

By: Murphy, Burrows, Moody, Shine

H.B. No. 1556

Substitute the following for H.B. No. 1556:

By: Shine

C.S.H.B. No. 1556

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the Texas Economic Development Act; requiring the
3 imposition of an authorized fee and changing the amounts of certain
4 fees.

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

6 SECTION 1. Section 313.007, Tax Code, is amended to read as
7 follows:

8 Sec. 313.007. EXPIRATION. Subchapters B and C expire
9 December 31, 2032 [~~2022~~].

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

12 (1) "Qualified investment" means:

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

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

1 semiconductor product, without regard to whether the property is
2 actually located in the cleanroom environment, including:

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

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

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

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

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

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

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

1 facility, including:

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

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

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

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

23 (G) a building or a permanent, nonremovable
24 component of a building that, as part of a discrete project that
25 increases the value of the building or component, is renovated,
26 expanded, modernized, or otherwise improved during the applicable
27 qualifying time period that begins on or after January 1, 2023, and

1 that houses tangible personal property described by Paragraph (A),
2 (B), (C), (D), or (E).

3 (2) "Qualified property" means:

4 (A) land:

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

8 (ii) on which a person proposes to:

9 (a) construct a new building or erect
10 or affix a new improvement that does not exist before the date the
11 person submits a complete application for a limitation on appraised
12 value under this subchapter; or

13 (b) renovate, expand, modernize, or
14 otherwise improve an existing building or improvement;

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

17 (iv) on which, in connection with the [~~new~~]
18 building or [~~new~~] improvement described by Subparagraph (ii), the
19 owner or lessee of, or the holder of another possessory interest in,
20 the land proposes to:

21 (a) make a qualified investment in an
22 amount equal to at least the minimum amount required by Section
23 313.023; and

24 (b) create at least 25 new qualifying
25 jobs;

26 (B) the [~~new~~] building or other [~~new~~] improvement
27 described by Paragraph (A)(ii); and

1 (C) tangible personal property:

2 (i) that is not subject to a tax abatement
3 agreement entered into by a school district under Chapter 312;

4 (ii) for which a sales and use tax refund is
5 not claimed under Section 151.3186; and

6 (iii) except for new equipment described in
7 Section 151.318(q) or (q-1), that is first placed in service in the
8 new building, in the newly renovated, expanded, modernized, or
9 improved building, or in or on the new or newly renovated, expanded,
10 modernized, or improved improvement described by Paragraph
11 (A)(ii), or on the land on which that [~~new~~] building or [~~new~~]
12 improvement is located, if the personal property is ancillary and
13 necessary to the business conducted in that [~~new~~] building or in or
14 on that [~~new~~] improvement.

15 SECTION 3. Section 313.024(c), Tax Code, is amended to read
16 as follows:

17 (c) For purposes of determining an applicant's eligibility
18 for a limitation under this subchapter:

19 (1) the land on which a building or component of a
20 building described by Section 313.021(1)(F) or (G) [~~313.021(1)(E)~~]
21 is located is not considered a qualified investment;

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

24 (3) property that is leased under an operating lease
25 may not be considered a qualified investment; [~~and~~]

26 (4) property that is owned by a person other than the
27 applicant and that is pooled or proposed to be pooled with property

1 owned by the applicant may not be included in determining the amount
2 of the applicant's qualifying investment; and

3 (5) a building or component of a building that is
4 renovated, expanded, modernized, or otherwise improved as
5 described by Section 313.021(1)(G) is not considered a qualified
6 investment unless:

7 (A) the building or component would qualify as a
8 qualified investment if the building or component were to be built
9 or constructed during the applicable qualifying time period; and

10 (B) the agreement between the property owner and
11 the school district describes with specificity as required by
12 Section 313.027(e) the manner in which the building or component
13 will be renovated, expanded, modernized, or otherwise improved.

