

## **BILL ANALYSIS**

Senate Research Center

H.B. 5  
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Business & Commerce  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

According to 2019 data released by the International Monetary Fund, the State of Texas has the ninth largest economy in the world with a GDP of roughly \$2 trillion. However, when it comes to competitiveness with neighboring states for large scale economic development projects, the state lags due to its high dependence on property taxes. According to a report from the Texas Taxpayers and Research Association (TTARA), in 2021, Texas businesses paid 59.3 percent of state and local taxes—considerably higher than the national average of 43.6 percent. The TTARA report also indicates that 44 other states have tax structures more favorable to businesses than Texas' tax structure. H.B. 5 seeks to create an innovative, transparent, and accountable economic development program to attract jobs and investment to Texas through school district property tax abatement agreements. This bill is needed to ensure that the state is using the tools that other states and countries are using to attract businesses and ensure that Texas remains the top state in the nation for business investment and job creation.

H.B. 5 amends current law relating to agreements authorizing a limitation on taxable value on certain property to provide for the creation of jobs and the generation of state and local tax revenue, authorizes fees, and authorizes a penalty.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Comptroller of Public Accounts of the State of Texas in SECTION 1 (Section 403.624, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 403, Government Code, by adding Subchapter T, as follows:

#### **SUBCHAPTER T. AGREEMENTS TO CREATE JOBS AND GENERATE STATE AND LOCAL TAX REVENUE**

Sec. 403.601. PURPOSES. Provides that the purposes of this subchapter are to:

- (1) create new, high-paying permanent jobs and construction jobs in this state;
- (2) encourage financially positive economic development in this state;
- (3) provide a temporary competitive economic incentive for attracting large-scale manufacturing projects to this state that, in the absence of this subchapter, would likely locate in another state or nation;
- (4) strengthen the security and resource independence of this state and nation by encouraging energy and water infrastructure development, new and expanded electric power generation, and electric grid reliability projects;
- (5) promote the relocation of offshore manufacturing facilities to this state;
- (6) make this state a national and international leader in new and innovative technologies;

(7) encourage the establishment of advanced manufacturing industry sectors critical to national defense and health care;

(8) create new wealth, raise personal income, and foster long-term expansion of state and local tax bases;

(9) provide growing and sustainable economic opportunity for the residents of this state;

(10) incentivize the preceding objectives in a balanced, transparent, and accountable manner; and

(11) promote the creation of a qualified workforce by providing and developing apprenticeship training programs and workplace-based education in partnership with school districts.

Sec. 403.602. DEFINITIONS. Defines "additional job," "agreement," "applicant," "appraised value," "tax year," "taxing unit," "construction completion date," "construction job," "construction period," "county average annual wage for manufacturing job," "eligible project," "eligible property," "full-time job," "grid reliability project," "incentive period," "independent contractor," "investment," "manufacturing project," "metropolitan statistical area," "national or state security project or supply chain infrastructure project," "required job," and "total jobs."

Sec. 403.603. EXPIRATION. Provides that this subchapter expires December 31, 2033.

Sec. 403.604. REQUIRED JOBS AND INVESTMENT. (a) Provides that this section does not apply to a national or state security project or supply chain infrastructure project.

(b) Requires an applicant for a limitation on taxable value of eligible property to be used for a proposed eligible project, to be eligible to enter into an agreement, to agree to:

(1) if the project is to be located in a school district with a taxable value of property of \$10 billion or more for the tax year preceding the year in which the applicant submits the application as determined under Subchapter M (Study of School District Property Values):

(A) create at least 50 required jobs by the end of the first tax year of the incentive period prescribed by the agreement and demonstrate an average of at least that number of jobs during each following tax year until the date the agreement expires; and

(B) make an investment in the project in an amount of at least \$100 million before the incentive period begins;

(2) if the project is to be located in a school district with a taxable value of property of at least \$1 billion but less than \$10 billion for the tax year preceding the year in which the applicant submits the application as determined under Subchapter M:

(A) create at least 40 required jobs by the end of the first tax year of the incentive period prescribed by the agreement and demonstrate an average of at least that number of jobs during each following tax year until the date the agreement expires; and

(B) make an investment in the project in an amount of at least \$80 million before the incentive period begins;

(3) if the project is to be located in a school district with a taxable value of property of at least \$500 million but less than \$1 billion for the tax year preceding the year in which the applicant submits the application as determined under Subchapter M:

(A) create at least 25 required jobs by the end of the first tax year of the incentive period prescribed by the agreement and demonstrate an average of at least that number of jobs during each following tax year until the date the agreement expires; and

(B) make an investment in the project in an amount of at least \$50 million before the incentive period begins;

(4) if the project is to be located in a school district with a taxable value of property of at least \$100 million but less than \$500 million for the tax year preceding the year in which the applicant submits the application as determined under Subchapter M:

(A) create at least 10 required jobs by the end of the first tax year of the incentive period prescribed by the agreement and demonstrate an average of at least that number of jobs during each following tax year until the date the agreement expires; and

(B) make an investment in the project in an amount of at least \$25 million before the incentive period begins; or

(5) if the project is to be located in a school district with a taxable value of property of less than \$100 million for the tax year preceding the year in which the applicant submits the application as determined under Subchapter M or in a school district that is not located in a metropolitan statistical area:

(A) create at least five required jobs by the end of the first tax year of the incentive period prescribed by the agreement and demonstrate an average of at least that number of jobs during each following tax year until the date the agreement expires; and

(B) make an investment in the project in an amount of at least \$10 million before the incentive period begins.

(c) Provides that, for purposes of Subsection (b), each required job created in connection with an eligible project:

(1) is required to be a new full-time job in this state:

(A) maintained in the usual course and scope of the applicant's business, which is authorized to be performed by an individual who is a trainee under the Texans Work program established under Chapter 308 (Texas Work Program), Labor Code; or

(B) performed by an independent contractor and the independent contractor's employees at the site of the project; and

(2) is prohibited from being transferred by the applicant from an existing facility or location in this state or otherwise created to replace an existing job, unless the applicant fills the vacancy caused by the transfer.

