

By: Springer

S.B. No. 1926

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of the Texas Mircale Act (TMA), allowing for certain fees, authorizing certain ad valorem tax incentives for economic development, specifically certain tax relief from school district taxes for certain corporations and limited liability companies that make large investments that create jobs in this state, to authorizing the imposition of certain fees, and the repeal of Chapter 313 of Texas Tax Code and the Economic Development Act of the 77th Legislature.

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

SECTION 1. Subtitle A, Title 2, Tax Code, is amended by adding Chapter 310 to read as follows:

CHAPTER 310. TEXAS ECONOMIC VITALITY ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 310.001. SHORT TITLE. This chapter may be cited as the Texas Mircale Act (TMA).

Sec. 310.002. FINDINGS. The legislature finds that:

1) many states have enacted aggressive economic development laws designed to attract large employers, create jobs, and strengthen their economies;

2) a significant portion of the Texas economy continues to be based in the manufacturing industry, and the continued growth and overall health of the manufacturing sector serves the Texas economy well;

1 3) foreign competitors, who recognize the benefits of the
2 science and technology that originates from Texas, are
3 organizing massive human and capital resources on a national
4 level to take the lead in science and technology with
5 long-term consequences.

6 4) without vibrant, strong manufacturing, science and
7 technology sectors, other sectors of the economy, especially
8 the state's service sector, will also suffer adverse
9 consequences;

10 5) the current property tax system of this state does not
11 favor capital intensive manufacturing, critical
12 infrastructure, State and national security projects; and

13 6) for Texas to unilaterally disarm itself of incentives for
14 large capital investments, places the state at a disadvantage
15 in the national and world marketplace, and risks the
16 long-term economic security of the state.

17 Sec. 310.003. PURPOSES. The purposes of this chapter are

18 to:

19 1) enable state and local government officials, especially
20 those in rural and economic distressed areas of the state, to
21 compete with other states by authorizing economic
22 development incentives that are comparable to incentives
23 being offered to prospective employers by other states and to
24 provide state and local officials with an effective means to
25 attract or keep large-scale business investment to area

26 2) create new, high paying jobs in these areas and across
27 the state;

1 3) attract to this state new, large-scale businesses that
2 are exploring opportunities to locate in other states or
3 other countries;

4 4) keep in the state, existing large-scale businesses that
5 are exploring opportunities to expand to other states or
6 other countries;

7 5) ensuring the effective protection of science and
8 technologies critical to Texas and U.S. national security
9 interests;

10 6) strengthen and maintain the great gains and overall
11 performance of the economy of this state;

12 7) expand and enlarge the ad valorem property tax base of
13 this state by attracting or keeping large-scale businesses
14 that otherwise would not exist; and

15 8) enhance this state's economic development efforts by
16 providing state officials, local officials, and economic
17 development professionals with an effective economic
18 development tool.

19 Sec. 310.004. LEGISLATIVE INTENT. It is the intent of the
20 legislature in enacting this chapter that:

21 1) economic development decisions should benefit the level
22 but be consistent with identifiable statewide and regional
23 economic development goals;

24 2) this chapter should not be construed or interpreted to
25 allow:

26 a. property owners to pool investments to create
27 sufficiently large investments to qualify for an ad

1 valorem tax benefit or financial benefit provided by
2 this chapter;

3 b. an applicant for an ad valorem tax benefit or
4 financial benefit provided by this chapter to assert
5 that jobs will be eliminated if certain investments are
6 not made if the assertion is not true; or

7 c. a sole proprietorship, partnership, or limited
8 liability partnership to receive an ad valorem tax
9 benefit or financial benefit provided by this chapter.

10 3) in implementing this chapter, the Governor, Lieutenant
11 Governor, Comptroller, and Speaker should:

12 a. strictly interpret the criteria and selection
13 guidelines provided by this chapter; and

14 b. issue the privileges of ad valorem tax benefits
15 under this chapter only for those applications that:

16 i. create high-paying jobs;

17 ii. provide a net benefit to the state over the
18 long term; and

19 iii. advance the economic development goals of
20 this state.

