

## **BILL ANALYSIS**

Senate Research Center  
88R31769 CJC/TJB/KJE-F

C.S.H.B. 5  
By: Hunter et al. (Schwertner)  
Business & Commerce  
5/21/2023  
Committee Report (Substituted)

### **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.

(Original Author's/Sponsor's Statement of Intent)

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

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Comptroller of Public Accounts of the State of Texas in SECTION 1 (Sections 403.604 and 403.623, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

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

#### **SUBCHAPTER T. TEXAS JOBS, ENERGY, TECHNOLOGY, AND INNOVATION ACT**

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 certain large-scale economic development projects to this state that, in the absence of this subchapter, would likely locate in another state or nation;
- (4) encourage energy and water infrastructure development, including new and expanded dispatchable electric generation facilities;
- (5) make this state a national and international leader in new and innovative technologies;

- (6) encourage the establishment of certain advanced manufacturing industry sectors critical to national defense and health care;
- (7) create new wealth, raise personal income, and foster long-term expansion of state and local tax bases;
- (8) provide growing and sustainable economic opportunity for the residents of this state; and
- (9) incentivize the preceding objectives in a balanced, transparent, and accountable manner.

Sec. 403.602. DEFINITIONS. Defines "additional job," "agreement," "applicant," "appraised value," "tax year," "taxing unit," "construction completion date," "construction job," "construction period," "eligible project," "eligible property," "full-time job," "incentive period," "independent contractor," "investment," "oversight committee," "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 a jobs requirement prescribed by this section does not apply to an eligible project that is an electric generation facility described by Section 403.602(8)(A)(i).

(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 county with a population of at least 750,000:

(A) create at least 150 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 \$200 million by the end of the first tax year of the incentive period prescribed by the agreement;

(2) if the project is to be located in a county with a population of at least 250,000 but less than 750,000:

(A) create at least 100 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 by the end of the first tax year of the incentive period prescribed by the agreement;

(3) if the project is to be located in a county with a population of at least 100,000 but less than 250,000:

(A) create at least 70 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 by the end of the first tax year of the incentive period prescribed by the agreement; or

(4) if the project is to be located in a county with a population of less than 100,000:

(A) create at least 20 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 \$20 million by the end of the first tax year of the incentive period prescribed by the agreement.

(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 (Texans 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 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 used to determine the minimum investment requirement under this section indicates that the appraised value of the eligible property composing the project as of January 1 of the second tax year of the incentive period prescribed by the agreement is equal to or greater than the minimum investment requirement applicable to the project.

(e) Provides that if an eligible project is located in more than one county, the jobs and investment requirement applicable to the project is determined using the jobs and investment requirement applicable to the county with the smallest population in which any part of the project is located.

(f) Authorizes the Comptroller of Public Accounts of the State of Texas (comptroller) to adopt rules necessary to interpret and administer this section, including rules regarding:

(1) the manner for determining:

(A) which jobs and investment requirements prescribed by Subsection (b) apply to an eligible project; and

(B) the circumstances under which a trainee under the Texans Work program established under Chapter 308, Labor Code, is

authorized to be considered a full-time employee for purposes of this section; and

(2) the method by which an applicant is required to demonstrate an average of at least the number of required jobs for purposes of satisfying the jobs requirement prescribed by Subsection (b).

Sec. 403.605. TAXABLE VALUE OF ELIGIBLE PROPERTY. (a) Provides that, except as provided by Subsection (b), 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 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 (Study of School District Property Values);

(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. **CERTAIN PERSONS INELIGIBLE.** Provides that a person is not eligible to submit an application to the comptroller or enter into an agreement under this subchapter if the person is a company that:

- (1) is listed as ineligible to receive a state contract or investment under certain statutes; or
- (2) directly or indirectly prohibits or limits:
  - (A) the exploration for, or the production, utilization, transport, sale, or manufacture of, fossil fuel-based energy solely because of the risks associated with fossil fuel-based energy; or
  - (B) participation in a legal activity for the purpose of achieving environmental, social, or political ends.

Sec. 403.607. **APPLICATION.** (a) Requires a person who proposes to construct an eligible project in a school district for which the person seeks a limitation on 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 to submit an application to the comptroller.