(d) Authorizes an applicant, for purposes of Subsection (b), to count as a required job one construction job credit. Provides that an applicant is entitled to one construction job credit in connection with an eligible project for every 10

construction jobs created in connection with the project before the date the incentive period for the project begins. Authorizes an applicant to elect to determine the number of construction jobs for purposes of this subsection as the quotient of:

(1) the total amount paid by the applicant for labor in connection with construction of the project before the incentive period for the project begins, as evidenced by:

(A) separated charges for labor services on contractor invoices; or

(B) other documentation from contractors of the cost of labor performed under lump-sum contracts; and

(2) the average annual wage for all jobs in the county in which the project is primarily located during the most recent four quarters for which data is available, as computed by the Texas Workforce Commission.

(e) Authorizes an applicant, for purposes of calculating the applicable number of required jobs under Subsection (b) in connection with an eligible project, to aggregate the number of hours worked by one or more individuals who work fewer than 1,600 hours a year in connection with the project if the number of hours worked by each of those individuals combined meets or exceeds 1,600 hours of work a year.

(f) Authorizes an applicant, for purposes of Subsection (b), to demonstrate that the applicant has met the applicable minimum investment requirement by any reasonable means. Provides that the applicant is considered to have met the applicable minimum investment requirement if the most recent appraisal roll for the county in which the eligible property is located indicates that the appraised value of the property composing the project as of January 1 of the first year of the incentive period is equal to or greater than the minimum investment requirement applicable to the project.

(g) Authorizes an applicant for a limitation on taxable value of eligible property to be used for a proposed eligible project, in addition to the requirements of Subsection (b), to:

(1) enter into an agreement with a school district in which the project is to be located to provide an apprenticeship and training program or other workplace-based education program, including as part of the district's foundation trade diploma program, if such a program is available at the district, to serve as an entry point to the jobs required to be created under this section; and

(2) invest not less than 25 percent of the amount the applicant is required to invest for a project under this section in a program described by Subdivision (1).

Sec. 403.605. TAXABLE VALUE OF ELIGIBLE PROPERTY. (a) Provides that the taxable value for school district maintenance and operations ad valorem tax purposes of eligible property subject to an agreement for each tax year of the incentive period prescribed by the agreement, except as provided by Subsection (b), is equal to:

(1) \$100 million, if the project subject to the agreement is located in a school district with a taxable value of property of \$10 billion or more for the tax year preceding the year in which the applicant submitted the application to which the agreement pertains as determined under Subchapter M;

(2) \$75 million, if the project subject to the agreement is located in a school district with a taxable value of property of at least \$1 billion but less than \$10 billion for the tax year preceding the year in which the applicant submitted the application to which the agreement pertains as determined under Subchapter M;

(3) \$50 million, if the project subject to the agreement is located in a school district with a taxable value of property of at least \$500 million but less than \$1 billion for the tax year preceding the year in which the applicant submitted the application to which the agreement pertains as determined under Subchapter M;

(4) \$25 million, if the project subject to the agreement is located in a school district with a taxable value of property of at least \$100 million but less than \$500 million for the tax year preceding the year in which the applicant submitted the application to which the agreement pertains as determined under Subchapter M; or

(5) \$5 million, if the project subject to the agreement is located in a school district with a taxable value of property of less than \$100 million for the tax year preceding the year in which the applicant submitted the application to which the agreement pertains as determined under Subchapter M.

(b) Provides that the taxable value of eligible property for school district maintenance and operations ad valorem tax purposes for a tax year during the incentive period is the appraised value of the property for that tax year if that value is less than the value of the property as determined under Subsection (a).

(c) Provides that the taxable value of eligible property for school district maintenance and operations ad valorem tax purposes is zero for each tax year beginning with the tax year following the year in which the agreement pertaining to the property is entered into and ending December 31 of the tax year that includes the construction completion date for the applicable eligible project.

(d) Requires the chief appraiser for the appraisal district in which eligible property is located to determine the market value and appraised value of the property and include the market value, appraised value, and taxable value of the property as determined under this section in the appraisal records for the appraisal district.

(e) Prohibits the chief appraiser for the appraisal district in which eligible property subject to an agreement is located from using an estimated value included in the application to which the agreement pertains to determine the market value of the property.

Sec. 403.606. APPLICATION. (a) Authorizes a person who proposes to construct an eligible project in a school district to apply to the governing body of the district to limit the taxable value for maintenance and operations ad valorem tax purposes of the district of the eligible property used as part of the proposed project.

(b) Requires a person submitting an application under Subsection (a) to use the form prescribed by the Comptroller of Public Accounts of the State of Texas (comptroller). Requires that the form contain the following information:

(1) the applicant's name, address, and Texas taxpayer identification number and the contact information for the applicant's authorized representative;

(2) the applicant's form of business and, if applicable, the name, address, and Texas taxpayer identification number of the applicant's parent entity;

- (3) the applicable school district's name and address and the contact information for the district's authorized representative;
- (4) the legal description of the property on which the project is proposed to be located and, if applicable, the address of the proposed project;
- (5) the applicable number of required jobs prescribed by Section 403.604 for the proposed project;
- (6) a list of each taxing unit in which the project is proposed to be located;
- (7) a brief description of the proposed project, including the classification of the project as designated by the North American Industry Classification System;
- (8) a brief description of the eligible property to be used as part of the proposed project;
- (9) a projected timeline for construction and completion of the proposed project, including the projected dates on which construction will begin, construction will be completed, and commercial operations will start;
- (10) the proposed incentive period;
- (11) the name and location of the existing or proposed reinvestment zone or enterprise zone in which the proposed project will be located;
- (12) a brief summary of the projected economic benefits of the proposed project; and
- (13) the applicant's signature and certification of the accuracy of the information included in the application.