21 Sec. 313.005. AUDIT OF AGREEMENTS BY STATE AUDITOR. Each
22 year, the state auditor shall review at least three major
23 agreements, as determined by the state auditor, under this chapter
24 to determine whether:

25 1) each agreement accomplishes the purposes of this chapter
26 as expressed in Section 310.003;

27 2) each agreement complies with the intent of the

1 legislature in enacting this chapter as expressed in Section
2 310.004; and

3 3) the terms of each agreement were executed in compliance
4 with the terms of this chapter.

5 4) As part of the review, the state auditor shall make
6 recommendations relating to increasing the efficiency and
7 effectiveness of the administration of this chapter.

8 Sec. 310.006 IMPOSITION OF IMPACT FEE. In this section,
9 "impact fee" means:

10 1) a charge or assessment imposed against a qualified
11 property, as defined by Section 310.010, in order to generate
12 revenue for funding or recouping the costs of capital
13 improvements or facility expansions for water, wastewater,
14 or storm water services or for roads necessitated by or
15 attributable to property that receives an ad valorem tax
16 benefit under this chapter.

17 2) Notwithstanding any other law, including Chapter 395,
18 Local Government Code, a municipality, or county may impose
19 and collect from the owner of a qualified property a
20 reasonable impact fee under this section to pay for the cost
21 of providing improvements associated with or attributable to
22 property that receives an ad valorem tax benefit under this
23 chapter.

24 Sec.310.07: RULES AND FORMS; FEES. The Comptroller and Texas
25 Workforce Commission shall:

26 1) adopt rules and forms necessary for the implementation
27 and administration of this chapter, including rules for

1 determining whether a property owner's land qualifies as a
2 qualified investment under this Chapter and

3 2) to post online, without charge, a copy of the rules and
4 forms for an ad valorem tax benefit under this chapter on the
5 Comptroller's website.

6 3) The Comptroller and Texas Workforce Commission may
7 impose application fees that must be reasonable and may not
8 exceed the estimated cost to the agencies for processing and
9 acting on an application, including any cost associated with
10 the economic impact evaluation required by the Chapter.

11 SUBCHAPTER B. LIMITATION ON APPRAISED VALUE OF CERTAIN

12 PROPERTY USED TO CREATE JOBS

13 Sec. 310.100 DEFINITIONS. In this subchapter:

14 (1) "Agreement" means a written agreement between the
15 owner of a new investment project and a school district in this
16 state.

17 (2) "New investment project" means the construction
18 and operation of new improvements to realty or placement into
19 service in this state new tangible personal property that did not
20 exist on the date of the agreement.

21 (3) "Qualified industry" means:

22 (A) manufacturing;

23 (B) critical infrastructure; or

24 (C) national and state security and critical
25 domestic supply chain support.

26 Sec. 310.200 APPLICATION. (a) A person may apply to the

- 1 school district for approval of an agreement under this subchapter.
2 An application must be made on a form prescribed by the comptroller
3 and contain the following information: (1) the applicant's name,
4 address, Texas taxpayer identification number, and contact
5 information of an authorized representative;
6 (2) the applicant's form of business and, if
7 applicable, the name, address, and Texas taxpayer identification
8 number of the applicant's parent entity;
9 (3) the school district's name and address, the county
10 in which the district is located or the county in which the project
11 is located if the district is in more than one county, and the
12 contact information of the district's authorized representative;
13 (4) the address of the project or proposed facility,
14 if different from the applicant's address;
15 (5) a brief description of the project, including the
16 classification of the project as designated by the North American
17 Industry Classification System as of the date of the application;
18 (6) a brief description of the eligible property for
19 which the applicant is seeking an agreement;
20 (7) the estimated dates of commencement of
21 construction, completion of construction, and commencement of
22 commercial operations of the project;
23 (8) the name and location of the reinvestment zone or
24 enterprise zone in which the project is located;
25 (9) a brief summary of the economic benefits of the
26 project; and
27 (10) the applicant's signature and certification.

1 (b) The application must be accompanied by an application
2 fee payable to the school district.

3 (c) The school district shall forward the application to the
4 comptroller within 7 days of receipt from the applicant.

