LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 22, 2023

TO: Honorable Charles Schwertner, Chair, Senate Committee on Business & Commerce

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB5** by Hunter (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; authorizing a fee; authorizing penalties.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB5, Committee Report 2nd House, Substituted : a negative impact of ($5,991,092) through the biennium ending August 31, 2025.

However, the cost to the Foundation School Program increases to ($429.5 million) in fiscal year 2033.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Ten- Year Impact:

Fiscal Year	**Probable Net Positive/(Negative) Impact to** ***General Revenue Related Funds***
2024	($2,979,688)
2025	($3,011,404)
2026	($3,011,404)
2027	($1,483,404)
2028	($2,529,404)
2029	($8,753,404)
2030	($38,349,404)
2031	($98,925,404)
2032	($232,377,404)
2033	($430,105,404)

All Funds, Ten-Year Impact:

Fiscal Year	**Probable Savings/(Cost) from** ***General Revenue Fund*** **1**	**Probable Savings/(Cost) from** ***Foundation School Fund*** **193**	***Change in Number of State Employees from FY 2023***
2024	($2,979,688)	$0	7.0
2025	($3,011,404)	$0	7.0
2026	($3,011,404)	$0	7.0
2027	($611,404)	($872,000)	7.0
2028	($611,404)	($1,918,000)	7.0
2029	($611,404)	($8,142,000)	7.0
2030	($611,404)	($37,738,000)	7.0
2031	($611,404)	($98,314,000)	7.0
2032	($611,404)	($231,766,000)	7.0
2033	($611,404)	($429,494,000)	7.0

Fiscal Analysis

The bill would amend Chapter 403 of the Government Code by adding Subchapter T, the Texas Jobs, Energy, Technology and Innovation Act.

The bill would create a program to provide temporary and limited incentives for certain large scale economic development projects in a qualified industry defined as: dispatchable energy generation, petrochemical manufacturing, semiconductor fabrication, desalination, natural gas terminals, gas processing plants, hydrogen fuel production and storage, and carbon capture facilities, petroleum refineries, pharmaceutical manufacturing facilities, emerging or innovative technology manufacturing facilities, automotive manufacturing facilities, and headquarters for companies with more than $5 billion in annual revenue.

Non-dispatchable electric generation and electric energy storage facilities would not be eligible.

Eligibility for an agreement to reduce taxable value would be contingent on achieving minimum job and investment amounts. These minimums would not be applicable to electric generation facilities. The required investment minimums would be based on county populations as follows:
1) at least $200 million in investment and 150 jobs created in counties with a population of 750,000 or more;
2) at least $100 million in investment and 100 jobs created in counties with a population of at least 250,000 but less than 750,000;
3) at least $50 million in investment and 70 jobs created in counties with a population of at least 100,000 but less than 250,000;
4) at least $20 million in investment and 20 jobs created in districts a population of less than 100,000.

The bill would provide a ten-year reduction of taxable value for school district maintenance and operations ad valorem tax for eligible property, also known as the incentive period. The bill specifies that the term of the incentive period must be 10 consecutive years. The bill permits an applicant to defer the start of the full incentive period to not later than January 1 of the tax year following the 10th anniversary of the agreement start date.

During the incentive period, taxable values for eligible property would be based on total taxable property values in the school district for the preceding tax year and would be reduced to the following:
1) $100 million in a district with total taxable values of $10 billion or more;
2) $75 million in a district with total taxable values of at least $1 billion but less than $10 billion;
3) $50 million in taxable value taxable value of eligible property located in a district with total taxable values of at least $500 million but less than $1 billion would be reduced to;
4) $25 million in a district with total taxable values of at least $100 million but less than $500 million; and
5) S5 million in a district with total taxable values less than $100 million or a district that is not located in a metropolitan statistical area.

The bill also provides a 100 percent reduction of taxable value for school district maintenance and operations ad valorem tax for eligible property beginning with the tax year following the year in which the agreement is entered into and ending December 31 of the tax year that includes the construction completion date, also known as the construction period.

