LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION
Revision 1

May 3, 2021

TO: Honorable Morgan Meyer, Chair, House Committee on Ways & Means

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB1556** by Murphy (relating to the Texas Economic Development Act; requiring the imposition of an authorized fee and changing the amounts of certain fees.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1556, Committee Report 1st House, Substituted : a negative impact of ($756,000) through the biennium ending August 31, 2023. The estimated negative impact increases to ($460.7 million) in fiscal year 2031.

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*
2022	($932,000)
2023	$176,000
2024	$256,000
2025	($935,581)
2026	($16,607,769)
2027	($71,892,313)
2028	($167,149,975)
2029	($261,672,801)
2030	($356,865,057)
2031	($460,709,053)

All Funds, Ten-Year Impact:

Fiscal Year	**Probable Savings/(Cost) from** ***General Revenue Fund*** **1**	**Probable Revenue Gain/(Loss) from** ***Application Fee Revenue - General Revenue Fund*** **1**	**Probable Savings/(Cost) from** ***Foundation School Fund*** **193**	**Probable Revenue Gain/(Loss) from** ***School Districts Property Tax Levy Loss***
2022	($932,000)	$0	$0	$0
2023	($764,000)	$940,000	$0	$0
2024	($764,000)	$1,020,000	$0	$0
2025	($764,000)	$1,100,000	($1,271,581)	($4,000,000)
2026	($764,000)	$1,190,000	($17,033,769)	($59,000,000)
2027	($764,000)	$1,290,000	($72,418,313)	($256,000,000)
2028	($764,000)	$1,390,000	($167,775,975)	($525,000,000)
2029	($764,000)	$1,500,000	($262,408,801)	($833,000,000)
2030	($764,000)	$1,620,000	($357,721,057)	($1,160,000,000)
2031	($764,000)	$1,750,000	($461,695,053)	($1,539,000,000)

Fiscal Year	**Probable Revenue Gain/(Loss) from** ***Application Fee Revenue - School Districts***	*Change in Number of State Employees from FY 2021*
2022	$0	10.0
2023	$4,700,000	10.0
2024	$5,100,000	10.0
2025	$5,500,000	10.0
2026	$5,950,000	10.0
2027	$6,450,000	10.0
2028	$6,950,000	10.0
2029	$7,500,000	10.0
2030	$8,100,000	10.0
2031	$8,750,000	10.0

Fiscal Analysis

The bill would amend Section 313.007, Tax Code to extend the expiration date of Subchapters B and C of Chapter 313 (Texas Economic Development Act) from December 31, 2022 to December 31, 2032.

The bill would amend Tax Code Sections 313.021(1) and 313.021(2) to allow renovations of existing property to receive the appraisal limitation offered in the Chapter 313 program. Current-law provisions requiring that the qualified property receiving the limitation be a "new" building or other "new" improvement would be struck.

The bill would amend Tax Code Section 313.025 (a), (a-1), (b), and add Subsection (a-2) to change the application requirements and the application review process. The bill would set an application fee of $60,000. If a school board elects to consider an application, $10,000 of the fee would be forwarded to the Comptroller with the application. The bill would reduce the amount of information requested on the Chapter 313 application to eleven items, and would strike a current requirement that the application contain sufficient information to show that the property in the application meets the definition of qualified property in Section 313.021. The Comptroller would be allowed to include on the application information the Comptroller might need to determine eligibility of the applicant, or other information needed for the Comptroller determinations under Tax Code Section 313.026, but it is not clear if the Comptroller could request additional information to make required determinations regarding qualified property.

The bill would amend Tax Code Sections 313.027 (f) and (i) to eliminate "supplemental" payments and "revenue protection" payments in any limitation agreement, and replace those with stabilization payments to the school district from the company of not more than 38 percent of the annual gross tax benefit, annually, for the length of limitation period.

The bill would amend Texas Education Code Section 48.256(d) to specify that in agreements executed before the effective date of the bill, revenue protection payments would continue to be calculated on prior-year property values.

The bill would take effect January 1, 2023.

