313.019 to read
6 as follows:

7 Sec. 313.0146. PENALTY FOR FAILURE TO COMPLY WITH JOB-
8 CREATION REQUIREMENTS. (a) The comptroller shall conduct an
9 annual review and issue a determination as to whether a person
10 with whom a school district has entered into an agreement under
11 this chapter satisfied in the preceding year the requirements of
12 this chapter regarding the creation of the required number of
13 qualifying jobs. If the comptroller makes an adverse
14 determination in the review:

15 (1) the comptroller shall notify the person of the
16 cause of the adverse determination and the corrective measures
17 necessary to remedy the determination; and

18 (2) the person must submit to the comptroller a plan
19 for remedying the determination and certify the person's intent
20 to fully implement the plan not later than December 31 of the
21 year in which the determination is made.

22 (b) If a person who receives an adverse determination fails
23 to comply with Subsection (a)(2) following notification of the
24 determination and receives an adverse determination in the
25 following year, the comptroller shall impose a penalty on the
26 person. The penalty is in an amount equal to the amount
27 computed by:

28 (1) subtracting from the number of qualifying jobs
29 required to be created the number of qualifying jobs actually

1 created; and

2 (2) multiplying the amount computed under Subdivision
3 (1) by:

4 (A) the average annual wage for all jobs in the
5 county during the most recent four quarters for which data is
6 available, if the penalty is being imposed on the person for the
7 first time; or

8 (B) twice the average annual wage for all jobs in
9 the county during the most recent four quarters for which data
10 is available, if the penalty has previously been imposed on the
11 person.

12 (c) Notwithstanding Subsection (b), the penalty may not
13 exceed an amount equal to the difference between the amount of
14 the ad valorem tax benefit received by the person under the
15 agreement in the preceding year and the amount of any
16 supplemental payments made to the school district in that year.

17 (d) A job created by a person that is not a qualifying job
18 because the job does not meet a numerical requirement of Section
19 313.0045(a)(3)(A), (D), or (E) is considered for purposes of
20 this section to be a nonqualifying job only if the job fails to
21 meet the numerical requirement by at least 10 percent.

22 (e) An adverse determination under this section is a
23 deficiency determination under Section 111.008. A penalty
24 imposed under this section is an amount the comptroller is
25 required to collect, receive, administer, or enforce, and the
26 determination is subject to the payment and redetermination
27 requirements of Sections 111.0081 and 111.009.

28 (f) A redetermination under Section 111.009 of an adverse
29 determination under this section is a contested case as defined
30 by Section 2001.003, Government Code.

31 (g) If a person on whom a penalty is imposed under this

1 section contends that the amount of the penalty is unlawful or
2 that the comptroller may not legally demand or collect the
3 penalty, the person may challenge the determination of the
4 comptroller under Subchapters A and B, Chapter 112.

5 (h) If the comptroller imposes a penalty on a person under
6 this section three times, the comptroller may rescind the
7 agreement between the person and the school district under this
8 chapter.

9 (i) A determination by the comptroller to rescind an
10 agreement between a person and a school district under this
11 chapter pursuant to Subsection (h) is a contested case as
12 defined by Section 2001.003, Government Code.

13 (j) If a person appeals a final decision of the comptroller
14 to rescind an agreement between a person and a school district
15 under this chapter pursuant to Subsection (h) and that decision
16 is upheld on appeal, the person shall pay to the comptroller any
17 tax that would have been due and payable to the school district
18 during the pendency of the appeal, including statutory interest
19 and penalties imposed on delinquent taxes under Sections 111.060
20 and 111.061.

21 (k) The comptroller shall deposit a penalty collected under
22 this section, including any interest and penalty applicable to
23 the penalty, to the credit of the foundation school fund.

24 Sec. 313.019. REPORT ON COMPLIANCE WITH JOB-CREATION
25 REQUIREMENTS. Each recipient of a limitation on appraised value
26 under this chapter shall submit to the comptroller an annual
27 report on a form provided by the comptroller that provides
28 information sufficient for the comptroller to determine whether
29 the applicant is creating the number of new qualifying jobs
30 required by this chapter.

ADOPTED

MAY 21 2013

Letty Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 6

BY: Wendy K Davis

1 Amend C.S.H.B. No. 3390 (senate committee printing) by adding
2 the following appropriately numbered SECTION to the bill and
3 renumbering the subsequent SECTIONS of the bill accordingly:

4 SECTION _____. Subchapter A, Chapter 313, Tax Code, is
5 amended by adding Section 313.0075 to read as follows:

6 Sec. 313.0075. AUDIT OF AGREEMENTS BY STATE AUDITOR. (a)

7 Each year, the state auditor shall review at least three major
8 agreements, as determined by the state auditor, under this chapter
9 to determine whether:

10 (1) each agreement accomplishes the purposes of this
11 chapter as expressed in Section 313.003;

12 (2) each agreement complies with the intent of the
13 legislature in enacting this chapter as expressed in Section
14 313.004; and

15 (3) the terms of each agreement were executed in
16 compliance with the terms of this chapter.

17 (b) As part of the review, the state auditor shall make
18 recommendations relating to increasing the efficiency and
19 effectiveness of the administration of this chapter.

ADOPTED

MAY 21 2013

Lately Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 7

BY: *Craig Carter*

1 Amend C.S.H.B. No. 3390 (Senate committee printing) by adding
2 the following appropriately numbered SECTION to the bill and
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION _____. (a) Section 311.005(a), Tax Code, is amended
5 to read as follows:

6 (a) To be designated as a reinvestment zone, an area must:

7 (1) substantially arrest or impair the sound growth of
8 the municipality or county designating the zone, retard the
9 provision of housing accommodations, or constitute an economic or
10 social liability and be a menace to the public health, safety,
11 morals, or welfare in its present condition and use because of the
12 presence of:

13 (A) a substantial number of substandard, slum,
14 deteriorated, or deteriorating structures;

15 (B) the predominance of defective or inadequate
16 sidewalk or street layout;

17 (C) faulty lot layout in relation to size,
18 adequacy, accessibility, or usefulness;

19 (D) unsanitary or unsafe conditions;

20 (E) the deterioration of site or other
21 improvements;

22 (F) tax or special assessment delinquency
23 exceeding the fair value of the land;