(b) Requires a person submitting an application under Subsection (a) to use the form prescribed by the 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) each county in which the project is proposed to be located and the population of each of those counties;
- (6) the applicable number of required jobs prescribed by Section 403.604 for the proposed project;
- (7) a list of each taxing unit in which the project is proposed to be located;
- (8) a brief description of the proposed project;
- (9) any grant or loan of public money or other tax incentive, if applicable, that the applicant is receiving or expects to receive for the project;
- (10) a brief description of the eligible property to be used as part of the proposed project;

(11) 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;

(12) the proposed incentive period;

(13) the name and location of the existing or proposed reinvestment zone or enterprise zone in which the proposed project will be located;

(14) a brief summary of the projected economic benefits of the proposed project; and

(15) 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 403.621(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 comptroller in an amount determined by the comptroller not to exceed an amount sufficient to cover the costs associated with the comptroller's evaluation of the application;

(2) a map showing the site of the proposed project;

(3) the economic benefit statement prepared under Section 403.608 in connection with the proposed project; and

(4) a sworn affidavit stating that the applicant is not ineligible under Section 403.606 to submit the application.

(e) 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.

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

Sec. 403.608. **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, including the applicable 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. Requires an applicant to base each estimate required by Subsection (b) on reasonable projections of the economic and labor conditions of this state for the period for which the estimate is made.

(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. 403.609. **COMPTROLLER ACTION ON APPLICATION.** (a) Requires the comptroller to determine whether to recommend or not recommend for approval an application submitted to the comptroller under Section 403.607. Requires the comptroller to recommend an application for approval if the comptroller makes the findings prescribed by Subsection (b). Prohibits the comptroller from recommending an application for approval if the comptroller is unable to make the findings prescribed by that subsection.

(b) Prohibits the comptroller from recommending an application for approval unless 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 first day of the construction 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.

(c) Requires the comptroller, not later than the 60th day after the date the comptroller determines that an application is complete, to take the action required by Subsection (a) regarding the application and provide written notice of the action to the governor, the school district in which the project is proposed to be located, and the applicant.

(d) Requires the comptroller to send to the governor with the notice required by Subsection (c) regarding an application recommended by the comptroller under Subsection (a) a copy of the application and each document and item of information the comptroller relied on to recommend the application.

Sec. 403.610. GOVERNOR ACTION ON APPLICATION. (a) Requires the governor to consider an application sent to the governor by the comptroller under Section 403.609 not later than the 30th day after the date the governor receives the application.

(b) Requires the governor to determine whether an application considered by the governor under Subsection (a) should be added to a list maintained by the governor of applications pertaining to eligible projects with respect to which the governor proposes to enter into an agreement. Requires the governor to remove from the list any application:

(1) for which an agreement has been entered into; or

(2) that was disapproved by the Jobs, Energy, Technology, and Innovation Act Oversight Committee (oversight committee) as provided by Section 403.611.

(c) Requires the governor to submit the list described by Subsection (b) at least twice each year to the oversight committee.

(d) Requires the governor to provide written notice of a determination made under this section to the comptroller, the school district in which the project is proposed to be located, and the applicant.

Sec. 403.611. JOBS, ENERGY, TECHNOLOGY, AND INNOVATION ACT OVERSIGHT COMMITTEE. (a) Provides that the oversight committee is composed of the following seven members:

(1) three members of the house of representatives appointed by the speaker of the house of representatives;

(2) three members of the senate appointed by the lieutenant governor; and

(3) one member who serves as the chair of the committee and who:

(A) is a member of the house of representatives appointed by the speaker of the house of representatives who serves only in odd-numbered years; and

(B) is a member of the senate appointed by the lieutenant governor who serves only in even-numbered years.



(b) Requires the appropriate appointing authority, if a vacancy occurs in the membership of the oversight committee, to appoint a person to fill the vacancy.

(c) Provides that a member of the oversight committee serves at the pleasure of the appropriate appointing authority.

