

SENATE AMENDMENTS

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H.B. No. 5

A BILL TO BE ENTITLED

1 AN ACT

2 relating to agreements authorizing a limitation on taxable value on
3 certain property to provide for the creation of jobs and the
4 generation of state and local tax revenue; authorizing fees;
5 authorizing a penalty.

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

7 SECTION 1. Chapter 403, Government Code, is amended by
8 adding Subchapter T to read as follows:

9 SUBCHAPTER T. AGREEMENTS TO CREATE JOBS AND GENERATE STATE AND

10 LOCAL TAX REVENUE

11 Sec. 403.601. PURPOSES. The purposes of this subchapter
12 are to:

13 (1) create new, high-paying permanent jobs and
14 construction jobs in this state;

15 (2) encourage financially positive economic
16 development in this state;

17 (3) provide a temporary competitive economic
18 incentive for attracting large-scale manufacturing projects to
19 this state that, in the absence of this subchapter, would likely
20 locate in another state or nation;

21 (4) strengthen the security and resource independence
22 of this state and nation by encouraging energy and water
23 infrastructure development, new and expanded electric power
24 generation, and electric grid reliability projects;

1 (5) promote the relocation of offshore manufacturing
2 facilities to this state;

3 (6) make this state a national and international
4 leader in new and innovative technologies;

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

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

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

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

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

17 Sec. 403.602. DEFINITIONS. In this subchapter:

18 (1) "Additional job" means a full-time job in
19 connection with an eligible project that is not a required job for
20 the same project.

21 (2) "Agreement" means an agreement entered into under
22 Section 403.612.

23 (3) "Applicant" means a person that applies for, or
24 enters into an agreement providing for, a limitation on the taxable
25 value of eligible property used as part of an eligible project,
26 including the person's assignees or successors-in-interest.

27 (4) "Appraised value," "tax year," and "taxing unit"

1 have the meanings assigned by Section 1.04, Tax Code.

2 (5) "Construction completion date" means the date on
3 which an eligible project is first capable of being used for the
4 purposes for which it is constructed.

5 (6) "Construction job" means an otherwise full-time
6 job that is temporary in nature and is performed before the start of
7 the incentive period applicable to an eligible project to perform
8 construction, maintenance, remodeling, or repair work for an
9 applicant in connection with the project.

10 (7) "Construction period" means the period prescribed
11 by an agreement as the construction period of the eligible project
12 that is the subject of the agreement.

13 (8) "County average annual wage for manufacturing
14 jobs" means:

15 (A) the average annual wage in a county for
16 manufacturing jobs during the most recent four quarterly periods
17 for which data is available at the time a person submits an
18 application for a limitation on taxable value under this
19 subchapter, as computed by the Texas Workforce Commission; or

20 (B) the average annual wage for manufacturing
21 jobs in the region designated for the regional planning commission,
22 council of governments, or similar regional planning agency created
23 under Chapter 391, Local Government Code, in which the county is
24 located during the most recent four quarterly periods for which
25 data is available at the time a person submits an application for a
26 limitation on taxable value under this subchapter, as computed by
27 the Texas Workforce Commission.

1 (9) "Eligible project" means a project that:

2 (A) is a national or state security project or
3 supply chain infrastructure project;

4 (B) is a manufacturing project; or

5 (C) requires an investment in a school district
6 in this state of more than \$1 billion.

7 (10) "Eligible property" means property, other than
8 property used for intermittent power generation to supply
9 electricity to the power grid, that is used as part of an eligible
10 project that is wholly owned by an applicant or leased by an
11 applicant under a capitalized lease and consists of:

12 (A) a new building or expansion of an existing
13 building, including a permanent, nonremovable component of a
14 building, that is:

15 (i) constructed after the date the
16 agreement pertaining to the project is entered into; and

17 (ii) located in an area designated as a
18 reinvestment zone under Chapter 311 or 312, Tax Code, or as an
19 enterprise zone under Chapter 2303 of this code, at the time the
20 agreement pertaining to the project is entered into; or

21 (B) tangible personal property, other than
22 inventory, first located in the zone described by Paragraph (A)(ii)
23 after the date the agreement pertaining to the project is entered
24 into.

25 (11) "Full-time job" means a permanent full-time job
26 that requires a total of at least 1,600 hours of work a year in
27 connection with an eligible project.

1 (12) "Grid reliability project" means a project:

2 (A) that generates base load or dispatchable
3 electricity for the power grid, including from thermal sources, or
4 that provides stored energy to the power grid from batteries,
5 regardless of power source;

6 (B) that increases the output capacity or
7 reliability of an existing dispatchable electric power generation
8 facility or that replaces dispatchable electric power generation
9 assets to extend the useful life of the facility, including
10 equipment that enables the use of multiple fuels;

11 (C) that creates or expands the capability to
12 store fuel used by an electric power generation facility,
13 regardless of whether the fuel is stored at the facility site;

14 (D) to produce hydrogen fuel or feed stock;

15 (E) that is a natural gas terminal or storage
16 facility; or

17 (F) that is a gas processing plant, including a
18 plant used in the processing, treatment, or fractionation of
19 natural gas.