(c) Requires that the form prescribed by Subsection (b) allow the applicant to segregate confidential information described by Section 403.622(a) from other information in the application.

(d) Requires an applicant to include with an application the following:

- (1) an application fee payable to the school district in an amount determined by the district not to exceed \$60,000 for an initial application, inclusive of the costs of processing the application, retaining professional services, preparing the school finance impact report required by Section 403.608, and, if applicable, creating a reinvestment zone or enterprise zone;
- (2) a map showing the site of the proposed project; and
- (3) the economic benefit statement prepared under Section 403.607 in connection with the proposed project.

(e) Requires a school district that receives an application under this section to forward the application to the comptroller not later than the seventh day after the date the district receives the application.

(f) Authorizes the comptroller to request that an applicant provide any additional information the comptroller reasonably determines is necessary to complete the comptroller's evaluation of the application. Authorizes the comptroller to require an applicant to submit the additional information by a certain date and to extend

that deadline on a showing of good cause. Provides that the comptroller is not required to take any further action on an application until it is complete.

(g) Requires the comptroller to notify an applicant and the pertinent school district when the applicant's application is administratively complete.

Sec. 403.607. ECONOMIC BENEFIT STATEMENT. (a) Requires an applicant to submit an economic benefit statement with the applicant's application.

(b) Requires that an economic benefit statement include the following information for each year of the period that begins on the date the applicant projects construction of the proposed project that is the subject of the application will begin and ends on the 25th anniversary of the date the incentive period ends:

(1) an estimate of the number of total jobs that will be created by the project;

(2) an estimate of the total amount of capital investment that will be created by the project;

(3) an estimate of the increase in appraised value of property that will be attributable to the project;

(4) an estimate of the amount of ad valorem taxes that will be imposed by each taxing unit other than the school district on the property used as part of the project;

(5) an estimate of the amount of state taxes that will be paid in connection with the project; and

(6) an estimate of the associated economic benefits that may reasonably be attributed to the project, including:

(A) the impact on the gross revenues and employment levels of local businesses that provide goods or services in connection with the project or to the applicant's employees;

(B) the amount of state and local taxes that will be generated as a result of the indirect economic impact of the project, including all ad valorem taxes not otherwise estimated in Subdivision (4) that will be imposed on property placed into service as a result of the project;

(C) the development of complementary businesses or industries that locate in this state as a direct consequence of the project;

(D) the total impact of the project on the gross domestic product of this state;

(E) the total impact of the project on personal income in this state; and

(F) the total impact of the project on state and local taxes.

(c) Authorizes an applicant to use standard economic estimation techniques, including economic multipliers, to create an economic benefit statement.

(d) Requires the comptroller to establish criteria for the methodology to be used by an applicant to create an economic benefit statement.

(e) Authorizes the comptroller to require an applicant to supplement or modify an economic benefit statement to ensure the accuracy of the estimates required to be included in the statement under Subsection (b).

Sec. 403.608. SCHOOL FINANCE IMPACT REPORT. (a) Requires a school district that receives an application under this subchapter to promptly prepare a school finance impact report for the proposed project that is the subject of the application and submit a copy of the report to the comptroller and the applicant.

(b) Requires that a school finance impact report detail the projected tax and revenue consequences for the school district of the proposed project for each year of the 25-year period beginning on the date the application is received by the district.

(c) Requires that a school finance impact report include an estimate of the amount of ad valorem taxes imposed by the school district during the period described by Subsection (b) on the property used as part of the proposed project, together with all related property owned by the applicant or leased by the applicant under a capitalized lease and placed in service as a direct result of the project:

(1) for maintenance and operations purposes; and

(2) for interest and sinking fund purposes.

(d) Requires that a school finance impact report include, for each year the agreement is proposed to be in effect, a calculation of any anticipated loss of funding, not including facilities funding, to the school district as a result of the agreement. Requires the district to make the calculations under this subsection in accordance with the law, including the constitution, Chapters 48 (Foundation School Program) and 49 (Option for Local Revenue Levels in Excess of Entitlement), Education Code, and Chapter 403 (Comptroller of Public Accounts), rules, and judicial decisions governing school districts and the public school finance system in effect at the time the application is submitted.

(e) Requires a school district that enters into an agreement to update the school finance impact report applicable to the project that is the subject of the agreement not later than March 1 of the first year of the incentive period specified in the agreement. Requires the district to submit a copy of the updated report to the comptroller and the applicant.

Sec. 403.609. COMPTROLLER DETERMINATION REGARDING APPLICATION.

(a) Requires the comptroller to determine whether to recommend that a school district approve an application submitted to the district under this subchapter.

(b) Requires the comptroller to notify an applicant and a school district of the comptroller's determination under Subsection (a) regarding an application submitted to the district by the applicant not later than the 60th day after the date the comptroller determines the application is complete.

(c) Requires the comptroller to recommend that a school district approve an application submitted to the district if the comptroller finds that:

(1) the proposed project that is the subject of the application is an eligible project;

(2) the proposed project is reasonably likely to generate, before the 25th anniversary of the last day of the incentive period, state or local tax revenue, including ad valorem tax revenue attributable to the effect of the project on the economy of this 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

(3) the agreement is a determining factor in the applicant's decision to make the investment and locate the project in this state.

(d) Provides that Subsection (c)(3) does not apply to an application if the proposed project that is the subject of the application is a grid reliability project.

Sec. 403.610. HEARING. (a) Provides that an applicant is entitled to a hearing if the comptroller determines not to recommend that the applicable school district approve an application submitted by the applicant to the district.

(b) Provides that a hearing under this section is a contested case hearing and is required to be conducted by the State Office of Administrative Hearings in the manner provided by Section 2003.101 (Tax Hearings).

(c) Requires an applicant, to receive a hearing under this section, to file a notice of appeal with the comptroller not later than the 30th day after the date the comptroller notifies the applicant of the comptroller's determination under Section 403.609. Provides that the comptroller's determination becomes final if the applicant does not file the notice of appeal as provided by this subsection.

