

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 4, 2023

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB4429 by Landgraf (relating to the duty of a school district to enter into an ad valorem tax abatement agreement under the Property Redevelopment and Tax Abatement Act for certain property.), Committee Report 1st House, Substituted

Estimated Two-year Net Impact to General Revenue Related Funds for HB4429, Committee Report 1st House, Substituted : an impact of \$0 through the biennium ending August 31, 2025. However, there would be a negative impact to General Revenue Related Funds beginning in fiscal year 2027.

The Comptroller's Office provided data from three projects that participated under the now expired Chapter 313 program and most closely matched the investment (at least \$1.0 billion) and limitation (\$30.0 million) size envisioned by the proposed tax abatement program to model the costs associated with implementing the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2024	\$0
2025	\$0
2026	\$0
2027	(\$41,154,000)
2028	(\$51,812,000)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Probable Savings/(Cost) from Foundation School Fund 193</i>	<i>Probable Revenue Gain/(Loss) from School Districts</i>
2024	\$0	\$0
2025	\$0	\$0
2026	\$0	\$0
2027	(\$41,154,000)	(\$59,547,000)
2028	(\$51,812,000)	(\$75,488,000)

Fiscal Analysis

The bill would amend Chapter 312, relating to Property Redevelopment and Tax Abatement Act, of the Tax Code to provide a tax abatement for natural gas-fired electric generating facility projects that provide dispatchable electric power for the ERCOT power grid in a reinvestment zone created by a school district.

The bill would define an “electric generating facility project” as a natural gas-fired electric generating facility with an aggregated appraised value of \$1.0 billion on January 1 on the year after the facility first furnished electricity to the power grid. Qualified property would be defined as property that is part of an electric generating facility and a building or other improvement constructed on or after January 1, 2024 and tangible personal property first placed in service in the new building or other improvement or on the land on which the new building or other improvement is located.

The owner of a proposed facility could apply to the governing body of a school district in which the facility is located for a limitation from school district maintenance and operation (M&O) taxation. The limitation would apply to the portion of the appraised value of qualified property in excess of \$30.0 million, for a duration of 10 years beginning on the first January 1 occurring after 2027 that the facility furnishes electricity for the power grid. The school district would be required to approve the application unless they determine that the proposed electric generating facility subject to the application is not an electric generating facility.

The bill would require a school district and the applicant to enter into an agreement not later than the 90th day after the application is submitted.

The bill would make conforming changes to the Government Code.

Methodology

There is currently no Chapter 312 program directly comparable to the proposed tax abatement. Although the Chapter 313 program expired in 2022, this new program exhibits some similarity as it also involves agreements between projects and school districts and grants a 10-year tax abatement. In contrast to this bill the Chapter 313 program had several additional statutorily required limitations including: a defined investment period, minimum qualified and non-qualified job and wage requirements, qualified property and investment requirements, a requirement that obtaining the Chapter 313 tax limitation was a determining factor for the project to be built, and a prohibition against pooling investment.

It may be assumed; as this bill requires at least \$1.0 billion in appraised value, no prohibition on pooling investment, and few other general program barriers; that the fiscal impact for this program could be significantly negative for the state.

Because natural gas-fired electric generating facilities were not eligible under the now-expired Chapter 313 program, these estimates are based on three projects that most closely matched the investment required by this bill (at least \$1.0 billion) and the property value limitation envisioned by the proposed tax abatement program (\$30.0 million). The projects would benefit from 10 years of tax abatement. These estimates are an approximation of the value loss based on similarly valued projects receiving a similarly sized value reduction.

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 \$41.2 million in fiscal year 2027 and \$51.8 million in fiscal year 2028.

Local Government Impact

The fiscal impact on school districts is shown in the table above.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JMc, KK, SD, BRI