24 (G) defective or unusual conditions of title;

25 (H) conditions that endanger life or property by
26 fire or other cause; or

27 (I) structures, other than single-family
28 residential structures, less than 10 percent of the square footage
29 of which has been used for commercial, industrial, or residential

1 purposes during the preceding 12 years, if the municipality has a
2 population of 100,000 or more;

3 (2) be predominantly open or undeveloped and, because
4 of obsolete platting, deterioration of structures or site
5 improvements, or other factors, substantially impair or arrest the
6 sound growth of the municipality or county;

7 (3) be in a federally assisted new community located
8 in the municipality or county or in an area immediately adjacent to
9 a federally assisted new community; ~~or~~

10 (4) be an area described in a petition requesting that
11 the area be designated as a reinvestment zone, if the petition is
12 submitted to the governing body of the municipality or county by the
13 owners of property constituting at least 50 percent of the
14 appraised value of the property in the area according to the most
15 recent certified appraisal roll for the county in which the area is
16 located; or

17 (5) be substantially undeveloped and be located in:

18 (A) a municipality with a population of less than
19 20,000; and

20 (B) a county with a population of more than
21 660,000 and less than 690,000 that borders a county with a
22 population of two million or more.

23 (b) This section takes effect immediately if this Act
24 receives a vote of two-thirds of all the members elected to each
25 house, as provided by Section 39, Article III, Texas Constitution.
26 If this Act does not receive the vote necessary for immediate
27 effect, this section takes effect September 1, 2013.

ADOPTED

May 21, 2013

Hatay Law
Secretary of the Senate

FLOOR AMENDMENT NO. 8

BY: *Rodney Elkin*

1 Amend H.B. No. 3390 by adding the following appropriately
2 numbered SECTIONS to the bill and renumbering subsequent SECTIONS
3 of the bill accordingly:

4 SECTION _____. Subtitle B, Title 3, Government Code, is
5 amended by adding Chapter 320A to read as follows:

6 CHAPTER 320A. REVIEW OF STATE AND LOCAL TAX PREFERENCES

7 SUBCHAPTER A. GENERAL PROVISIONS

8 Sec. 320A.001. DEFINITION. In this chapter, "tax
9 preference" means a credit, discount, exclusion, exemption,
10 refund, special valuation, special accounting treatment, special
11 rate, or special method of reporting authorized by state law that
12 relates to a state or local tax imposed in this state.

13 SUBCHAPTER B. SCHEDULE FOR PERIODIC REVIEW

14 OF STATE AND LOCAL TAX PREFERENCES

15 Sec. 320A.051. DEVELOPMENT AND BIENNIAL MODIFICATION OF
16 STATE AND LOCAL TAX PREFERENCE REVIEW SCHEDULE. (a) The
17 comptroller shall:

18 (1) identify each state tax preference and each type
19 of local tax preference;

20 (2) develop a state and local tax preference review
21 schedule under which each identified tax preference is reviewed
22 once during each 12-year period; and

23 (3) specifically identify on the schedule each of the
24 tax preferences the Legislative Budget Board must review for
25 purposes of the next report due under Section 320A.151.

26 (b) Except as provided in Subsection (c), in developing the
27 schedule, the comptroller shall give priority to scheduling for
28 review the tax preferences that result in the greatest reduction in
29 revenue derived from the taxes to which the tax preferences relate.

1 (c) In developing the schedule, the comptroller may:

2 (1) schedule for review at the same time all tax
3 preferences authorized in the same chapter of the Tax Code; and

4 (2) schedule the initial review of a tax preference
5 that has an expiration date for any date the comptroller determines
6 is appropriate.

7 (d) The comptroller shall revise the schedule biennially
8 only to:

9 (1) add to the schedule a tax preference that was
10 enacted after the comptroller developed the most recent schedule;

11 (2) delete from the schedule a tax preference that was
12 repealed or that expired after the comptroller developed the most
13 recent schedule;

14 (3) update the review dates of the tax preferences for
15 which reviews were conducted after the comptroller developed the
16 most recent schedule; and

17 (4) update the tax preferences identified under
18 Subsection (a)(3).

19 Sec. 320A.052. PUBLIC COMMENT. The comptroller shall
20 provide a process by which the public may comment on the state and
21 local tax preference review schedule under Section 320A.051. The
22 comptroller shall consider those comments in developing or revising
23 the schedule.

24 Sec. 320A.053. SCHEDULE PROVIDED TO LEGISLATIVE BUDGET
25 BOARD. Not later than December 1 of each odd-numbered year, the
26 comptroller shall provide the state and local tax preference review
27 schedule to the Legislative Budget Board.

28 SUBCHAPTER C. CONDUCT OF REVIEW OF STATE

29 AND LOCAL TAX PREFERENCES

30 Sec. 320A.101. PERIODIC REVIEW OF TAX PREFERENCES. The
31 Legislative Budget Board shall periodically review each state tax

1 preference and each type of local tax preference according to the
2 state and local tax preference review schedule provided by the
3 comptroller under Section 320A.053. In reviewing a tax preference,
4 the board shall:

5 (1) summarize the legislative history of the tax
6 preference;

7 (2) estimate the amount of lost tax revenue
8 attributable to the tax preference during the preceding 12-year
9 period, including the percent reduction in the tax revenue of the
10 related state or local tax, using amounts reported by the
11 comptroller under Section 403.014, if available;

12 (3) determine the effect of the tax preference on the
13 distribution of the tax burden by income class and industry or
14 business class during the preceding 12-year period, using amounts
15 reported and data analyzed by the comptroller under Sections
16 403.014 and 403.0141, if available; and

17 (4) evaluate, for a tax preference that reduces by
18 more than one percent the total revenue of the related state or
19 local tax, the fiscal impact of the tax preference during the
20 preceding and following 12-year periods, based on a cost-benefit
21 analysis of the general effects of the tax preference on the overall
22 state economy, including the effects on:

23 (A) job creation by industry sector;

24 (B) average wage by industry sector;

25 (C) gross state product by industry sector;

26 (D) business expenditures by industry sector;

27 and

28 (E) personal consumption by income class.