20 (13) "Incentive period" for an eligible project means
21 the period prescribed by the agreement pertaining to the project
22 during which the eligible property used as part of the project is
23 subject to a limitation on taxable value.

24 (14) "Independent contractor" has the meaning
25 assigned by Section 406.121, Labor Code.

26 (15) "Investment" means the costs incurred by an
27 applicant to acquire or construct eligible property composing an

1 eligible project, other than the cost of land or inventory.

2 (16) "Manufacturing project" means a project
3 primarily engaged in activities described by Sectors 31-33 of the
4 2022 North American Industry Classification System, including
5 semiconductor fabrication cleanrooms and equipment as defined by
6 Section 151.318(q), Tax Code.

7 (17) "Metropolitan statistical area" means an area so
8 designated by the United States Office of Management and Budget.

9 (18) "National or state security project or supply
10 chain infrastructure project" means:

11 (A) a grid reliability project; or

12 (B) a seawater or brackish groundwater
13 desalination project.

14 (19) "Required job" means a job that an applicant
15 commits to create or demonstrate in connection with an eligible
16 project as prescribed by Section 403.604.

17 (20) "Total jobs" means the sum of required jobs and
18 additional jobs in connection with an eligible project.

19 Sec. 403.603. EXPIRATION. This subchapter expires December
20 31, 2033.

21 Sec. 403.604. REQUIRED JOBS AND INVESTMENT. (a) This
22 section does not apply to a national or state security project or
23 supply chain infrastructure project.

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

27 (1) if the project is to be located in a school

1 district with a taxable value of property of \$10 billion or more for
2 the tax year preceding the year in which the applicant submits the
3 application as determined under Subchapter M:

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

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

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

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

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

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

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

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

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

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

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

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

26 (A) create at least five required jobs by the end
27 of the first tax year of the incentive period prescribed by the

1 agreement and demonstrate an average of at least that number of jobs
2 during each following tax year until the date the agreement
3 expires; and

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

6 (c) For purposes of Subsection (b), each required job
7 created in connection with an eligible project:

8 (1) must be a new full-time job in this state:

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

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

16 (2) may not be transferred by the applicant from an
17 existing facility or location in this state or otherwise created to
18 replace an existing job, unless the applicant fills the vacancy
19 caused by the transfer.

20 (d) For purposes of Subsection (b), an applicant may count
21 as a required job one construction job credit. An applicant is
22 entitled to one construction job credit in connection with an
23 eligible project for every 10 construction jobs created in
24 connection with the project before the date the incentive period
25 for the project begins. An applicant may elect to determine the
26 number of construction jobs for purposes of this subsection as the
27 quotient of:

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

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

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

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

12 (e) For purposes of calculating the applicable number of
13 required jobs under Subsection (b) in connection with an eligible
14 project, an applicant may aggregate the number of hours worked by
15 one or more individuals who work fewer than 1,600 hours a year in
16 connection with the project if the number of hours worked by each of
17 those individuals combined meets or exceeds 1,600 hours of work a
18 year.

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

1 (g) In addition to the requirements of Subsection (b), an
2 applicant for a limitation on taxable value of eligible property to
3 be used for a proposed eligible project may:

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

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

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

19 (1) \$100 million, if the project subject to the
20 agreement is located in a school district with a taxable value of
21 property of \$10 billion or more for the tax year preceding the year
22 in which the applicant submitted the application to which the
23 agreement pertains as determined under Subchapter M;

24 (2) \$75 million, if the project subject to the
25 agreement is located in a school district with a taxable value of
26 property of at least \$1 billion but less than \$10 billion for the
27 tax year preceding the year in which the applicant submitted the

1 application to which the agreement pertains as determined under
2 Subchapter M;

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

9 (4) \$25 million, if the project subject to the
10 agreement is located in a school district with a taxable value of
11 property of at least \$100 million but less than \$500 million for the
12 tax year preceding the year in which the applicant submitted the
13 application to which the agreement pertains as determined under
14 Subchapter M; or

15 (5) \$5 million, if the project subject to the
16 agreement is located in a school district with a taxable value of
17 property of less than \$100 million for the tax year preceding the
18 year in which the applicant submitted the application to which the
19 agreement pertains as determined under Subchapter M.

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

25 (c) The taxable value of eligible property for school
26 district maintenance and operations ad valorem tax purposes is zero
27 for each tax year beginning with the tax year following the year in

1 which the agreement pertaining to the property is entered into and
2 ending December 31 of the tax year that includes the construction
3 completion date for the applicable eligible project.

4 (d) The chief appraiser for the appraisal district in which
5 eligible property is located shall determine the market value and
6 appraised value of the property and include the market value,
7 appraised value, and taxable value of the property as determined
8 under this section in the appraisal records for the appraisal
9 district.

10 (e) The chief appraiser for the appraisal district in which
11 eligible property subject to an agreement is located may not use an
12 estimated value included in the application to which the agreement
13 pertains to determine the market value of the property.