14 SECTION 4. Section 313.025, Tax Code, is amended by
15 amending Subsections (a), (a-1), and (b) and adding Subsection
16 (a-2) to read as follows:

17 (a) The owner or lessee of, or the holder of another
18 possessory interest in, any qualified property described by Section
19 313.021(2)(A), (B), or (C) may apply to the governing body of the
20 school district in which the property is located for a limitation on
21 the appraised value for school district maintenance and operations
22 ad valorem tax purposes of the person's qualified property. An
23 application must be made on the form prescribed by the comptroller
24 and ~~[include the information required by the comptroller, and it~~
25 ~~must]~~ be accompanied by a [+

26 [-1) the application] fee in the amount of \$60,000
27 payable to ~~[established by the governing body of]~~ the school

1 district[~~+~~

2 ~~[(2) information sufficient to show that the real and~~
3 ~~personal property identified in the application as qualified~~
4 ~~property meets the applicable criteria established by Section~~
5 ~~313.021(2); and~~

6 ~~[(3) any information required by the comptroller for~~
7 ~~the purposes of Section 313.026].~~

8 (a-1) The application form may require the applicant to
9 provide only the following information:

10 (1) the name and taxpayer identification number of the
11 applicant and each parent, subsidiary, or affiliate of the
12 applicant;

13 (2) contact information for the applicant;

14 (3) the name of the school district in which the
15 qualified property is located;

16 (4) a description of the project, including the
17 category of the applicable North American Industry Classification
18 System that describes the activities in which the applicant will
19 engage in connection with the project;

20 (5) the location of the project;

21 (6) for each ad valorem tax year covered by the
22 proposed agreement between the applicant and the school district:

23 (A) an estimate of the amount of the qualified
24 investment to be spent or allocated for the project;

25 (B) the number of qualifying jobs the applicant
26 commits to create and the total amount of wages that will be paid to
27 the persons holding those jobs;

1 (C) an estimate of the appraised value of the
2 project if the project were not subject to the proposed agreement;

3 (D) an estimate of the amount of ad valorem taxes
4 for maintenance and operations and for debt that would be imposed by
5 the school district on the project if the project were not subject
6 to the proposed agreement;

7 (E) an estimate of the appraised value of the
8 project for school district maintenance and operations ad valorem
9 tax purposes as determined in accordance with the proposed
10 agreement; and

11 (F) an estimate of the amount of ad valorem taxes
12 for maintenance and operations that will be imposed by the school
13 district on the project as determined in accordance with the
14 proposed agreement; and

15 (7) any information that the comptroller:

16 (A) requires for the purposes of Section [313.026](#);
17 or

18 (B) otherwise determines to be necessary to
19 determine the applicant's eligibility for a limitation on appraised
20 value.

21 (a-2) Within seven days of the receipt of each document, the
22 school district shall submit to the comptroller a copy of the
23 application and the proposed agreement between the applicant and
24 the school district. If the applicant submits an economic analysis
25 of the proposed project to the school district, the district shall
26 submit a copy of the analysis to the comptroller. In addition, the
27 school district shall submit to the comptroller any subsequent

1 revision of or amendment to any of those documents within seven days
2 of its receipt. The comptroller shall publish each document
3 received from the school district under this subsection on the
4 comptroller's Internet website. If the school district maintains a
5 generally accessible Internet website, the district shall provide
6 on its website a link to the location of those documents posted on
7 the comptroller's website in compliance with this subsection. This
8 subsection does not require the comptroller to post information
9 that is confidential under Section 313.028.

10 (b) The governing body of a school district is not required
11 to consider an application for a limitation on appraised value. If
12 the governing body of the school district elects not to consider the
13 application, the governing body shall refund \$10,000 of the payment
14 described by Subsection (a) to the applicant. If the governing body
15 of the school district elects to consider an application, the
16 governing body shall deliver a copy of the application and \$10,000
17 of the payment described by Subsection (a) to the comptroller and
18 request that the comptroller conduct an economic impact evaluation
19 of the investment proposed by the application. The comptroller
20 shall conduct or contract with a third person to conduct the
21 economic impact evaluation, which shall be completed and provided
22 to the governing body of the school district, along with the
23 comptroller's certificate or written explanation under Subsection
24 (d), as soon as practicable but not later than the 90th day after
25 the date the comptroller receives the application. The governing
26 body shall provide to the comptroller or to a third person
27 contracted by the comptroller to conduct the economic impact

1 evaluation any requested information. A methodology to allow
2 comparisons of economic impact for different schedules of the
3 addition of qualified investment or qualified property may be
4 developed as part of the economic impact evaluation. The governing
5 body shall provide a copy of the economic impact evaluation to the
6 applicant on request. [~~The comptroller may charge the applicant a~~
7 ~~fee sufficient to cover the costs of providing the economic impact~~
8 ~~evaluation.~~] The governing body of a school district shall approve
9 or disapprove an application not later than the 150th day after the
10 date the application is filed, unless the economic impact
11 evaluation has not been received or an extension is agreed to by the
12 governing body and the applicant.