29 Sec. 320A.102. COOPERATION BY OTHER STATE ENTITIES. (a)

30 The Legislative Budget Board may request assistance from the
31 comptroller or any other state agency, department, or office if the

1 board needs assistance to perform the review required by Section
2 320A.101. The comptroller or other agency, department, or office
3 shall provide the requested assistance.

4 (b) Notwithstanding Section 111.006, Tax Code, or other
5 law, the comptroller shall provide to the Legislative Budget Board
6 complete electronic access to tax files maintained by the
7 comptroller, as the staff of the board determines necessary to
8 perform a review required by Section 320A.101. An employee of the
9 board that accesses tax files maintained by the comptroller is
10 subject to the same duties and requirements regarding
11 confidentiality as an employee of the comptroller who accesses the
12 files.

13 SUBCHAPTER D. REPORT ON TAX PREFERENCES


14 Sec. 320A.151. REPORT. Not later than September 1 of each
15 even-numbered year, the Legislative Budget Board shall provide to
16 the presiding officers of the senate finance committee, or its
17 successor, and the house ways and means committee, or its
18 successor, a report on the reviews of tax preferences identified
19 under Section 320A.051(a)(3). The board shall post the report on
20 the board's Internet website as soon as possible after the board
21 provides the report to the presiding officers under this section.

22 SECTION ____. Notwithstanding Section 320A.053, Government
23 Code, as added by this Act, the comptroller of public accounts shall
24 submit the initial state and local tax preference review schedule
25 required by that section not later than January 15, 2014.

26 SECTION ____. The Legislative Budget Board shall submit the
27 initial report required by Section 320A.151, Government Code, as
28 added by this Act, not later than September 1, 2014.

ADOPTED

MAY 21 2013


Secretary of the Senate

FLOOR AMENDMENT NO. 9

BY: Carona

1 Amend C.S.H.B. NO. 3390 (senate committee printing) by adding
2 the following appropriately numbered SECTION to the bill and
3 renumbering subsequent SECTIONS of the bill accordingly:

4 Section _____. Subchapter B, Chapter 35, Utilities Code, is
5 amended by adding Section 35.004 (f) to read as follows:

6 Sec. 35.004 (f) AMOUNTS PAID IN LIEU OF AD VALOREM TAX.

7 (a) A municipally owned utility that owns and operates a
8 transmission facility that is constructed under section
9 §39.904(g)(2) may apply to the governing body of a school
10 district, municipality, or county in which the utility owns or
11 operates a transmission facility to make payments in lieu of ad
12 valorem taxes on the transmission facility.

13 (b) A school district, municipality, or county may approve
14 the application and enter into an agreement under Subsection
15 (a), provided that the amount paid may not exceed the amount the
16 utility would have to pay on that transmission facility if the
17 facility were subject to ad valorem taxation.

18 (c) A municipally owned utility that agrees to make
19 payments in lieu of ad valorem taxes under this section may
20 recover, as part of the utility's cost of service, the amount
21 paid to a municipality, county, or school district under the
22 agreement.

1 (d) A municipally owned utility that agrees to make
2 payments in lieu of ad valorem taxes under this section shall
3 provide a copy of the agreement to the commission.

FLOOR AMENDMENT NO. 10

ADOPTED
BY: *Livingston*
MAY 21 2013

Lacey Spaw
Secretary of the Senate

1 Amend **HB 3390** (Senate Committee Printing) to insert an
2 appropriate numbered section to read as follows:

3 SECTION ____. Section 382.003(1-a), Health and Safety Code,
4 is amended to read as follows:

5 (1-a) "Advanced clean energy project" means a project
6 for which an application for a permit or for an authorization to
7 use a standard permit under this chapter is received by the
8 commission on or after January 1, 2008, and before January 1,
9 2020, and that:

10 (A) involves the use of coal, biomass, petroleum
11 coke, solid waste, natural gas, or fuel cells using hydrogen
12 derived from such fuels, in the generation of electricity, or
13 the creation of liquid fuels outside of the existing fuel
14 production infrastructure while co-generating electricity,
15 whether the project is implemented in connection with the
16 construction of a new facility or in connection with the
17 modification of an existing facility and whether the project
18 involves the entire emissions stream from the facility or only a
19 portion of the emissions stream from the facility;

20 (B) with regard to the portion of the emissions
21 stream from the facility that is associated with the project, is
22 capable of achieving:

23 (i) on an annual basis:

24 (a) a 99 percent or greater reduction
25 of sulfur dioxide emissions;

26 (b) ~~(b)~~ if the project is designed
27 for the use of feedstock, substantially all of which is
28 subbituminous coal, an emission rate of 0.04 pounds or less of
29 sulfur dioxide per million British thermal units as determined
30 by a 30-day average; or

FLOOR AMENDMENT NO. _____

BY: _____

1 (c) if the project is designed for the
2 use of one or more combustion turbines that burn natural gas, a
3 sulfur dioxide emission rate that meets best available control
4 technology requirements as determined by the commission;

5 (ii) on an annual basis:

6 (a) a 95 percent or greater reduction
7 of mercury emissions; or

8 (b) if the project is designed for the
9 use of one or more combustion turbines that burn natural gas, a
10 mercury emission rate that complies with applicable federal
11 requirements;

12 (iii) an annual average emission rate for
13 nitrogen oxides of:

14 (a) 0.05 pounds or less per million
15 British thermal units; ~~[or]~~

16 (b) if the project uses gasification
17 technology, 0.034 pounds or less per million British thermal
18 units; or

19 (c) if the project is designed for the
20 use of one or more combustion turbines that burn natural gas,
21 two parts per million by volume; and

22 (iv) an annual average emission rate for
23 filterable particulate matter of 0.015 pounds or less per
24 million British thermal units; and

25 (C) captures not less than 50 percent of
26 the carbon dioxide in the portion of the emissions stream from
27 the facility that is associated with the project and sequesters
28 that captured carbon dioxide by geologic storage or other means.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 23, 2013

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3390 by Hilderbran (Relating to the Texas Economic Development Act.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3390, As Passed 2nd House: a negative impact of (\$4,865,758) through the biennium ending August 31, 2015.

State costs would increase significantly after the 2014-15 biennium.