(d) Authorizes an applicant to seek judicial review of the comptroller's determination in a Travis County district court under the substantial evidence rule as provided by Subchapter G (Contested Cases: Judicial Review), Chapter 2001.

Sec. 403.611. SCHOOL DISTRICT ACTION ON APPLICATION. (a) Requires the governing body of a school district to approve or disapprove an application submitted to the district under this subchapter that the comptroller recommends be approved by the district. Authorizes the governing body to approve an application only if the comptroller recommends the application be approved. Requires the governing body to approve or disapprove the application not later than the 35th day after the date the comptroller notifies the district of the comptroller's determination under Section 403.609. Authorizes the governing body to extend the deadline prescribed by this subsection on written request of the applicant.

(b) Requires that an amended application, if the governing body of the school district and the applicant agree on the amendment to the application, be submitted to the comptroller for a redetermination regarding the application. Requires the comptroller to notify the applicant and school district of the comptroller's redetermination regarding the application not later than the 30th day after the date the comptroller receives the amended application.

(c) Requires the presiding officer of the governing body of a school district to notify the applicant and the comptroller of the governing body's approval or disapproval of an application not later than the seventh day after the date the governing body approves or disapproves the application.

(d) Prohibits an employee or representative of a school district, a member of the governing body of the district, or any other person, except for a payment authorized by this subchapter, from intentionally or knowingly soliciting, accepting, agreeing to accept, or requiring any payment of money or transfer of property or other thing of value, directly or indirectly, to the district, an employee or representative of the district, a member of the governing body of the district, or any other person in recognition of, anticipation of, or consideration for approval of an application under this section.

(e) Prohibits an applicant, an employee or representative of the applicant, or any other person, except for a payment authorized by this subchapter, from

intentionally or knowingly offering, conferring, agreeing to confer, or making a payment of money or transfer of property or other thing of value, directly or indirectly, to the school district, an employee or representative of the district, a member of the governing body of the district, or any other person in recognition of, anticipation of, or consideration for approval of an application under this section.

Sec. 403.612. AGREEMENT. (a) Requires the governing body of a school district that approves an application under Section 403.611 to enter into an agreement with the applicant that submitted the application.

(b) Requires that an agreement entered into under this section between an applicant and a school district for an eligible project:

(1) specify the project to which the agreement applies;

(2) specify the term of the agreement, which is required to:

(A) begin on the date the agreement is entered into; and

(B) end on December 31 of the third tax year following the end of the incentive period;

(3) specify the incentive period for the project;

(4) specify the manner for determining the taxable value for school district maintenance and operations ad valorem tax purposes during the incentive period under Section 403.605 for the eligible property subject to the agreement;

(5) specify the applicable jobs and investment requirements prescribed by Section 403.604 and require the applicant to comply with those requirements;

(6) if the applicant is subject to the jobs requirement prescribed by Section 403.604, require that the average annual wage paid to all persons employed by the applicant in connection with the project used to calculate total jobs, other than a required job derived from a construction job credit, exceed 110 percent of the county average annual wage for manufacturing jobs in the county where the job is located, with the applicant's average annual wage being equal to the quotient of:

(A) the applicant's total wages paid, other than wages paid for construction jobs, as reported under Section 403.617(c)(4); and

(B) the applicant's number of total jobs, other than a required job derived from a construction job credit, as reported under Section 403.617(c)(3);

(7) require the applicant to offer and contribute to a group health benefit plan for each employee who performs a required job;

(8) require the applicant to pay a penalty prescribed by Section 403.615 if the applicant fails to comply with an applicable jobs or wage requirement;

(9) authorize the district to terminate the agreement if the applicant fails to meet a material requirement of the agreement as provided by Subsection (e); and

(10) incorporate each relevant provision of this subchapter.

(c) Authorizes an agreement entered into under this section between an applicant and a school district pertaining to an eligible project to:

(1) require the applicant to:

(A) either:

(i) share a percentage of the applicant's tax revenue savings with the district, as computed under Section 403.614; or

(ii) pay the district an amount specified in the agreement, which is prohibited from being less than \$75,000 for each tax year during the incentive period; and

(B) if the agreement requires the applicant to share a percentage of the applicant's tax revenue savings under Paragraph (A)(i), specify the tax savings percentages required to compute the applicable tax sharing amount under Section 403.614;

(2) require the applicant to make an indemnity payment to the district as provided by Subsection (f);

(3) authorize the applicant to terminate the agreement as an alternative to making an indemnity payment to the district as provided by Subsection (f); and

(4) authorize the district to terminate the agreement as provided by Subsection (h).

(d) Prohibits an agreement entered into under this section between an applicant and a school district pertaining to an eligible project from requiring the applicant to make a payment to the district other than a payment prescribed by this subchapter.

(e) Provides that this subsection applies to a term described by Subsection (b)(9). Requires that the agreement provide that the school district:

(1) is authorized to terminate the agreement if the applicant fails to meet a material requirement of the agreement, other than a requirement described by Section 403.614;

(2) is prohibited from terminating the agreement until the district provides written notice to the applicant of the proposed termination;

(3) is required to provide the applicant the opportunity to cure and dispute the alleged failure, including through judicial action; and

(4) is entitled to recover all lost ad valorem tax revenue from the project and interest on that amount calculated as provided by Section 111.060 (Interest on Delinquent Tax), Tax Code.

