

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 9, 2019

**TO:** Honorable Paul Bettencourt, Chair, Senate Committee on Property Tax

**FROM:** John McGeady, Assistant Director     Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE:** **SB1161** by Kolkhorst (Relating to the determination of the total taxable value of property in a school district under the property value study conducted by the comptroller of public accounts.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB1161, As Introduced: an impact of \$0 through the biennium ending August 31, 2021.

**A positive impact of \$489,893,128 would occur in the biennium ending August 31, 2023.**

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, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	\$0
2021	\$0
2022	\$240,936,253
2023	\$248,956,875
2024	\$257,518,549

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from Foundation School Fund 193
2020	\$0
2021	\$0
2022	\$240,936,253
2023	\$248,956,875
2024	\$257,518,549

Fiscal Analysis

The bill would amend Texas Government Code Section 403.302(d)(9)--reducing the property value deduction in the Comptroller's Property Value Study (PVS) attributable to Tax Code Chapter 313 school district maintenance and operations (M&O) property tax limitation agreements.

The bill would take effect September 1, 2019. The proposed calculation change would first apply to the 2020 Comptroller's Property Value Study.

**Methodology**

The bill would amend Texas Government Code Section 403.302(d)(9) by adding subsection (9-a) to reduce by half the deduction in the PVS due to Chapter 313 limitation agreements.

This section of the Government Code is the method by which the state replaces local school district M&O property tax revenue forgone by school districts entering into property tax value limitation agreements with companies under Chapter 313 of the Tax Code.

In the Texas school finance system, various deductions specified in Section 403.302 Government Code from the Comptroller's Property Value Study have the effect of directing more Foundation School Program (FSP) funding to school districts. Similarly, these PVS deductions reduce Education Code Chapter 41 recapture payments required of more property wealthy school districts.

The additional funds to districts from the Texas Education Agency (TEA) attributable to PVS deductions for Chapter 313 limitation agreements rarely match exactly the amount local revenue forgone through the agreement-primarily because school funding formulas are based on prior year property values. Tax Code Chapter 313.027(f)(1) requires that limitation agreements executed between a school district and a limitation agreement-holder "include provisions for the protection of future school district revenues." Each limitation agreement includes contractual provisions to ensure the company agreement-holder guarantees to the district what the school district would have received in state and local revenues had the limitation not been granted. Such payments to school districts vary from year-to-year, district-to-district, and over time, depending on a project and district's particular characteristics, the school finance formulas, as well as changes in Tax Code Chapter 313 and Chapters 41 and 42 of the Education Code. Note that these revenue protection payments are separate and legally distinct from PILOT (Payment in Lieu of Taxes) or 'supplemental' company payments that may also be negotiated between a district and an agreement-holder.

Chapter 313 agreements also include additional language explicitly holding the company or agreement holder responsible for any losses the school district may suffer from changes in Texas school finance law outside Tax Code Chapter 313.

If the deduction in Government Code 403.302(d)(9) were reduced by half, as proposed by the bill, revenue protection payments from companies to school districts would significantly increase-as required by school district and companies' contractual agreements. Cutting by half the PVS deduction for Chapter 313 projects would represent a significant gain for the Foundation School Program.

The following table illustrates the projected size of the total PVS value deduction attributable to Chapter 313 during the next five years under current law for the 389 active Chapter 313 projects as of August 31, 2018. Every other year, districts and companies are required by Tax Code Section 313.032 to submit to the Comptroller's office data related to all currently active Chapter 313 projects. The table below represents the taxable value off the rolls due to Chapter 313 for those

389 projects.

Tax Year: Current law PVS value deduction for 389 active Ch. 313 projects, as of 8-31-18

2020: \$64,200,000,000

2021: \$66,600,000,000

2022: \$68,500,000,000

2023: \$72,700,000,000

2024: \$65,700,000,000

The TEA State Funding Division recalculated school district property values to include half of the Chapter 313 value deduction and ran this through its school finance model. As a result of the increased property values due to adding half of the Chapter 313 agreement, state aid would decrease, and recapture would increase. Savings would start at \$240.9 million in 2022, increasing to \$257.5 million in 2024.

As Chapter 313 expires December 31, 2022, any state savings would only accrue for projects applying to the program before that date. After 2024, the PVS deduction would decrease each year, reaching zero in 2040.

Note: Some school districts and companies might amend their limitation agreements if the proposed change in the Government Code were enacted, but any impact from possible limitation agreement amendments cannot be estimated.

**Local Government Impact**

Chapter 313 agreements include language explicitly holding the company or agreement holder responsible for any losses the school district may suffer from changes in Texas school finance law outside Tax Code Chapter 313. Passage of the bill would reduce the deduction in Government Code 403.302(d)(9) by half. As a result, revenue protection payments from companies to school districts would significantly increase-as required by school district and companies' contractual agreements.

**Source Agencies:** 304 Comptroller of Public Accounts, 701 Texas Education Agency

**LBB Staff:** WP, KK, SD, SJS