General Revenue-Related Funds, Ten-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2014	(\$2,679,879)
2015	(\$2,185,879)
2016	(\$17,785,879)
2017	(\$62,685,879)
2018	(\$58,385,879)
2019	(\$96,885,879)
2020	(\$126,985,879)
2021	(\$155,285,879)
2022	(\$180,785,879)
2023	(\$204,185,879)

All Funds, Ten-Year Impact:

Fiscal Year	Probable (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	(\$2,679,879)	\$0	\$0	25.5
2015	(\$2,185,879)	\$0	\$0	23.6
2016	(\$2,185,879)	(\$15,600,000)	(\$23,983,128)	23.6
2017	(\$2,185,879)	(\$60,500,000)	(\$56,230,821)	23.6
2018	(\$2,185,879)	(\$56,200,000)	(\$94,679,323)	23.6
2019	(\$2,185,879)	(\$94,700,000)	(\$124,814,414)	23.6
2020	(\$2,185,879)	(\$124,800,000)	(\$153,089,562)	23.6
2021	(\$2,185,879)	(\$153,100,000)	(\$178,610,118)	23.6
2022	(\$2,185,879)	(\$178,600,000)	(\$201,964,990)	23.6
2023	(\$2,185,879)	(\$202,000,000)	(\$198,566,466)	23.6

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 Section 313.002, and amend Section 313.004 to clarify that only entities subject to Chapter 171 are eligible for benefits under this chapter.

Sections 2 and 3 would amend Sections 313.0045 and 313.006 to make conforming changes required by section redesignations.

Section 4 would amend Section 313.007 to extend the expiration date of Subchapters A-1, B and C from December 31, 2014 to December 31, 2020. The bill would not extend Subchapter D.

Section 5 would add new Subchapter A-1 titled, "Eligibility, Application, and Reporting."

Section 6 would add Sections 313.011 and 313.012 to make conforming changes required by section redesignations, and require the governing body of the school district not to approve an application unless the Comptroller recommends approval of the application.

Section 6 would add Section 313.013 to require the evaluation of certain criteria in the economic impact evaluation and to eliminate other criteria currently required in the evaluation.

Section 6 would amend Section 313.013 to require the Comptroller to conduct a study to determine the net present value of any tax revenue anticipated to be generated as a result of the project before the 25th anniversary of the beginning of the limitation period, including tax revenue anticipated to be generated during the construction of the project, and the net present value of the ad valorem tax benefit provided for the project under the proposed agreement. The bill would authorize the Comptroller to request that an applicant provide information necessary to make the determination. The Comptroller may not recommend approval of the application unless the Comptroller certifies that the net present value of any tax revenue anticipated to be generated, directly or otherwise, as a result of the project before the 25th anniversary of beginning of the limitation period, including tax revenue anticipated to be generated during the construction of the project, is likely to exceed the net present value of the ad valorem tax benefit provided for the

project under the proposed agreement; and on the basis of tangible evidence submitted by the applicant that the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in this state.

Section 6 would add Section 313.0135 to make conforming changes related to the repeal of Subchapter D.

Section 6 would add Section 313.014 to lengthen the value limitation period from eight to 10 tax years. The limitation agreement would be required to specify the beginning year of the limitation which must be January 1 of the first tax year that begins after the application date, the qualifying time period, or the date commercial operations begin at the site of the project. The bill would require in the agreement the property owner to maintain a viable presence in the school district for at least five years, instead of three, after the date the limitation on appraised value of the owner's property expires.

Section 6 would amend Section 313.014 to require that the agreement may not provide for the deferral of the date on which the qualifying time period is to commence to a date later than January 1 of the fourth tax year that begins after the date the application is approved except, if the agreement is one of a series of agreements related to the same project, the agreement may provide for the deferral of the date on which the qualifying time period is to commence to a date not later than January 1 of the sixth tax year that begins after the date the application is approved. The bill would limit the qualifying time period to December 31 of the third tax year after the date the person's eligibility for limitation expires. The bill would require that any consideration promised in conjunction with the application and the limitation be disclosed in the limitation agreement.

Section 6 would add Section 313.0145 to allow an applicant to request, and the school district to grant a waiver of chapter requirements in the event of casualty loss.

Section 6 would add Sections 313.015, 313.016 and 313.017 to make conforming changes related to redesignated sections.

Section 6 would add Section 313.018 to modify the types of data the Comptroller must include in the required "Report on Compliance with Agreements." The bill would authorize the Comptroller to use standard economic estimation techniques, including economic multipliers. The bill would require that data must be based on data certified to the Comptroller by each recipient of a limitation on appraised value.

Section 7 would change the title of Subchapter B to "General Limitation on Appraised Value of Certain Property Used to Create Jobs."

Sections 8 and 9 would amend Sections 313.022 and 313.023 to make conforming changes related to redesignated sections.

Section 10 would add Section 313.0235 to require an amount agreed to by the governing body of the school district on a minimum limitation on appraised value following a category to which the school district belongs.

Section 11 would change the title of Subchapter C to "Limitation on Appraised Value of Property in Certain School Districts"

Section 12 would amend Section 313.051 to require that the determination of geographic eligibility for Subchapter C uses the most recent two federal decennial censuses and criteria

similar to former Strategic Investment Areas.

Section 13 would amend Sections 313.052 and 313.053 to make conforming changes related to redesignated sections.

Section 14 would amend Section 313.054 to require under the subchapter that the amount of the limitation on appraised value must be at least \$60 million. The limitation amount listed is a minimum amount and a school district may agree to a greater amount.

Section 15 would change the title of Subchapter E to "Effect of Program Expiration or Repeal."

Section 16 would amend Subchapter E, Section 313.171, to state the repeal of Subchapter D does not affect a property owner's entitlement to a tax credit granted.

Sections 17 and 18 would amend the Education Code, Sections 42.2515 and 42.302, to make conforming changes related to repeal of Subchapter D.

Section 19 would repeal Tax Code Sections 313.005, 313.008 and 313.009, regarding redundant reporting requirements.

Section 19 would repeal Subchapter D, Chapter 313, Tax Code, regarding "School Tax Credits."

Section 20 clarifies that changes within the bill would only apply to applications filed on or after the effective date of the bill.