(f) Provides that this subsection applies only if an agreement includes a term described by Subsection (c)(2). Provides that a material change, in this subsection, is a change that results in an indemnity payment calculated under this subsection for a tax year that is at least 10 percent of the amount of any anticipated loss of funding calculated for that tax year as specified in the updated school finance impact report required by Section 403.608(e). Requires that the agreement require the applicant to make an indemnity payment to the school district for a tax year during the incentive period in which the district's revenue is reduced as a direct

result of the enactment of legislation or a final judicial determination that results in a substantial change that affects the Foundation School Program, not including facilities funding, and directly affects an agreement resulting in a material change. Provides that the amount of the indemnity payment is equal to the difference between the amount of revenue the district would have received in that tax year had the legislation not been enacted, the constitution not been amended, or the final judicial determination not been made and the amount of revenue actually received by the district in that tax year. Requires that the agreement provide that, as an alternative to making the indemnity payment, the applicant is authorized to elect to terminate the agreement by notifying the district in writing of the termination. Provides that an agreement terminated under this subsection is void, and all remaining obligations and benefits under the agreement and this subchapter terminate on the date the agreement is terminated. Prohibits the agreement from requiring the applicant to pay back any benefit the applicant received under the agreement before the date the agreement is terminated under this subsection.

(g) Requires the Texas Education Agency (TEA), for purposes of Subsection (f), to determine whether a law enacted by the legislature or a final judicial determination results in a substantial change that affects the Foundation School Program, not including facilities funding, and directly affects an agreement resulting in a material change. Requires TEA, if TEA makes a determination under this subsection related to an agreement, to establish the method the applicable school district is required to use to calculate the indemnity payment and certify the calculation made by the district.

(h) Provides that this subsection applies only if an agreement includes a term described by Subsection (c)(4). Authorizes the agreement to authorize the school district to terminate the agreement under the circumstances described by Subsection (f) if the district determines that the indemnity payment made by the applicant would not fully reimburse the district as required by that subsection. Requires the district to notify the applicant in writing of the termination. Provides that an agreement terminated under this subsection is void, and all remaining obligations and benefits under the agreement and this subchapter terminate on the date the agreement is terminated. Prohibits the agreement from requiring the applicant to pay back any benefit the applicant received under the agreement before the date the agreement is terminated under this subsection.

(i) Authorizes an applicant and a school district to modify the terms of an agreement that do not materially modify the jobs or investment requirements prescribed by the agreement. Authorizes the district to impose a fee of \$15,000 for an amendment to an agreement.

(j) Requires the school district to append the economic benefit statement applicable to the project that is the subject of the agreement to the agreement.

(k) Requires the school district to submit each agreement entered into by the district to the comptroller not later than the seventh day after the date the agreement is entered into.

Sec. 403.613. INCENTIVE PERIOD. (a) Provides that an incentive period pertaining to an eligible project is the period specified in the agreement for the project, which is required to be a period of 10 consecutive tax years.

(b) Prohibits an incentive period from beginning:

(1) earlier than January 1 of the first tax year following the construction completion date; or

(2) later than January 1 of the first tax year following the 10th anniversary of the date the agreement is entered into.

(c) Provides that the beginning date of an incentive period specified in an agreement pertaining to an eligible project, subject to Subsection (b), is deferred if the applicant does not satisfy the minimum investment requirement applicable to the project on or before the date the incentive period is specified to begin under the agreement. Provides that the incentive period is deferred until January 1 of the year following the year in which the applicant satisfies the investment requirement pertaining to the project. Provides that the deferral of an incentive period under this subsection does not affect the date on which the incentive period ends as prescribed by the agreement.

(d) Authorizes an applicant, subject to Subsection (b), to propose to modify the beginning and ending dates of the incentive period as provided by this subsection. Requires the applicant to provide notice of the proposed modification to the comptroller and the school district not later than the 90th day before the first day of the incentive period specified in Section 403.612(b)(3) or as proposed to be modified, whichever is earlier. Requires the applicant to revise the most recent economic benefit statement as necessary to reflect the proposed change to the incentive period. Requires the applicant to include the revised economic benefit statement with the notice provided to the comptroller and the district under this subsection. Requires the comptroller to make the finding required by Section 403.609(c)(2) regarding the project as proposed to be modified or determine that the finding cannot be made. Requires the comptroller to notify the applicant and the district of the comptroller's finding or determination not later than the 60th day after the date the comptroller receives notice from the applicant of the proposed modification. Authorizes the applicant to appeal the comptroller's determination in the manner provided by Section 403.610. Prohibits the incentive period for the project from being modified if the comptroller determines that the finding required by Section 403.609(c)(2) regarding the project as proposed to be modified cannot be made or, if the determination is appealed, the applicant is not successful on appeal before the beginning of the original or modified incentive period, whichever is earlier.

Sec. 403.614. COMPUTATION OF TAX SHARING AMOUNT. (a) Provides that an applicant's tax revenue savings for eligible property that is subject to an agreement between the applicant and a school district is:

(1) for a tax year during the period prescribed by Section 403.605(c), an amount equal to the product of:

(A) the amount computed by dividing the appraised value of the property for that tax year by 100; and

(B) the maintenance and operations ad valorem tax rate adopted by the district for that tax year; and

(2) for a tax year during the incentive period prescribed by the agreement, an amount equal to the product of:

(A) the amount computed by:

(i) subtracting the taxable value of the property as determined under Section 403.612(b)(4) from the appraised value of the property for that tax year; and

(ii) dividing the amount computed under Paragraph (A) by 100; and

(B) the maintenance and operations ad valorem tax rate adopted by the district for that tax year.

(b) Provides that an applicant's tax sharing amount for a tax year during the period described by Subsection (a)(1) is equal to 20 percent of the applicant's tax revenue savings as computed under that subdivision for that tax year.

(c) Provides that an applicant's tax sharing amount for a tax year during the period described by Subsection (a)(2) in which the applicant's tax revenue savings as computed under that subdivision is:

(1) \$3 million or less is the amount equal to the product of the amount computed under Subsection (a)(2) and the applicable tax savings percentage specified in the agreement between the applicant and the school district, which is prohibited from exceeding 30 percent;

(2) more than \$3 million but less than \$7 million is the amount equal to the sum of the following amounts:

(A) the product of:

(i) \$3 million; and

(ii) the applicable tax savings percentage specified in the agreement, which is prohibited from exceeding 30 percent; and

(B) the product of:

(i) the difference between the amount computed under Subsection (a)(2) and \$3 million; and

(ii) the applicable tax savings percentage specified in the agreement, which is prohibited from exceeding 20 percent; and

(3) \$7 million or more is the amount equal to the sum of the following amounts:

(A) the product of:

(i) \$3 million; and

(ii) the applicable tax savings percentage specified in the agreement, which is prohibited from exceeding 30 percent;

(B) the product of:

(i) \$4 million; and

(ii) the applicable tax savings percentage specified in the agreement, which is prohibited from exceeding 20 percent; and

(C) the product of:

(i) the difference between the amount computed under Subsection (a)(2) and \$7 million; and

(ii) the applicable tax savings percentage specified in the agreement, which is prohibited from exceeding 10 percent.