5 (d) Subject to the confidentiality requirements of Section
6 310.616, the comptroller shall publish the application and the
7 information described by Subsections (b)(2)-(5), and any
8 subsequent revisions of the application or the information on the
9 comptroller's Internet website.

10 Sec. 310.603. ECONOMIC BENEFIT STATEMENT. (a) The
11 applicant shall submit with the application an economic benefit
12 statement containing estimates of the economic and fiscal impacts
13 on the school district and the state for the 25-year period
14 commencing on the date on which the applicant estimates
15 construction of the project will commence.

16 (b) The comptroller shall establish criteria for the
17 methodology of the economic benefit statement submitted by the
18 applicant and may require the applicant to supplement or modify the
19 statement to ensure the accuracy of the estimates listed in
20 Subsection (a).

21 Sec. 310.604. COMPTROLLER RECOMMENDATION OF APPLICATION.
22 (a) The comptroller shall recommend an application for approval by
23 the school district if the comptroller finds that the project
24 provides:

- 25 (1) no financial harm to the school district; and
26 (2) a net economic or financial benefit to the state.

27 (b) If the comptroller finds that the project does not meet

1 one or more of the criteria established by Subsection (a), the
2 comptroller shall not recommend the application for approval.

3 Sec. 310.605. SCHOOL DISTRICT APPROVAL. (a) Within 21 days
4 of receiving a recommendation to approve an application from the
5 comptroller under Section 403.604, the school district shall either
6 approve or disapprove of the agreement.

7 Sec. 310.606. REPORTS BY APPLICANT. The comptroller shall
8 promulgate an online reporting form for applicants to submit to the
9 agency by April 1 of each even-numbered year that reports the
10 following information for each year since the application was
11 approved and for three years after the limitation has expired:

12 (1) the application number, name of the applicant,
13 name of the school district which levies ad valorem taxes on the
14 project, and name and contact information for the applicant's
15 representative;

16 (2) the parcel number of the property subject to the
17 agreement;

18 (3) the total number of jobs created by the project;

19 (4) the total wages paid;

20 (5) the total amount of the investment;

21 (6) the appraised value of all property associated
22 with the project, including property subject to the agreement and
23 any other real or tangible personal property owned by the applicant
24 as part of the project;

25 (7) the taxable value of all property associated with
26 the project, including property subject to the agreement and any
27 other real or tangible personal property owned by the applicant as

1 part of the project, for school district maintenance and operations
2 ad valorem tax purposes;

3 (8) the total amount of school district maintenance
4 and operations ad valorem taxes paid by the applicant;

5 (9) the total amount of school district interest and
6 sinking fund ad valorem taxes paid by the applicant;

7 (10) the total amount for school district ad valorem
8 taxes the applicant would have paid in the absence of an agreement;

9 (11) the total amount of payments other than ad
10 valorem taxes made by the applicant to the school district.

11 Sec. 310.607. REPORTS BY SCHOOL DISTRICT. (a) A school
12 district that levies ad valorem taxes on the project shall submit at
13 its own expense to the comptroller a report not later than April 1
14 of each even-numbered year since the application was approved and
15 for three years after the limitation has expired.

16 (b) The report shall include:

17 (1) the total amount of payments other than ad valorem
18 taxes received from the applicant;

19 (2) the total amount of any other direct or indirect
20 benefits received from the applicant such as in-kind contributions
21 or other financial benefits; and

22 (3) the purposes for which the payments and benefits
23 were used by the school district.

24 (c) The comptroller shall promulgate a form to be used by
25 the school district for purposes of this section.

26 Sec. 310.608. RULES AND FORMS. The comptroller shall adopt
27 rules and forms necessary for the implementation and administration

1 of this subchapter.

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4 of this subchapter.

5 SECTION 4. Chapter 313 of the Texas Tax Code is repealed.

6 SECTION 3. The change in law made by this Act applies only
7 to a person receiving an ad valorem tax benefit under this chapter
8 issued on or after January 1, 2024. Any a person receiving an ad
9 valorem tax benefit under state law before January 1, 202, is
10 governed by the law as it existed immediately before the effective
11 date of this Act, and that law is continued in effect for that
12 purpose.

13 SECTION 4. This Act takes effect September 1, 2023.