Floor Amendment 5 to CSHB 3390 (Senate committee printing) would add new Tax Code Section 313.0146 to require the Comptroller to conduct an annual review and issue a determination as to whether a person with whom a school district has entered into an agreement under this chapter satisfied in the preceding year the requirements of this chapter regarding the creation of the required number of qualifying jobs. If the Comptroller makes an adverse determination in the review, the Comptroller would notify the person of the cause of the adverse determination and the corrective measures necessary to remedy the determination and require the person to submit to the Comptroller a plan for remedying the determination and certify the person's intent to fully implement the plan not later December 31 of the year in which the determination was made.

The bill would require the Comptroller to impose a penalty on a person who receives an adverse determination and fails to comply following the notification of the determination and receives an adverse determination in the following year. The penalty is in an amount computed by parameters set by this subsection. The bill would require that the penalty not exceed an amount equal to the difference between the amount of the ad valorem tax benefit received by the person under the agreement in the preceding year and the amount of any supplemental payments made to the school district in that year. A job created by a person that is not a qualifying job because the job does not meet a numerical requirement is considered for the purposes of this section to be a nonqualifying job only if the job fails to meet the numerical requirement by 10 percent.

The bill would authorize a person to challenge the determination made by the Comptroller under Subchapters A and B, Chapter 112, Tax Code, if a person on whom a penalty is imposed under this section contends that the amount of the penalty is unlawful or that the Comptroller may not legally demand or collect the penalty. The bill would authorize the Comptroller to rescind the agreement between the person and the school district if the Comptroller imposes a penalty on a person under this section three times. A determination by the Comptroller to rescind an agreement between a person and a school district under this chapter pursuant to subsection (h) is a contested case

defined by Section 2001.003, Government Code. If a person appeals a final decision of the Comptroller to rescind an agreement between a person and a school district under this chapter pursuant to subsection (h) and that decision is upheld on appeal, the person shall pay to the Comptroller any tax that would have been due and payable to the school district during the pendency of the appeal, including statutory interest and penalties imposed on delinquent taxes under Sections 111.060 and 111.061, Tax Code. The bill would require the Comptroller to deposit a penalty collected, including any interest and penalty applicable to the penalty, to the credit of the Foundation School Fund.

The bill would add new Tax Code Section 313.019, to require each recipient of a limitation on appraised value under this chapter to submit to the Comptroller an annual report on the form provided by the Comptroller that provides information sufficient to determine whether the applicant is creating the number of new qualifying jobs required by this chapter.

Floor Amendment 6 to CSIB 3390 (Senate committee printing) would add new Tax Code Section 313.0075 to require the State Auditor to review at least three major limitation agreements annually to determine whether each agreement accomplishes the purpose of Chapter 313, each agreement complies with the intent of Chapter 313 and that the terms of the agreements were executed in compliance with the terms of Chapter 313. As part of the review, the auditor shall make recommendations to increase the efficiency and effectiveness of the administration of the chapter.

Floor Amendment 7 to CSHB 3390 (Senate committee printing) would amend Tax Code Chapter 311 to expand the provisions for areas that could be designated as reinvestment zones.

Floor Amendment 8 to CSHB 3390 (Senate committee printing) would amend the Government Code to require the review of state and local tax preferences. The Comptroller would be required to identify and develop a schedule for review of each state tax preference and each type of local tax preference and identify for the Legislative Budget Board the tax preferences that must be reviewed for a report. The Legislative Budget Board would be required to periodically review tax preferences and prepare a report to the presiding officers of the Senate Finance Committee and the House Ways and Means Committee, and could request assistance from the Comptroller and other state agencies to perform this review. The Comptroller would be directed to provide the Board with complete electronic access to the tax files it maintains as the Board deems necessary to perform this review.

Floor Amendment 9 to CSHB 3390 (Senate committee printing) would amend the Utilities Code to allow certain municipalities that own and operate a transmission facility to enter into an agreement with a municipality, school district or county to make payments in lieu of ad valorem taxes on a transmission facility that do not exceed what the municipality would pay if the facility were subject to ad valorem taxation. The bill permits a municipally owned facility that makes payments in lieu of ad valorem taxes to recover, as a part of the utility's cost of service, the amount paid in payments in lieu of taxes.

Floor Amendment 10 to CSHB 3390 (Senate committee printing) would amend Health and Safety Code, Section 382.003 to add natural gas to the fuels potentially eligible to be used in "advanced clean energy projects."

The bill would take effect on January 1, 2014.

Methodology

CSHB No. 3390 (senate committee printing) and Floor Amendments 1-6 would amend Chapter 313 of the Tax Code. Currently, Subchapters B, C, and D 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 each project's 10-year limitation period will begin at the beginning of the second complete tax year after the agreement is executed, and will last through the eleventh complete tax year. Because applicants and school districts would be permitted increased flexibility in their selection of the limitation period start date, increased school district levy losses could result. Those additional levy losses are not estimated.

Extending the expiration of Subchapters B and C would allow six more years, or "classes," of applicant projects. This estimate assumes participation in the program of a total of 26 projects per year in each of those years. Of the 26 projects assumed for each year, 18 are modeled as manufacturing projects, and six are modeled as renewable energy projects. Of the 18 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, two projects are modeled as advanced clean energy projects.

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 \$15.6 million are estimated beginning in FY 2016, increasing to \$56.2 million by FY 2018 and \$202.0 million by FY 2023. Different distributions of project investment amounts or locations from that estimate described in the preceding paragraphs would affect state costs under the FSP.

Floor Amendment 7 would have no state revenue implications. The revenue implications for local units of government cannot be determined.

Floor Amendments 8, 9 and 10 would have no revenue implications to the state.

The General Revenue costs for the Legislative Budget Board reflect the funds needed to hire an estimated 4 Full-time Equivalents (FTEs) needed to complete the Review of State and Local Tax Preferences.

The General Revenue costs for the Comptroller of Public Accounts reflect the funds needed to hire 14 FTEs to provide for the significantly expanded economic analysis and data collection functions required in the biennial report to the Legislature and to conduct job and wage compliance audits. The requested FTEs are also needed to identify all state tax preferences and types of local tax preferences, create and maintain the review schedule, provide a forum for public comment, store and send information, and provide assistance to the Legislative Budget Board. As the administrator of all taxes, the Comptroller of Public Accounts anticipates receiving a large number

of substantial and complex requests for information and analysis requiring significant staff resources.