Sec. 403.615. FAILURE TO COMPLY WITH JOBS OR WAGE REQUIREMENT. (a) Provides that an applicant is liable to the state for a penalty in the amount computed under this subsection if the applicant fails to maintain at least the number of required jobs prescribed by the agreement to which the applicant is a party during the periods covered by two consecutive reports submitted by the applicant under Section 403.617. Provides that the amount of the penalty is equal to 2.5 times the product of:

(1) the difference between:

(A) the number of required jobs prescribed by the agreement; and

(B) the number of required jobs actually created as stated in the most recent report submitted by the applicant under Section 403.617; and

(2) the average annual wage prescribed by the agreement during the most recent four quarters for which data is available, as computed by the Texas Workforce Commission (TWC).

(b) Provides that an applicant is liable to the state for a penalty in the amount computed under this subsection if the applicant fails to meet the average annual wage requirement prescribed by the agreement to which the applicant is a party, if any, during the periods covered by two consecutive reports submitted by the applicant under Section 403.617. Provides that the amount of the penalty is equal to 2.5 times the difference between:

(1) the product of:

(A) the actual average annual wage paid to all persons employed by the applicant in connection with the project that is the subject of the agreement as computed under Section 403.612(b)(6); and

(B) the number of required jobs prescribed by the agreement; and

(2) the product of:

(A) the average annual wage prescribed by the agreement; and

(B) the number of required jobs prescribed by the agreement.

(c) Prohibits the amount of a penalty imposed on an applicant under this section, notwithstanding Subsections (a) and (b), from exceeding the amount of the ad valorem tax benefit received by the applicant under the agreement that is the subject of the penalty.

(d) Requires an applicant on request of the comptroller to provide to the comptroller a schedule of required jobs created as of the date of the request under an agreement to which the applicant is a party.

(e) Provides that a determination by the comptroller that an applicant has failed to meet the jobs or wage requirement prescribed by an agreement to which the applicant is a party is a deficiency determination under Section 111.008 (Deficiency Determination), Tax Code. Provides that a penalty imposed under this section is an amount the comptroller is required to collect, receive, administer, or enforce, and is subject to the payment and redetermination requirements of Sections 111.0081 (When Payment Is Required) and 111.009 (Redetermination), Tax Code. Provides that a redetermination under Section 111.009, Tax Code, of a

determination under this section is a contested case as defined by Section 2001.003 (Definitions) of this code.

(f) Authorizes an applicant to challenge under Subchapters A (General Provisions) and B (Suit After Protest Payment), Chapter 112, Tax Code, a determination under this section that imposes a penalty on the applicant if the applicant contends that the amount of the penalty is unlawful or that the comptroller is prohibited from legally demanding or collecting the amount.

(g) Requires the comptroller to deposit the amount collected under this section, including any interest applicable to the amount, to the credit of the foundation school fund.

Sec. 403.616. AUDIT OF AGREEMENTS BY STATE AUDITOR. (a) Requires the state auditor each year to select and review at least three major agreements to determine whether:

(1) each agreement accomplishes the purposes of this subchapter as expressed in Section 403.601; and

(2) the terms of each agreement were executed in compliance with the terms of this subchapter.

(b) Requires the state auditor, as part of the review, to make recommendations relating to increasing the efficiency and effectiveness of the administration of this subchapter.

Sec. 403.617. ANNUAL COMPLIANCE REPORT BY APPLICANT. (a) Requires an applicant that is a party to an agreement to submit a report to the comptroller as required by this section using the form adopted by the comptroller.

(b) Requires an applicant to submit a report required by this section to the comptroller not later than June 1 of each year during the term of the agreement that is the subject of the report.

(c) Requires that a report required by this section include the following documents and information applicable to the agreement that is the subject of the report:

(1) a certification by the applicant that is a party to the agreement that the applicant has met the jobs and investment requirements prescribed by the agreement, which is required to include:

(A) a sworn affidavit stating:

(i) the number of required jobs prescribed by the agreement;

(ii) the number of total jobs created under the agreement as of December 31 of the preceding year, including the number of total jobs for each category of required jobs; and

(iii) the name and contact information of each person who employs a person described by Subparagraph (ii), other than the applicant or the applicant's affiliates;

(B) if applicable, payroll records maintained for purposes of 40 T.A.C. Chapter 815; and



(C) if applicable, evidence of the number of construction jobs created and construction job credits counted by the applicant as a required job;

(2) the number assigned to the application by the comptroller for the agreement, name of the applicant, name of the school district, and name of and contact information for the applicant's representative;

(3) the number of total jobs, not including construction job credits counted by the applicant as a required job, created by the project in the preceding year;

(4) the total wages paid for total jobs, not including wages paid for construction jobs, in the preceding year;

(5) the number of construction jobs created as determined under Section 403.604(d);

(6) the total amount of the applicant's investment, including any additional amount invested by the applicant after the incentive period begins;

(7) the appraised value of all property composing the project for each previous tax year of the agreement;

(8) the taxable value of all property composing the project for each previous tax year of the agreement;

(9) the amount of school district maintenance and operations ad valorem taxes imposed on the property composing the project and paid by the applicant for each previous tax year of the agreement;

(10) the amount of school district interest and sinking fund ad valorem taxes imposed on the property composing the project and paid by the applicant for each previous tax year of the agreement;

(11) the amount of school district ad valorem taxes that would have been imposed on the property composing the project and paid by the applicant in the absence of the agreement for each previous tax year of the agreement;

(12) the amount of payments made by the applicant to the school district as prescribed by the agreement for each previous tax year of the agreement, listed by type of payment; and

(13) the amount of ad valorem taxes imposed on the property composing the project by each taxing unit other than the school district and paid by the applicant for each previous tax year of the agreement, stated by taxing unit.