13 SECTION 5. Sections 313.027(a-1), (f), and (i), Tax Code,
14 are amended to read as follows:

15 (a-1) The agreement must:

16 (1) provide that the limitation under Subsection (a)
17 applies for a period of 10 years; and

18 (2) specify the beginning date of the limitation,
19 which must be January 1 of the first tax year that begins after:

20 (A) the application date;

21 (B) the qualifying time period; or

22 (C) the following applicable date:

23 (i) in the case of a project involving the
24 construction of a new building or the erection or affixing of a new
25 improvement, the date commercial operations begin at the site of
26 the project; or

27 (ii) in the case of a project involving the

1 renovation, expansion, modernization, or other improvement of an
2 existing building or improvement, the date the renovation,
3 expansion, modernization, or other improvement is completed.

4 (f) In addition, the agreement:

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

11 (2) must require the property owner to provide a
12 stabilization payment to the school district in each tax year
13 during the period for which the limitation under Subsection (a)
14 applies in an amount equal to a portion, not to exceed 38 percent,
15 as specified by the agreement of the amount computed by subtracting
16 from the market value of the person's qualified property as
17 described in the agreement for that tax year the value of the
18 property as limited by the agreement and multiplying the difference
19 by the maintenance and operations tax rate of the school district
20 for that tax year [~~may provide that the property owner will protect~~
21 ~~the school district in the event the district incurs extraordinary~~
22 ~~education-related expenses related to the project that are not~~
23 ~~directly funded in state aid formulas, including expenses for the~~
24 ~~purchase of portable classrooms and the hiring of additional~~
25 ~~personnel to accommodate a temporary increase in student enrollment~~
26 ~~attributable to the project];~~

27 (3) must require the property owner to maintain a

1 viable presence in the school district for at least five years after
2 the date the limitation on appraised value of the owner's property
3 expires;

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

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

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

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

15 (i) A person and the school district may not enter into an
16 agreement pursuant to an application filed on or after January 1,
17 2023, under which the person agrees to provide supplemental
18 payments to a school district or any other entity on behalf of a
19 school district. A stabilization payment as described by
20 Subsection (f)(2) is not considered to be a supplemental payment
21 for purposes of an agreement entered into by a person and a school
22 district pursuant to an application filed before January 1, 2023,
23 under which the person agrees to provide supplemental payments to
24 the school district or another entity on behalf of the school
25 district [~~in an amount that exceeds an amount equal to the greater~~
26 ~~of \$100 per student per year in average daily attendance, as defined~~
27 ~~by Section 48.005, Education Code, or \$50,000 per year, or for a~~

1 ~~period that exceeds the period beginning with the period described~~
2 ~~by Section 313.021(4) and ending December 31 of the third tax year~~
3 ~~after the date the person's eligibility for a limitation under this~~
4 ~~chapter expires. This limit does not apply to amounts described by~~
5 ~~Subsection (f)(1) or (2)].~~

6 SECTION 6. Section 313.0276(e), Tax Code, is amended to
7 read as follows:

8 (e) Notwithstanding Subsections (c) and (d), a penalty
9 imposed under this section may not exceed an amount equal to the
10 difference between the amount of the ad valorem tax benefit
11 received by the person under the agreement in the preceding year and
12 the amount of any stabilization ~~[supplemental]~~ payments as
13 described by Section 313.027(f)(2) made to the school district in
14 that year.

15 SECTION 7. The heading to Section 313.031, Tax Code, is
16 amended to read as follows:

17 Sec. 313.031. RULES AND FORMS ~~[, FEES]~~.

18 SECTION 8. Section 313.031, Tax Code, is amended by adding
19 Subsection (a-1) to read as follows:

20 (a-1) The comptroller shall adopt a single annual reporting
21 form to be used by a recipient or former recipient of a limitation
22 on appraised value under this chapter for the purpose of submitting
23 information necessary for the comptroller to complete the reports
24 required by this chapter. A recipient or former recipient shall
25 submit the form to the applicable school district at the same time
26 the recipient or former recipient submits the form to the
27 comptroller. This subsection does not apply to the form described

1 by Section 313.033.