The General Revenue costs for the State Auditor's Office reflect the funds needed to hire an estimated 7.5 FTEs in fiscal year 2014 and 5.6 FTEs in every year thereafter to complete the audits required by Floor Amendment 6.

Technology

There would be a one-time technology cost of \$200,000 in fiscal 2014 for programming and system support costs.

Local Government Impact

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

Source Agencies: 304 Comptroller of Public Accounts, 308 State Auditor's Office

LBB Staff: UP, RB, SD, KK, JSp

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 10, 2013

TO: Honorable Bob Deuell, Chair, Senate Committee on Economic Development

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3390 by Hilderbran (Relating to the Texas Economic Development Act.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3390, Committee Report 2nd House, Substituted: a negative impact of (\$430,000) through the biennium ending August 31, 2015.

State costs would increase significantly after the 2014-15 biennium.

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, Ten-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2014	(\$215,000)
2015	(\$215,000)
2016	(\$39,215,000)
2017	(\$142,915,000)
2018	(\$127,515,000)
2019	(\$204,215,000)
2020	(\$277,415,000)
2021	(\$347,315,000)
2022	(\$412,015,000)
2023	(\$471,615,000)

All Funds, Ten-Year Impact:

Fiscal Year	Probable (Cost) from <i>General Revenue Fund</i> 1	Probable (Cost) from <i>Foundation School</i> <i>Fund</i> 193	Probable Revenue (Loss) from <i>School Districts</i>	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)	(\$39,000,000)	(\$59,936,137)	2.0
2017	(\$215,000)	(\$142,700,000)	(\$127,306,905)	2.0
2018	(\$215,000)	(\$127,300,000)	(\$204,045,900)	2.0
2019	(\$215,000)	(\$204,000,000)	(\$277,249,476)	2.0
2020	(\$215,000)	(\$277,200,000)	(\$347,145,177)	2.0
2021	(\$215,000)	(\$347,100,000)	(\$411,829,432)	2.0
2022	(\$215,000)	(\$411,800,000)	(\$471,429,393)	2.0
2023	(\$215,000)	(\$471,400,000)	(\$466,686,430)	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 amend Tax Code, Section 313.004 to clarify that only entities subject to Chapter 171 are eligible for benefits under the chapter.

Section 2 of the bill would create Tax Code, Section 313.0045 to add "an existing building that, as part of a discrete project that increases the value of an existing property, is renovated, expanded, or otherwise improved" as a qualified investment. The bill would require a qualifying job to be covered by a group health insurance plan complying with the Patient Protection and Affordable Care Act, eliminating the applicant's responsibility to pay at least 80 percent of the employee's health insurance premium. The bill would create a definition for a "Texas priority project" as a project designated by the governor on which the applicant has committed to expend or allocate a qualified investment of more than \$1 billion and that the governor has certified in a letter provided to the applicant that it is in the best interest of the state economy.

Section 3 of the bill would amend Tax Code, Section 313.006 making conforming changes required by section redesignations.

Section 4 of the bill would amend Tax Code, Section 313.007 to extend the expiration date of Subchapters A-1, B and C, Chapter 313, Tax Code from December 31, 2014 to December 31, 2020. The bill would not extend Subchapter D.

Section 5 of the bill would amend Tax Code, Chapter 313 to add a new Subchapter A-1 titled, "Eligibility, Application, and Reporting."

Section 6 of the bill would add Tax Code, 313.011 to expand the types of properties eligible for a value limitation to include a "Texas priority project."

Section 6 of the bill would also add Tax Code, 313.012 to make conforming changes related to redesignated sections. The bill would authorize the comptroller to recommend to the governing

body of the school district that the application be approved only if the comptroller determines 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.

Section 6 of the bill would also add Tax Code, Section 313.013 to require the evaluation of certain criteria in the economic impact evaluation and to eliminate other criteria currently required in the evaluation.

Section 6 of the bill would also add Tax Code, Section 313.0135 to make conforming changes related to the repeal of Subchapter D.

Section 6 of the bill would also add Tax Code, Section 313.014 to lengthen the value limitation period from eight to ten tax years. The limitation agreement would be required to specify the beginning year of the limitation which must be January 1 of the first tax year that begins after the application date, the qualifying time period, or the date commercial operations begin. The bill would require in the agreement that the property owner maintain a viable presence in the school district for at least five years, instead of three, after the date the limitation on appraised value of the owner's property expires.

Section 6 of the bill would also amend Tax Code, Section 313.014 to require that the agreement may not provide for the deferral of the date on which the qualifying time period is to commence to a date later than January 1 of the fourth tax year that begins after the date the application is approved except, if the agreement is one of a series of agreements related to the same project, the agreement may provide for the deferral of the date on which the qualifying time period is to commence to a date not later than January 1 of the sixth tax year that begins after the date the application is approved. The bill would limit the qualifying time period to December 31 of the third tax year after the date the person's eligibility for limitation expires. The bill would require that any consideration promised in conjunction with the application and the limitation be disclosed in the limitation agreement.

Section 6 of the bill would also add Tax Code, Section 313.0145 to allow an applicant to request, and the school district to grant, a waiver of chapter requirements in the event of casualty loss.

Section 6 of bill would also add Tax Code, Sections 313.015, 313.016 and 313.017 to make conforming changes related to redesignated sections.

Section 6 of the bill would also add Tax Code, Section 313.018, modifying the types of data the comptroller must include in the required "Report on Compliance with Agreements." The bill would authorize the comptroller to use standard economic estimation techniques, including economic multipliers. The bill would require that data must be based on data certified to the comptroller by each recipient of a limitation on appraised value.

Section 7 of the bill would amend the title of Subchapter B by adding the word "General" to "Limitation on Appraised Value of Certain Property Used to Create Jobs."

Sections 8 and 9 of the bill would amend Tax Code, Sections 313.022 and 313.023 to make conforming changes related to redesignated sections.

Section 10 of the bill would add Tax Code, Section 313.0235 to require an amount agreed to by the governing body of the school district on a minimum limitation on appraised value following a category to which the school district belongs.

Section 11 of the bill would amend the title of Subchapter C to "Limitation on Appraised Value of Property in Certain Rural School Districts," by striking "Rural."

Section 12 of the would amend Tax Code, 313.051 to require that the determination of geographic eligibility for Subchapter C use the most recent two federal decennial censuses and criteria similar to former Strategic Investment Areas.