(d) Provides that this subsection applies only to a report required to be submitted under this section by an applicant for the period that includes the first year of the incentive period as prescribed by the agreement that is the subject of the report or as deferred. Requires the applicant, in addition to the documents and information described by Subsection (c), to include with the certification required by Subsection (c)(1):

(1) a list of the property tax account numbers assigned to the property composing the project;

- (2) the current total appraised value of the property composing the project; and
- (3) if applicable, a statement that the incentive period was deferred because the applicant did not meet the minimum investment requirement prescribed by the agreement before the date specified in the agreement.

Sec. 403.618. SCHOOL DISTRICT REPORT. (a) Requires a school district that is a party to an agreement to submit a report to the comptroller as prescribed by this section.

(b) Requires a school district to submit the report not later than June 1 of each even-numbered year:

- (1) beginning in the first even-numbered year following the year in which the governing body of the district approves the application for the project that is the subject of the agreement; and
- (2) ending in the last even-numbered year before the third anniversary of the expiration of the incentive period prescribed by the agreement.

(c) Requires that the report include:

- (1) the total amount received from the applicant under the agreement for each previous year;
- (2) the total amount of any other direct or indirect benefit received from the applicant for each previous year, including an in-kind contribution; and
- (3) the purposes for which the payments and benefits were used by the school district.

Sec. 403.619. BIENNIAL REPORT TO LEGISLATURE. (a) Requires the comptroller to submit to the lieutenant governor, the speaker of the house of representatives, and each other member of the legislature a report on the agreements entered into under this subchapter. Requires the comptroller to submit the report not later than December 1 of each even-numbered year.

(b) Requires that the report include:

- (1) an assessment of the following with regard to the agreements entered into under this subchapter, considered in the aggregate:
  - (A) the total number of jobs created in this state;
  - (B) the total effect on personal income in this state;
  - (C) the total amount of investment in this state;
  - (D) the total taxable value of property on the tax rolls in this state resulting from the agreements, including property subject to an agreement that has expired;
  - (E) the total value of property subject to agreements that have not expired; and
  - (F) the total fiscal effect resulting from the agreements on this state and on local governments in this state; and

(2) an assessment of each agreement entered into under this subchapter that states for each agreement:

(A) the number of required jobs prescribed by the agreement;

(B) the number of jobs actually created under the agreement, including:

(i) each job described by Section 403.604(c)(1)(A);

(ii) each job described by Section 403.604(c)(1)(B);

(iii) each construction job credit described by Section 403.604(d) counted by an applicant as a required job; and

(iv) any additional jobs created or maintained in connection with the project that is the subject of the agreement, if reported by the applicant;

(C) the number of total jobs created under the agreement, if the term of the agreement has expired;

(D) the amount of the investment specified by the agreement;

(E) the amount of the actual investment made for the applicable project before the expiration of the agreement;

(F) the difference between the amount of ad valorem taxes that would have been imposed on the property composing the applicable project in the absence of the agreement and the amount of ad valorem taxes actually imposed on that property during the term of the agreement;

(G) the total amount of state and local tax revenue attributable to the applicable project during the term of the agreement;

(H) the total amount received by the school district from the applicant under the agreement for each previous year;

(I) the total amount of any other direct or indirect benefit received by the district from the applicant for each previous year, including an in-kind contribution; and

(J) the purposes for which the payments and benefits described by Paragraphs (H) and (I) were used by the district.

(c) Prohibits the comptroller from including in the report information that is confidential under law.

(d) Authorizes the comptroller to use standard economic estimation techniques, including economic multipliers, to prepare the portion of the report described by Subsection (b)(1).

(e) Authorizes the comptroller to require an applicant to submit information required to complete the report on a form prescribed by the comptroller.

Sec. 403.620. CONFLICT OF INTEREST. Prohibits a person from, directly or indirectly, representing, advising, or providing a service to both an applicant and a school district in connection with the same application submitted or agreement entered into under this subchapter.

Sec. 403.621. TREATMENT OF PAYMENTS TO SCHOOL DISTRICTS. Prohibits a payment by an applicant to a school district under this subchapter other than a payment of ad valorem taxes imposed by the district from being treated as tax revenue collected by the district for any purpose under Chapter 48 or 49, Education Code.

Sec. 403.622. CONFIDENTIALITY OF CERTAIN BUSINESS INFORMATION. (a) Provides that information provided to a school district or the comptroller by an applicant under this subchapter that is a trade secret, as defined by Section 134A.002 (Definitions), Civil Practice and Remedies Code, is confidential and not subject to disclosure under Chapter 552 (Public Information).

(b) Provides that payroll records reported under Section 403.617(c)(1)(A) or (B) by an applicant to the comptroller are confidential and not subject to disclosure under Chapter 552.

Sec. 403.623. INTERNET POSTING OF INFORMATION. (a) Requires the comptroller, subject to Section 403.622, to post on the comptroller's Internet website the following information received by the comptroller:

(1) each application submitted under this subchapter;

(2) each map and economic benefit statement required to be submitted with an application under this subchapter;

(3) each amendment to an application made under this subchapter;

(4) each agreement entered into under this subchapter; and

(5) each biennial compliance report submitted as required under this subchapter.

(b) Requires the comptroller, except as provided by Subsection (c), to post the information described by Subsection (a) as soon as practicable after the date the comptroller receives the information.

(c) Requires the comptroller to post the information described by Subsections (a)(1), (2), and (3) not later than the 10th business day after the date the comptroller receives the information.