2 SECTION 9. Section 313.032(a), Tax Code, is amended to read
3 as follows:

4 (a) Before the beginning of each regular session of the
5 legislature, the comptroller shall submit to the lieutenant
6 governor, the speaker of the house of representatives, and each
7 other member of the legislature a report on the agreements entered
8 into under this chapter that includes:

9 (1) an assessment of the following with regard to the
10 agreements entered into under this chapter, considered in the
11 aggregate, from the year in which each agreement was entered into to
12 the most recent year for which actual data is available:

13 (A) the total number of qualifying jobs created [~~7~~
14 ~~direct and otherwise,~~] in this state;

15 (B) [~~the total effect on personal income, direct~~
16 ~~and otherwise, in this state,~~

17 [~~(C)~~] the total amount of qualified investment in
18 this state;

19 (C) [~~(D)~~] the total taxable value for purposes of
20 school district ad valorem taxes for maintenance and operations and
21 for debt of property on the tax rolls in this state, including
22 property for which the limitation period has expired, and the total
23 amount of school district ad valorem taxes for maintenance and
24 operations and for debt imposed on that property;

25 (D) [~~(E)~~] the total value of property not on the
26 tax rolls in this state as a result of agreements entered into under
27 this chapter and the total amount of school district maintenance

1 and operations ad valorem taxes that would have been imposed on that
2 value if that value were on the tax rolls; and

3 (E) the total amount of stabilization payments as
4 described by Section 313.027(f)(2) made to school districts
5 ~~[(F) the total fiscal effect on the state and local governments];~~
6 and

7 (2) an assessment of the progress of each agreement
8 made under this chapter that states for each agreement from the year
9 in which the agreement was entered into to the most recent year for
10 which actual data has been certified:

11 (A) the number of qualifying jobs each recipient
12 of a limitation on appraised value committed to create;

13 (B) the number of qualifying jobs each recipient
14 created;

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

17 (D) the amount of the qualified investment each
18 recipient committed to spend or allocate for each project;

19 (E) the amount of the qualified investment each
20 recipient spent or allocated for each project;

21 (F) the market value of the qualified property of
22 each recipient as determined by the applicable chief appraiser,
23 including property that is no longer eligible for a limitation on
24 appraised value under the agreement;

25 (G) the limitation on appraised value for the
26 qualified property of each recipient;

27 (H) the dollar amount of the school district ad

1 valorem taxes for maintenance and operations and for debt that
2 would have been imposed on the qualified property if the property
3 had not received a limitation on appraised value; ~~and~~

4 (I) the dollar amount of the school district ad
5 valorem taxes for maintenance and operations and for debt imposed
6 on the qualified property; and

7 (J) the amount of stabilization payments as
8 described by Section 313.027(f)(2) each recipient made to the
9 applicable school district.

10 SECTION 10. Section 48.256(d), Education Code, is amended
11 to read as follows:

12 (d) This subsection applies to a school district in which
13 the board of trustees entered into a written agreement with a
14 property owner under Section 313.027, Tax Code, for the
15 implementation of a limitation on appraised value under Subchapter
16 B or C, Chapter 313, Tax Code. For purposes of determining "DPV"
17 under Subsection (a) for a school district to which this subsection
18 applies, the commissioner shall exclude a portion of the market
19 value of property not otherwise fully taxable by the district under
20 Subchapter B or C, Chapter 313, Tax Code, before the expiration of
21 the subchapter. The comptroller shall provide information to the
22 agency necessary for this subsection. A revenue protection payment
23 described by Section 313.027(f)(1), Tax Code, as that subdivision
24 existed before January 1, 2023, required as part of an agreement for
25 a limitation on appraised value shall be based on the district's
26 taxable value of property for the preceding tax year.

27 SECTION 11. The following provisions of the Tax Code are

1 repealed:

2 (1) Section 313.031(b); and

3 (2) Section 313.032(b-1).

4 SECTION 12. (a) The changes in law made by this Act apply
5 only to an agreement entered into under Chapter 313, Tax Code,
6 pursuant to an application filed under that chapter on or after the
7 effective date of this Act. An agreement entered into under that
8 chapter pursuant to an application filed before the effective date
9 of this Act is governed by the law in effect on the date the
10 application was filed, and the former law is continued in effect for
11 that purpose.

12 (b) The change in law made by this Act to Section 48.256(d),
13 Education Code, applies beginning with the 2023-2024 school year.

14 SECTION 13. This Act takes effect January 1, 2023.