This bill would require the eligible applicant to:
1) submit the application to the Comptroller on a form prescribed by the Comptroller that includes information about the applicant, school district, proposed project, eligible property, proposed investment, proposed jobs, proposed incentive period, reinvestment or enterprise zone and brief summary of the projected economic benefits;
2) include with the application:
a. an application fee payable to the Comptroller to cover application evaluations administrative costs;
b. a map of the proposed project site; and
c. the economic benefit statement;
3) enter into agreements with the Governor and school districts as specified in the bill; and
4) submit an biennial report to the Comptroller including the reporting information required in the bill.

The bill would require the Comptroller to:
1) adopt rules and forms necessary to implement and administer this chapter;
2) determine whether an application is administratively complete and whether the project proposes to meet the jobs and investment requirements;
3) establish criteria for the methodology to be used by an application to create an economic benefit statement;
4) publicly post all application information excluding any information deemed confidential;
5) recommend an application for consideration by the Governor if conditions met;
6) collect, receive, administer, or enforce penalties imposed for the applicant's failure to comply with the jobs or wages requirement; and
7) submit a biennial report to the Legislature on even numbered years.

The bill would require the Governor to:
1) remove any submitted applications that already have an agreement or previously disapproved by the oversight committee;
2) submit a list with all Governor ineligible applicants at least twice a year to the Oversight Committee;
3) enter into agreements with the governing body of a school district and applicants as specified in the bill
4) terminate the agreement if job or wage conditions are not met;

The bill would require the Jobs, Energy, Technology and Innovation Act Oversight Committee to, if necessary, disapprove an application if a majority of members sign a resolution by 30 days after receipt. The oversight committee may also recommend in a written report to the legislature types of projects that the committee determines should be statutorily added to or removed from the definition of "eligible project".

The bill would require an annual audit of at least 10 percent of the agreements in effect during the current year by the state auditor and authorizes the state auditor to make recommendations relating to increasing the efficiency and effectiveness of the administration of the program.

The subchapter would expire December 31, 2033.

The bill would make conforming changes in the Education and Tax Code.

Methodology

The bill will create an incentive program to provide temporary and limited incentives certain large scale economic development projects. The program would consist of 10-year reductions of eligible property school district maintenance and operations ad valorem taxable values. Additionally, the bill provides for a 100 percent reduction of taxable value on property for school district maintenance and operations ad valorem tax purposes during the construction period.

Estimated annual cohorts—or "model classes"—of future applicants to this program were created from an analysis of Chapter 313 manufacturing project data from active projects submitted from 2015 through 2022.

Projects were selected based on investment amount and project type. School district taxable values were used to derive the reduced taxable value categories. Additionally, as desalination projects were not eligible under Chapter 313, one example desalination project was added to the model class. Cohort estimates were increased 8 percent in each year to adjust for estimated annual applicant program growth.

The program proposed in this bill would allow projects and property not previously permitted in the Chapter 313 program, including previously-mentioned desalination projects, natural gas terminals and natural gas storage facilities. The program adds a 100 percent reduction of taxable value during the constructions period; under the Chapter 313 program, projects were fully taxed during construction.

Estimates of the lifetime gross tax benefit for each of the nine additional annual "model classes" after 2025 were increased eight percent annually—a rate lower than the historical Chapter 313 growth rate.

Under provisions of the Education Code, the school district tax revenue loss is partially transferred to the state. The estimated cost to the Foundation School Program (FSP) is $0.9 million in fiscal year 2027, $1.9 million in fiscal year 2028, increasing to $429.5 million in fiscal year 2033. Decreases to recapture payments resulting from the bill's provisions are expected to be significant but cannot be determined at this time.

The Comptroller's office anticipates needing to hire 7.0 Program Specialist IVs to implement the provisions of the bill. This analysis assumes staffing related costs of $579,688 in fiscal year 2024 and $611,404 in fiscal year 2025 and each subsequent year. The Comptroller's office anticipates technology costs of $2.4 million per year in fiscal years 2024 through 2026.

Technology

Included in the administrative costs are technology costs to the Comptroller's office totaling $7,200,000 for 48,000 software programming hours over three fiscal years beginning in 2024, or $2,400,000 for 16,000 hours for each fiscal year, to create a database needed to implement the provisions of this bill.

Local Government Impact

The bill would result in decreases to school district property tax collections. Districts would receive additional state aid through the FSP to largely offset revenue losses.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JMc, SZ, KK, BRI, SD