(d) Requires the comptroller to continue to post the information required by this section until the date the agreement to which the information relates expires.

Sec. 403.624. RULES AND FORMS. (a) Requires the comptroller to adopt rules necessary to implement and administer this subchapter, including rules for:

(1) determining whether an applicant meets the jobs and investment requirements prescribed by Section 403.604; and

(2) authorizing an applicant or school district to submit any form or information required by this subchapter electronically.

(b) Requires the comptroller to adopt forms necessary to implement and administer this subchapter, including the forms to be used by:

(1) an applicant under Section 403.606;

(2) an applicant under Section 403.617; and

(3) a school district under Section 403.618.

(c) Requires the comptroller to provide without charge one copy of the rules and forms adopted under this section to any person who states that the person intends to submit an application to a school district under this subchapter to limit the taxable value of eligible property used as part of an eligible project.

SECTION 2. Amends Section 48.2551(a), Education Code, to redefine "E."

SECTION 3. Amends Section 48.256, Education Code, by amending Subsections (d) and (e) and adding Subsection (d-1), as follows:

(d) Provides that this subsection applies to a school district in which the board of trustees entered into a written agreement with a property owner for the implementation of a limitation on taxable value under Subchapter T, Chapter 403, Government Code, rather than with a property owner under Section 313.027 (Limitation on Appraised Value; Agreement), Tax Code, for the implementation of a limitation on appraised value under Subchapter B (Limitation on Appraised Value of Certain Property Used to Create Jobs) or C (Limitation on Appraised Value of Property in Strategic Investment Area or Certain Rural School Districts), Chapter 313, Tax Code. Requires the commissioner of education, for purposes of determining "DPV" under Subsection (a) (relating to providing that each school district's share of the Foundation School Program is determined by a certain formula) for a school district to which this subsection applies, to exclude a portion of the market value of property not otherwise fully taxable by the district under Subchapter T, Chapter 403, Government Code, rather than under Subchapter B or C, Chapter 313, Tax Code, before the expiration of the subchapter.

(d-1) Provides that Subsection (d) applies to an agreement for the implementation of a limitation on appraised value under former Subchapter B or C, Chapter 313, Tax Code, that was in effect on January 1, 2023, in the same manner as that subsection applies to an agreement described by that subsection. Requires that a revenue protection payment to the school district, if the agreement for the limitation on appraised value requires the payment, be based on the district's taxable value of property for the preceding tax year. Deletes existing text requiring that a revenue protection payment required as part of an agreement for a limitation on appraised value be based on the district's taxable value of property for the preceding tax year.

(e) Provides that Subsection (d-1), rather than Subsection (d), does not apply to property that was the subject of an application under former Subchapter B or C, Chapter 313, Tax Code, made after May 1, 2009, that the comptroller recommended should be disapproved.

SECTION 4. Amends Section 2303.507, Government Code, as follows:

Sec. 2303.507. New heading: TAX INCREMENT FINANCING AND ABATEMENT; LIMITATIONS ON APPRAISED AND TAXABLE VALUE. Provides that designation of an area as an enterprise zone is also designation of the area as a reinvestment zone for:

- (1) makes no changes to this subdivision;
- (2) makes a nonsubstantive change to this subdivision;
- (3) limitations on appraised value under former Subchapter B or C, Chapter 313, Tax Code; and
- (4) limitations on taxable value under Subchapter T, Chapter 403, of this code.

SECTION 5. Amends Section 23.03, Tax Code, as follows:

Sec. 23.03. New heading: COMPILATION OF LARGE PROPERTIES AND PROPERTIES SUBJECT TO LIMITATION ON APPRAISED OR TAXABLE VALUE. Requires the chief appraiser each year to compile and send to the Texas Economic

Development and Tourism Office, rather than to the Texas Department of Economic Development, a list of properties in the appraisal district that in that tax year:

- (1) makes a nonsubstantive change to this subdivision;
- (2) are subject to a limitation on appraised value under former Subchapter B or C, Chapter 313; or
- (3) are subject to a limitation on taxable value under Subchapter T, Chapter 403, Government Code.

SECTION 6. Amends Section 26.012(6), Tax Code, to redefine "current total value."

SECTION 7. Amends Section 171.602(f), Tax Code, as follows:

(f) Prohibits the comptroller from issuing a credit under Section 171.602 (Tax Credit for Clean Energy Project) before the later of:

- (1) the expiration of an agreement under former Subchapter B or C, Chapter 313, regarding the clean energy project for which the credit is issued, rather than September 1, 2018; or
- (2) the expiration of an agreement under Subchapter T, Chapter 403, Government Code, regarding the clean energy project for which the credit is issued.

SECTION 8. Amends Section 312.0025(a), Tax Code, as follows:

(a) Authorizes the governing body of a school district, in the manner required for official action and for purposes of former Subchapter B or C, Chapter 313, of this code or Subchapter T, Chapter 403, Government Code, notwithstanding any other provision of Chapter 312 (Property Redevelopment and Tax Abatement Act) to the contrary, to designate an area entirely within the territory of the school district as a reinvestment zone if the governing body finds that, as a result of the designation and the granting of a limitation on appraised value under former Subchapter B or C, Chapter 313, of this code or the granting of a limitation on taxable value under Subchapter T, Chapter 403, Government Code, for property located in the reinvestment zone, the designation is reasonably likely to have certain results.

SECTION 9. Provides that it is the intent of the legislature that the amendment made by this Act to Section 48.2551, Education Code, ensures that school district maintenance and operations ad valorem tax revenue generated by the increase in taxable value of property following the expiration of an agreement for a limitation on taxable value of the property under Subchapter T, Chapter 403, Government Code, as added by this Act, is considered in the computation of the maximum compressed rate under Section 48.2551, Education Code, and voter-approval tax rate under Section 26.08, Tax Code, of the school district that is a party to the expired agreement.

SECTION 10. Effective date: March 1, 2024.