

BILL ANALYSIS

C.S.H.B. 1987
By: Springer
Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties are concerned about changes to the Texas Economic Development Act that allow school districts to waive the job creation requirement as it relates to the eligibility of a business for a limitation on the appraised value of property for purposes of the maintenance and operations portion of school district property taxes. These parties contend that the job creation requirement has been disproportionately waived for wind-based electricity generation projects as compared to manufacturing projects. The parties claim that, as a result of these waivers, wind-based electricity generation accounts for the highest estimated gross tax benefit per committed job over the life of a project agreement, which has created a cost borne by the state and not the school district that waived the requirement. Interested parties further contend that the potential for wind farms to rapidly depreciate in value can ultimately turn these project agreements into a bad deal because there may not be enough of a taxable asset after depreciation to allow the recapture of the maintenance and operations tax when the tax relief ends. C.S.H.B. 1987 seeks to remedy these issues.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1987 amends the Tax Code to remove the authority of the governing body of a school district to waive certain new jobs creation requirements and approve an application for a limitation on the appraised value of property for school district maintenance and operations property tax purposes under the Texas Economic Development Act if the governing body makes a finding that the jobs creation requirement exceeds the industry standard for the number of employees reasonably necessary for the operation of the facility of the property owner that is described in the application. The bill instead authorizes the governing body of a school district to request that the Texas Economic Development and Tourism Office (TEDTO) or its successor 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 to be created.

C.S.H.B. 1987 requires a school district's governing body that elects to request that TEDTO or its successor submit such a recommendation to deliver a copy of the application for a limitation on appraised value to TEDTO or its successor and to notify the comptroller of public accounts of the governing body's election. The bill requires the comptroller to provide a copy of the economic impact evaluation of the application to TEDTO or its successor. The bill requires the

recommendation of TEDTO or its successor to be based on the economic impact evaluation and on any other information available to TEDTO or its successor. The bill requires TEDTO or its successor to submit its recommendation to the governing body of the school district as soon as practicable after receipt of the copy of the economic impact evaluation but not later than the 30th day after the date TEDTO or its successor receives the copy of the economic impact evaluation.

C.S.H.B. 1987 authorizes TEDTO or its successor to recommend waiving or reducing the new jobs requirement on the condition that TEDTO or its successor determines that the jobs creation requirement exceeds the industry standard for the number of employees reasonably necessary for the operation of the facility of the property owner that is described in the application. The bill authorizes the governing body of the school district to waive or reduce the new jobs creation requirement on the condition that TEDTO or its successor recommends waiving or reducing the new jobs creation requirement and only to the extent recommended by TEDTO or its successor. The bill makes failure of a school district's governing body to receive the recommendation of TEDTO or its successor an exception to the requirement that the governing body approve or disapprove an application not later than the 150th day after the date the application is filed.

C.S.H.B. 1987 shortens the deadline for the completion of an economic impact evaluation of an application for a limitation on the appraised value of property for school district maintenance and operations property tax purposes, and for the comptroller's action on such an application, from the 90th day after the date the comptroller receives the application to the 60th day after such date.

C.S.H.B. 1987 requires the economic impact evaluation of an application for a limitation on the appraised value of property for school district maintenance and operations property tax purposes to include any information that the comptroller determines is necessary or helpful to TEDTO or its successor in determining whether to recommend the waiver or reduction of the new jobs creation requirement if such a recommendation is requested.

EFFECTIVE DATE

January 1, 2016.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1987 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Sections 313.025(b), (d), and (f-1), Tax Code, are amended to read as follows:

(b) The governing body of a school district is not required to consider an application for a limitation on appraised value. If the governing body of the school district elects to consider an application, the governing body shall deliver a copy of the application to the comptroller and request that the comptroller conduct an economic impact evaluation of the investment proposed by the application. In addition, the governing body may request that the comptroller

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Sections 313.025(b), (d), and (f-1), Tax Code, are amended to read as follows:

(b) The governing body of a school district is not required to consider an application for a limitation on appraised value. If the governing body of the school district elects to consider an application, the governing body shall deliver a copy of the application to the comptroller and request that the comptroller conduct an economic impact evaluation of the investment proposed by the application.

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 to be created. The comptroller shall conduct or contract with a third person to conduct the economic impact evaluation, which shall be completed and provided to the governing body of the school district, along with the comptroller's certificate or written explanation under Subsection (d)(1) and recommendation under Subsection (d)(2), if requested [~~(d)~~], as soon as practicable but not later than the 90th day after the date the comptroller receives the application. The governing body shall provide to the comptroller or to a third person contracted by the comptroller to conduct the economic impact evaluation any requested information. A methodology to allow comparisons of economic impact for different schedules of the addition of qualified investment or qualified property may be developed as part of the economic impact evaluation. The governing body shall provide a copy of the economic impact evaluation to the applicant on request. The comptroller may charge the applicant a fee sufficient to cover the costs of providing the economic impact evaluation. The governing body of a school district shall approve or disapprove an application not later than the 150th day after the date the application is filed, unless the economic impact evaluation has not been received or an extension is agreed to by the governing body and the applicant.