Methodology

Annual "model classes" of future applicants to the Chapter 313 program were created from an analysis of project data, and applications submitted between 2013 and 2020. Data collected from 509 Chapter 313 participants in 2020 indicate that the estimated lifetime school levy reductions for the projects applying in 2015, 2016, 2017, 2018, and 2019 is as follows, respectively: $780 million, $948 million, $1 billion, $1.4 billion and $1.9 billion. The class of 2023 represents the first year of applications under the bill after the chapter expires under current law. In an attempt to take into account the impact of the coronavirus pandemic on program participation on the estimated size of the first class of Chapter 313 applicants applying in 2023, the size of the estimated 2020, 2021 and 2022 model classes were reduced by about a third below what trendlines based on actual data would have indicated, and then trended according to historical growth rate. Class sizes after 2023 were assumed to increase by eight percent annually.

This bill would extend the program for ten years after 2022, going into effect January 1, 2023.

Allowing project expansions, renovations and refurbishments to qualify for the property tax relief benefits of Chapter 313 would increase the number of projects eligible for the program, perhaps significantly.

Refurbishments and renovations of existing large and small manufacturing facilities and renewable energy projects in Texas have occurred without Chapter 313 tax incentives. Granting a property tax exemption for renovations or expansions of facilities already located in Texas would increase the amount of property eligible for the Chapter 313 program, and increase school property tax levy reductions.

Wind farms are one example of Chapter 313 projects very likely to renovate (“repower”) and become eligible for multiple Chapter 313 agreements under the bill. There are 210 wind farms with active Chapter 313 agreements. ERCOT records indicate that 22 wind farms have repowered or are in the process of repowering. All but a few of those wind farms have been in the Chapter 313 program. If federal subsidies for wind power continue, it is expected that many of the wind farms in the Chapter 313 program may repower sometime relatively soon after the end of the 10-year Chapter 313 limitation.

Most manufacturing projects regularly renovate or upgrade their facilities to maintain productivity and competitiveness. The petrochemical industry receives about two-thirds of the benefits of the Chapter 313 program, and has a specific term for these periods of maintenance, retrofitting and upgrading: “turn-arounds.” These can be expensive, with many projects investing amounts exceeding the required minimums of qualified investment. Turn-arounds for some types of petrochemical facilities can reportedly be as frequent as every three to five years.

Texas has substantial amounts of industrial property that undergoes regular refurbishments. Providing tax benefits through the Chapter 313 program would significantly increase use of the program, allowing companies to have multiple agreements for the same project or facility, and potentially providing an ongoing tax benefit for companies that undergo regular renovations or refurbishments.

Under current law, new qualified property is subject to the appraisal limitation. But, as renovations would now be allowed in the Chapter 313 program, distinguishing qualified property subject to the limitation from existing property not subject to the limitation may be problematic. If local appraisal districts appraise tax-exempt qualified property arising from renovations together with existing taxable property, it may lead to situations where the value of portion of the project exempted by the limitation agreement could exceed the renovation investment amount, effectively removing existing property value from the rolls that has been taxed in prior years.

The estimated cost to the Foundation School Program is $1.3 million in fiscal year 2025, $17.0 million in fiscal year 2026, increasing to $461.7 million in fiscal year 2031.

To the extent that some projects would not locate in Texas "but for" the Chapter 313 program, the estimated local revenue reductions shown in the table below may be lower and may not create a state cost through the Foundation School Program.

The bill provides for $10,000 of the $60,000 application fee to be forwarded to the Comptroller, which would be deposited to the General Revenue Fund. From 2017 to 2020, the comptroller received from 68 to 133 applications each year, with an average of 94. Ninety four applications would generate $940,000 per year in general revenue. For purposes of analysis, an annual increase in the number of applications of eight percent per year is assumed.

The Comptroller's office reports that the administrative costs to implement the provisions of the bill would total $932,000 in fiscal year 2022 and $764,000 in each subsequent year. The administrative cost estimate includes one-time technology cost of $168,000 in fiscal year 2022. The cost estimate reflects the funds that would be necessary to hire 5 Program Specialist IIIs, 1 Auditor V, and 4 Auditor IIIs. It is anticipated that reauthorizing the program for an additional ten years would increase the workload due to program growth. Provisions of the bill that open the program to refurbishments and upgrades would also increase program growth.

Technology

The Comptroller's office reports a one-time technology cost of $168,000 in fiscal year 2022 to update the design and coding of the existing database, submission forms, user interface, and reporting tools.

Local Government Impact

The estimated impact to units of local government is reflected in the table above.

Estimated school district levy losses in the years 2032 through 2049 due to the 10-year Chapter 313 program extension and other changes to Tax Code Chapter 313 in the bill are approximately $44.5 billion.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JMc, KK, SD, BRI, CPA, AH