Sections 13 and 14 of the bill would amend Tax Code, Sections 313.052, 313.053 and 313.054 to make conforming changes related to redesignated sections.

Section 15 of the bill would amend the heading of Subchapter E to "Effect of Program Expiration or Repeal."

Section 16 of the bill would amend Subchapter E, 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.

Sections 17 and 18 of the bill would amend Education Code, Sections 42.2515 and 42.302 to make conforming changes related to repeal of Subchapter D.

Section 19 of the bill would repeal Sections 313.008 and 313.009, Tax Code, regarding redundant reporting requirements.

Section 19 of the bill would also repeal Subchapter D, Chapter 313, Tax Code "School Tax Credits."

Section 20 of the bill clarifies that changes within the Act would only apply to applications filed on or after the effective date of the Act.

The bill would take effect on January 1, 2014.

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 each project's 10-year limitation period will begin at the beginning of the second complete tax year after the agreement is executed, and will last through the eleventh complete tax year. Because applicants and school districts would be permitted increased flexibility in their selection of the limitation period start date, increased school district levy losses could result. Those additional levy losses are not estimated.

Extending the expiration of Subchapters B and C of the Act would allow six more years, or "classes," of applicant projects. This estimate assumes participation in the program of a total of 52 projects per year in each of those years. Of the 52 projects assumed for each year, 44 are modeled as manufacturing projects, and eight are modeled as renewable energy projects. 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 or expanding 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 or expansion" eligibility category.

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 \$39.0 million are estimated beginning in FY16, increasing to \$127.3 million by FY18 and \$471.4 million by FY23. Different distributions of project investment amounts or locations from that estimate above would affect state costs under the FSP.

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. Estimated losses in local M&O revenue are noted in the tables above.

Source Agencies: 304 Comptroller of Public Accounts, 308 State Auditor's Office

LBB Staff: UP, KK, RB, SD, JSp

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION
Revision 1**

May 9, 2013

TO: Honorable Bob Deuell, Chair, Senate Committee on Economic Development

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3390 by Hilderbran (Relating to the Texas Economic Development Act and the Tax Increment Financing Act; authorizing a fee.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3390, As Engrossed: a negative impact of (\$2,344,000) through the biennium ending August 31, 2015.

The bill would result in a significant negative impact beginning in 2017.

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, Ten-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2014	(\$1,319,000)
2015	(\$1,025,000)
2016	(\$1,025,000)
2017	(\$48,225,000)
2018	(\$73,725,000)
2019	(\$153,725,000)
2020	(\$228,425,000)
2021	(\$299,625,000)
2022	(\$366,225,000)
2023	(\$428,125,000)

All Funds, Ten-Year Impact:

Fiscal Year	Probable (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	(\$1,319,000)	\$0	\$0	9.5
2015	(\$1,025,000)	\$0	\$0	7.6
2016	(\$1,025,000)	\$0	\$0	7.6
2017	(\$1,025,000)	(\$47,200,000)	(\$72,652,080)	7.6
2018	(\$1,025,000)	(\$72,700,000)	(\$152,731,146)	7.6
2019	(\$1,025,000)	(\$152,700,000)	(\$227,449,816)	7.6
2020	(\$1,025,000)	(\$227,400,000)	(\$298,614,050)	7.6
2021	(\$1,025,000)	(\$298,600,000)	(\$365,186,034)	7.6
2022	(\$1,025,000)	(\$365,200,000)	(\$427,137,808)	7.6
2023	(\$1,025,000)	(\$427,100,000)	(\$484,400,617)	7.6

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, related to tax credits, is repealed in Section 21 of the bill.

Section 2 of the bill would add a new Tax Code, Section 313.010 to require the State Auditor to review at least three major limitation agreements annually, and make recommendations to increase the efficiency and effectiveness of the administration of the chapter.

Section 3 of the bill would amend the definition of "qualified investment" in Tax Code, Section 313.021(1) to add "an existing building that, as part of discrete project that increases the value and productive capacity for an existing property, is expanded."

Section 3 of the bill would also amend the definition of "qualified property" in Tax Code, Section 313.021(2) to allow "expanded buildings" to become qualified property eligible for the limitation.

Section 3 of the bill would amend the definition of "qualifying job" in Tax Code, Section 313.021(3) to change the minimum required wage standard for qualifying jobs 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. The requirement that a Subchapter B applicant create at least 25 "new jobs" would be changed to at least 25 "new qualifying jobs" in an amended Section 313.021(2)(A)(iv)(b) in Section 3 of the bill. The requirement that a Subchapter C applicant create at least 10 "new jobs" would be changed to at least 10 "new qualifying jobs" in an amended Section 313.051(b) in Section 15 of the bill. The current law provision that "at least 80 percent of all the new jobs created by the property owner must be qualifying jobs" would be deleted in both Subchapters B and C, in amended Sections 313.024(d) and 313.051(b). With these changes, Subchapter B applicants could satisfy all job and wage requirements by creating 25 "new qualifying jobs," or fewer-as allowed by four additional provisions described below. Subchapter C applicants could satisfy all job and wage requirements by creating 10 "new qualifying jobs," or fewer-as allowed by three additional provisions described below.

Section 4 of the bill would amend Section 313.023 to allow applicants under Subchapter B making more than the minimum qualified investment to reduce or eliminate the 25 "new qualifying jobs" requirement. Projects investing at least two, three, four or five times the minimum qualified investment could have their minimum new qualifying job requirement of 25 jobs reduced to 75 percent of the jobs required (18.75 jobs), 50 percent of the jobs required (12.5 jobs), 25 percent of the jobs required (6.25 jobs), or zero jobs, respectively. If an applicant receives a required-job reduction allowed in Section 313.025(f-1) as amended, higher-than-minimum qualified investment amounts would presumably lower further-proportionally-the final "new qualifying jobs" requirement. [See Section 7 of the bill amending Section 313.025(f-1) below]

Section 313.051(b) would be amended in Section 15 of the bill to not allow Subchapter C applicants to reduce the number of minimum 10 "new qualifying jobs" requirements by making a qualified investment two-to-five times the minimum.