(d) Authorizes the oversight committee to consider the applications included on the list submitted to the oversight committee by the governor under Section 403.610. Authorizes the oversight committee to disapprove an application included on the list only if a majority of the members of the oversight committee sign a resolution to disapprove the application not later than the 30th day after the date the oversight committee receives the list. Provides that an application not disapproved in the time and manner prescribed by this subsection is considered approved by the oversight committee.

(e) Requires the oversight committee, if the oversight committee disapproves an application under Subsection (d), to provide written notice of the disapproval to the governor, the school district, and the applicant as soon as practicable after the date the application is disapproved.

Sec. 403.612. AGREEMENT. (a) Authorizes the governor, the governing body of a school district, and an applicant to enter into an agreement to limit the taxable value for maintenance and operations ad valorem tax purposes of the district of the eligible property used as part of an eligible project that is the subject of an application that is not disapproved by the oversight committee before the deadline prescribed by Section 403.611.

(b) Requires that an agreement entered into under this section between the governor, a school district, and an applicant pertaining to 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 construction and incentive periods 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) require that the average annual wage paid to all persons employed by the applicant in connection with the project used to calculate total jobs exceed the average annual wage for all jobs in the county during the most recent four quarters for which data is available, as computed by the Texas Workforce Commission (TWC, 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 403.616(c)(4); and

(B) the applicant's number of total jobs as reported under Section 403.616(c)(3);

(7) require the applicant to pay a penalty prescribed by Section 403.614 if the applicant fails to comply with an applicable jobs or wage requirement;

(8) authorize the governor or the district to terminate the agreement as provided by Subsection (d); and

(9) incorporate each relevant provision of this subchapter.

(c) Requires that an agreement entered into under this section between the governor, a school district, and an applicant pertaining to an eligible project include a provision that states that the applicant is prohibited from making a payment to the district related to the agreement.

(d) Provides that this subsection applies to a term described by Subsection (b)(8). Requires that the agreement provide that:

(1) the governor or the school district is authorized to terminate the agreement if the applicant fails to comply with an applicable jobs or wage requirement of the agreement;

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

(3) the governor or the district is required to provide the applicant a 180-day period to cure and dispute the alleged failure, including through judicial action; and

(4) in the event the agreement is terminated, the state is entitled to recover a penalty in an amount equal to 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.

(e) Provides that an agreement terminated under Subsection (d) is void, and all remaining obligations and benefits under the agreement and this subchapter terminate on the date the agreement is terminated.

(f) Authorizes the parties to an agreement to modify the terms of the agreement that do not materially modify the jobs or investment requirements prescribed by the agreement.

(g) Requires that an agreement be submitted to the comptroller not later than the seventh day after the date the agreement is entered into. Requires that a copy of the economic benefit statement applicable to the project that is the subject of the agreement be attached to the agreement.

(h) Requires the comptroller to deposit a penalty collected under Subsection (d)(4) and any interest on the penalty to the credit of the foundation school fund.

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

(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) Authorizes the beginning date of an incentive period specified in an agreement pertaining to an eligible project, subject to Subsection (b), to be deferred if the applicant projects that the applicant will not satisfy the minimum investment requirement applicable to the project by the end of the first tax year of the incentive period. Authorizes the incentive period to be deferred until January 1 of the second tax year following the construction completion date. 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. Requires an applicant that is a party to an agreement for which the beginning date of the incentive period is deferred as authorized by this subsection to provide notice of the deferral to the comptroller. Requires that the notice include the reason for the deferral.

(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, the governor, 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, the governor, and the district under this subsection. Requires the comptroller to make the finding required by Section 403.609(b)(2) regarding the project as proposed to be modified or determine that the finding cannot be made. Requires the comptroller to notify the governor, the district, and the applicant 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. Prohibits the incentive period for the project from being modified if the comptroller determines that the finding required by Section 403.609(b)(2) regarding the project as proposed to be modified cannot be made or if the governor or the district objects to the proposed modification.

Sec. 403.614. **PENALTY FOR 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 403.616. Provides that the amount of the penalty is equal to 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 403.616; and

(2) the average annual wage prescribed by the agreement during the most recent four quarters for which data is available, as computed by 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 403.616. Provides that the amount of the penalty is equal to 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) Requires the comptroller to deposit a penalty collected under this section and any interest on the penalty to the credit of the foundation school fund.