(d) Not later than the 90th day after the date the comptroller receives the copy of the application, the comptroller shall:
(1) 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; and
(2) if requested by the governing body of the school district, submit to the governing body 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 comptroller shall conduct or contract with a third person to conduct the economic impact evaluation, which shall be completed and provided to the governing body of the school district, along with the comptroller's certificate or written explanation under Subsection (d), as soon as practicable but not later than the 60th [90th] day after the date the comptroller receives the application. The governing body shall provide to the comptroller or to a third person contracted by the comptroller to conduct the economic impact evaluation any requested information. A methodology to allow comparisons of economic impact for different schedules of the addition of qualified investment or qualified property may be developed as part of the economic impact evaluation. The governing body shall provide a copy of the economic impact evaluation to the applicant on request. The comptroller may charge the applicant a fee sufficient to cover the costs of providing the economic impact evaluation. The governing body of a school district shall approve or disapprove an application not later than the 150th day after the date the application is filed, unless the economic impact evaluation has not been received, the recommendation of the Texas Economic Development and Tourism Office or its successor under Subsection (f-1), if applicable, has not been received, or an extension is agreed to by the governing body and the applicant.

(d) Not later than the 60th [90th] day after the date the comptroller receives the copy of the application, the comptroller shall 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.

to be created.

(f-1) Notwithstanding any other provision of this chapter ~~[to the contrary, including Section 313.003(2) or 313.004(3)(A) or (B)(iii)]~~, the governing body of a school district may waive or reduce the new jobs creation requirement in Section 313.021(2)(A)(iv)(b) or 313.051(b) only [and approve an application] if the comptroller determines [governing body makes a finding] that the jobs creation requirement exceeds the industry standard for the number of employees reasonably necessary for the operation of the facility of the property owner that is described in the application and recommends waiving or reducing the requirement.

~~(f-1) The governing body of a school district may request that the Texas Economic Development and Tourism Office or its successor submit a recommendation as to whether the new jobs creation requirement in Section 313.021(2)(A)(iv)(b) or 313.051(b) should be reduced or waived and, if reduced, the number of new jobs that should be required to be created. If the governing body elects to request that the office or its successor submit such a recommendation, the governing body shall deliver a copy of the application to the office or its successor and shall notify the comptroller of the governing body's election. The comptroller shall provide a copy of the economic impact evaluation to the office or its successor. The recommendation of the office or its successor shall be based on the economic impact evaluation and on any other information available to the office or its successor, including information provided by the governing body. The office or its successor shall submit its recommendation to the governing body as soon as practicable after receipt of the copy of the economic impact evaluation but not later than the 30th day after the date the office or its successor receives the copy of the economic impact evaluation. The office or its successor may recommend waiving or reducing [Notwithstanding any other provision of this chapter to the contrary, including Section 313.003(2) or 313.004(3)(A) or (B)(iii), the governing body of a school district may waive] the new jobs creation requirement only [in Section 313.021(2)(A)(iv)(b) or 313.051(b) and approve an application] if the office or its successor determines [governing body makes a finding] that the jobs creation requirement exceeds the industry standard for the number of employees reasonably necessary for the operation of the facility of the property owner that is described in the application. Notwithstanding any other provision of this chapter, the governing body may waive or reduce the new jobs creation requirement, but only if the office or its successor recommends waiving or reducing the requirement and only to the extent recommended by the office or its successor.~~

SECTION 2. Sections 313.026(a) and (b), Tax Code, are amended to read as follows:

(a) The economic impact evaluation of the application must include any information the comptroller determines is necessary or helpful to:

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

(2) the comptroller in determining whether to:

(A) issue a certificate for a limitation on appraised value of the property under Section 313.025; and

(B) if requested, submit a recommendation regarding waiver or reduction of the new jobs creation requirement under Section 313.025.

(b) Except as provided by Subsections (c) and (d), the comptroller's determination whether to issue a certificate for a limitation on appraised value under this chapter for property described in the application and whether to, if requested, submit a recommendation regarding waiver or reduction of the new jobs creation requirement shall be based on the economic impact evaluation described by Subsection (a) and on any other information available to the comptroller, including information provided by the governing body of the school district.

SECTION 3. Section 313.027(f), Tax Code, is amended to read as follows:

(f) In addition, the agreement:

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

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

SECTION 2. Section 313.026(a), Tax Code, is amended to read as follows:

(a) The economic impact evaluation of the application must include any information the comptroller determines is necessary or helpful to:

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

(2) the comptroller in determining whether to issue a certificate for a limitation on appraised value of the property under Section 313.025; or

(3) the Texas Economic Development and Tourism Office or its successor in determining whether to recommend under Section 313.025 that the new jobs creation requirement be waived or reduced, if such a recommendation is requested.

No equivalent provision.

No equivalent provision.

attributable to the project;

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

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

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

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

(7) must provide for the recapture of ad valorem tax revenue lost as a result of the agreement if, in the first tax year after the date the limitation on appraised value of the owner's property expires, the market value of the property is less than 80 percent of the market value of the property in the first tax year after the date the qualifying time period expires; and

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

SECTION 4. Chapter 313, Tax Code, as amended by this Act, applies only to an application filed under that chapter on or after the effective date of this Act. An application filed under that chapter before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect January 1, 2016.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.