Section 3 of the bill would add a new subsection 313.021(3)(F) to allow both Subchapter B and Subchapter C applicants to alternatively satisfy their minimum "new qualifying job" requirement if the Texas Workforce Commission (TWC) determines that the cumulative economic benefit of "related jobs created in connection with the project . . . is the same or greater than that associated with the minimum number of required jobs." The TWC would be given rule-making authority to implement this provision.

Under current law, the minimum "new jobs" creation requirement could be waived by school districts if that number exceeds the industry standard for the number of employees reasonably necessary for the operation of the facility. Section 7 of the bill would amend Section 313.025(f-1) to allow a school district to request that the Texas Workforce Commission provide a recommendation as to whether the "new qualifying jobs" requirement should be waived or reduced, for both Subchapter B and Subchapter C applicants, using the same criteria as in current law.

Section 5 of the bill would create a new subsection 313.024(d-2) to allow the Governor's Office of Texas Economic Development and Tourism to determine if two or more projects in different school districts, covered by two or more limitation agreements, may constitute a "single unified project." The new qualifying jobs created in each agreement in a unified project could be considered together when determining if the minimum new qualifying jobs requirement has been satisfied. The Office of Texas Economic Development and Tourism would be given rule-making authority to implement this provision.

Section 5 of the bill would amend Tax Code, 313.024(b) to expand the types of properties eligible for a value limitation to include a "Texas priority project." Section 6 of the bill would amend Tax Code, Section 313.024(e) 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 Section 313.024(e) to replace the term "computer center" with "data center," and also create eligibility for applicants under the following 2007 North American Industry Classification System categories: "518210, Data Processing, Hosting, and Related Services; 519130 Internet Publishing and Broadcasting and Web Search Portals; 511210 Software Publishers; and 541513 Computer Facilities Management Services."

Section 7 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 require the comptroller to provide the school board with an 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 7 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 would 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 7 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 Texas Workforce Commission, if requested by the governing body of the school district, to submit a recommendation as to whether the new qualifying jobs creation requirement should be reduced or waived and, if reduced, the number of new qualifying jobs required.

Section 7 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 if the Texas Workforce Commission 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 8 of the bill would amend Tax Code, Section 313.026 to require the economic impact evaluation to include any information the comptroller determines is necessary or helpful to the governing body of the school district in determining whether to approve the application. The itemized list of criteria required to be included in the economic impact evaluation under current law would be deleted [Section 313.026(a)(1) through Section 313.026(a)(20)]. The bill would require the comptroller to not 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." Before issuing a certificate of limitation, the comptroller would also be required to determine 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 cannot make the determination related to the fiscal impact of the project, or determine whether Chapter 313 was a consideration by the applicant in deciding to locate in Texas, the comptroller would be authorized to make a "qualitative determination" that "other considerations associated with the project result in a net positive benefit to the state," and issue the certificate.

Section 9 of the bill would amend Tax Code, Section 313.0265 to make conforming changes related to the repeal of Subchapter D.

Section 10 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 for a period of more than 14 years.

Section 11 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 12 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 12 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 13 of the bill would amend Tax Code, Section 313.032 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 14 of the bill would change Subchapter C's title to "Limitation on Appraised Value of Property in Strategic Investment Area or Certain Rural Districts."

Section 15 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 15 of the bill 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 15 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 16 of the bill would amend Subchapter E's title to, "Availability of Tax Credit after Program Expires or is Repealed."

Section 17 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.

Section 18 of the bill would amend Tax Code Section 311.014 related to Tax Increment Funds (TIFs) to allow money in TIFs to be transferred to TIFs in adjacent reinvestment zones under certain circumstances.

Sections 19 and 20 of the bill would amend Education Code, Sections 42.2515 and 42.302 to make conforming changes related to repeal of Subchapter D.

Section 21 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 21 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 22 of the bill states that changes within this Act would only apply to applications filed on or after the effective date of this Act, with certain exceptions for projects with agreements entered into after January 1, 2013. Such projects could be exempted from current law wage and jobs requirements and allowed to access the amended, more flexible job and wage requirements proposed in this bill, which if enacted, would otherwise take effect January 1, 2014.

Section 23 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 60 projects per year in each of those years. 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.

Under current law, only property not existing before the date a Chapter 313 application is filed with the school district may become qualified property. As the bill would appear to allow existing (expanded) buildings to become qualified property, the amount of exempted tax base could increase significantly.

The proposed reduction in the wage standard, the reduced "new qualifying jobs" requirement, the elimination of the requirement that 80 percent of all jobs be qualifying jobs, and the flexibility to meet the minimum job requirements in different ways would allow significantly more applicants to access the program, with a commensurate increase in school levy loss.

The added eligibility of data centers and other software and Internet-related businesses would allow increased participation in the program.

A provision for the Governor's Office to allow projects with multiple limitation agreements in different school districts to be considered "a single unified project" for the purposes of meeting minimum the "new qualifying jobs" requirement would not have a significant fiscal impact, as most such projects currently receive a waiver of the "new jobs" creation requirement.

The state would incur cost under the Foundation School Program (FSP) corresponding to local M&O revenue losses. Costs of \$47.2 million are estimated beginning in FY 2017, increasing to \$72.7 million by FY 2018 and \$427.1 million by FY 2023. Different distributions of project investment amounts or locations from the 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.

The State Auditor's office would also incur costs to comply with provisions of the bill in Section 313.010 requiring audits of 3 of the agreements.

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 the affected property.

Source Agencies: 304 Comptroller of Public Accounts, 308 State Auditor's Office

LBB Staff: UP, RB, SD, KK, JSp

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

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:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
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:

Fiscal Year	Probable (Cost) from <i>Foundation School Fund</i> 193	Probable Revenue (Loss) from <i>School Districts</i>
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

LEGISLATIVE BUDGET BOARD
Austin, Texas

TAX/FEE EQUITY 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**

Because the bill would not create or impact a state tax or fee, no comment from this office is required by the rules of the House as to the general effects of the proposal on the distribution of tax and fee burdens among individuals and businesses.

Source Agencies:

LBB Staff: UP, KK

LEGISLATIVE BUDGET BOARD
Austin, Texas

TAX/FEE EQUITY 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**

No statistically significant impact on the overall distribution of a state tax or fee burden among individuals and businesses in fiscal year 2015 is anticipated from the provisions of this bill.

Source Agencies:

LBB Staff: UP, KK