Sec. 403.615. AUDIT OF AGREEMENTS BY STATE AUDITOR. (a) Requires the state auditor each year to select and review at least 10 percent of the agreements in effect in that year 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) Authorizes the state auditor, in determining which agreements to review under Subsection (a), to consider any risk of noncompliance identified in the biennial compliance report regarding an agreement submitted to the comptroller under Section 403.616.

(c) 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. Requires the state auditor to submit the recommendations to the governor, comptroller, lieutenant governor, speaker of the house of representatives, and oversight committee not later than December 15 of each year.

Sec. 403.616. BIENNIAL 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 even-numbered 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; and

(ii) the number of required jobs actually created under the agreement as of December 31 of the preceding two years; and

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

(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 created by the project in each of the preceding two years;

(4) the total wages paid for total jobs, not including wages paid for construction jobs, in each of the preceding two years;

(5) the number of construction jobs created by the project;

(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; and

(12) 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. 403.617. 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); and
- (iii) 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; and

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

(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. 403.618. REPORT BY OVERSIGHT COMMITTEE TO LEGISLATURE.** Authorizes the oversight committee to recommend in a written report to the legislature those types of projects that the oversight committee determines by majority vote should be statutorily added to or removed from the definition of "eligible project" provided by Section 403.602.

**Sec. 403.619. 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. 403.620. CERTAIN BENEFITS RELATED TO AGREEMENTS PROHIBITED; ATTORNEY GENERAL ENFORCEMENT.** (a) Prohibits an employee or representative of a school district, a member of the governing body of the district, or any other person 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 agreement unless authorized by this subchapter.

(b) Prohibits an applicant, an employee or representative of the applicant, or any other person 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 governor or the school district, an employee or representative of the governor or 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 agreement unless authorized by this subchapter.

(c) Authorizes the attorney general, if the attorney general receives a written complaint from a party to an agreement of a violation of this section, to bring an action to enforce this section to restrain or enjoin a person from continuing or repeating the violation. Provides that venue for an action brought under this subsection is in a district court in Travis County.

Sec. 403.621. CONFIDENTIALITY OF CERTAIN BUSINESS INFORMATION. (a) Provides that information provided to the comptroller, the governor, or a school district 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 403.616(c)(1)(A) or (B) by an applicant to the comptroller are confidential and not subject to disclosure under Chapter 552.

Sec. 403.622. INTERNET POSTING OF INFORMATION. (a) Requires the comptroller, subject to Section 403.621, 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.

(e) Requires the comptroller to notify the governor and the applicable school district of the comptroller's posting of the information described by Subsection (a)(5) on the comptroller's Internet website.

Sec. 403.623. 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 an applicant under Sections 403.607 and 403.616.

(c) Requires the comptroller to provide without charge one copy of the rules and forms adopted under this section to any person that states that the person intends to submit an application to the comptroller 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. Requires the commissioner of education (commissioner), 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.

Deletes existing text providing that this subsection applies to a school district in which the board of trustees entered into a written agreement 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. Deletes existing text requiring the commissioner, for purposes of determining "DPV" under Subsection (a) 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 B or C, Chapter 313, Tax Code, before the expiration of the subchapter. 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.

(d-1) Creates this subsection from existing text. 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 the payment, if the agreement for the limitation on appraised value requires a revenue protection payment to the school district, 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 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; 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.

Deletes existing text prohibiting the comptroller from issuing a credit under this section before the later of September 1, 2018, or the expiration of an agreement under Chapter 313 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 meet certain criteria.

SECTION 9. Requires the lieutenant governor and the speaker of the house of representatives to appoint the initial members of the oversight committee under Sections 403.611(a)(1), (2), and (3)(B), Government Code, as added by this Act, as soon as practicable after the effective date of this Act.

SECTION 10. Requires the comptroller to adopt rules and develop and make available the forms and materials as required under Section 403.623, Government Code, as added by this Act, as soon as practicable after the effective date of this section.

SECTION 11. (a) Effective date, except as provided by Subsection (b) of this section: January 1, 2024.

(b) Effective date, Section 10 of this Act: September 1, 2023.