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

19 (b) A person submitting an application under Subsection (a)
20 must use the form prescribed by the comptroller. The form must
21 contain the following information:

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

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

1 (3) the applicable school district's name and address
2 and the contact information for the district's authorized
3 representative;

4 (4) the legal description of the property on which the
5 project is proposed to be located and, if applicable, the address of
6 the proposed project;

7 (5) the applicable number of required jobs prescribed
8 by Section 403.604 for the proposed project;

9 (6) a list of each taxing unit in which the project is
10 proposed to be located;

11 (7) a brief description of the proposed project,
12 including the classification of the project as designated by the
13 North American Industry Classification System;

14 (8) a brief description of the eligible property to be
15 used as part of the proposed project;

16 (9) a projected timeline for construction and
17 completion of the proposed project, including the projected dates
18 on which construction will begin, construction will be completed,
19 and commercial operations will start;

20 (10) the proposed incentive period;

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

24 (12) a brief summary of the projected economic
25 benefits of the proposed project; and

26 (13) the applicant's signature and certification of
27 the accuracy of the information included in the application.

1 (c) The form prescribed by Subsection (b) must allow the
2 applicant to segregate confidential information described by
3 Section 403.622(a) from other information in the application.

4 (d) An applicant must include with an application the
5 following:

6 (1) an application fee payable to the school district
7 in an amount determined by the district not to exceed \$60,000 for an
8 initial application, inclusive of the costs of processing the
9 application, retaining professional services, preparing the school
10 finance impact report required by Section 403.608, and, if
11 applicable, creating a reinvestment zone or enterprise zone;

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

13 (3) the economic benefit statement prepared under
14 Section 403.607 in connection with the proposed project.

15 (e) A school district that receives an application under
16 this section shall forward the application to the comptroller not
17 later than the seventh day after the date the district receives the
18 application.

19 (f) The comptroller may request that an applicant provide
20 any additional information the comptroller reasonably determines
21 is necessary to complete the comptroller's evaluation of the
22 application. The comptroller may require an applicant to submit
23 the additional information by a certain date and may extend that
24 deadline on a showing of good cause. The comptroller is not
25 required to take any further action on an application until it is
26 complete.

27 (g) The comptroller shall notify an applicant and the

1 pertinent school district when the applicant's application is
2 administratively complete.

3 Sec. 403.607. ECONOMIC BENEFIT STATEMENT. (a) An
4 applicant shall submit an economic benefit statement with the
5 applicant's application.

6 (b) An economic benefit statement must include the
7 following information for each year of the period that begins on the
8 date the applicant projects construction of the proposed project
9 that is the subject of the application will begin and ends on the
10 25th anniversary of the date the incentive period ends:

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

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

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

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

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

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

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

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

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

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

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

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

15 (c) An applicant may use standard economic estimation
16 techniques, including economic multipliers, to create an economic
17 benefit statement.

18 (d) The comptroller shall establish criteria for the
19 methodology to be used by an applicant to create an economic benefit
20 statement.

21 (e) The comptroller may require an applicant to supplement
22 or modify an economic benefit statement to ensure the accuracy of
23 the estimates required to be included in the statement under
24 Subsection (b).

25 Sec. 403.608. SCHOOL FINANCE IMPACT REPORT. (a) A school
26 district that receives an application under this subchapter shall
27 promptly prepare a school finance impact report for the proposed

1 project that is the subject of the application and submit a copy of
2 the report to the comptroller and the applicant.

3 (b) A school finance impact report must detail the projected
4 tax and revenue consequences for the school district of the
5 proposed project for each year of the 25-year period beginning on
6 the date the application is received by the district.

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

14 (1) for maintenance and operations purposes; and

15 (2) for interest and sinking fund purposes.

16 (d) A school finance impact report must include, for each
17 year the agreement is proposed to be in effect, a calculation of any
18 anticipated loss of funding, not including facilities funding, to
19 the school district as a result of the agreement. The district shall
20 make the calculations under this subsection in accordance with the
21 law, including the constitution, Chapters 48 and 49, Education
22 Code, and this chapter, rules, and judicial decisions governing
23 school districts and the public school finance system in effect at
24 the time the application is submitted.

25 (e) A school district that enters into an agreement shall
26 update the school finance impact report applicable to the project
27 that is the subject of the agreement not later than March 1 of the

1 first year of the incentive period specified in the agreement. The
2 district must submit a copy of the updated report to the comptroller
3 and the applicant.

4 Sec. 403.609. COMPTROLLER DETERMINATION REGARDING
5 APPLICATION. (a) The comptroller shall determine whether to
6 recommend that a school district approve an application submitted
7 to the district under this subchapter.

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

13 (c) The comptroller shall recommend that a school district
14 approve an application submitted to the district if the comptroller
15 finds that:

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

18 (2) the proposed project is reasonably likely to
19 generate, before the 25th anniversary of the last day of the
20 incentive period, state or local tax revenue, including ad valorem
21 tax revenue attributable to the effect of the project on the economy
22 of this state, in an amount sufficient to offset the school district
23 maintenance and operations ad valorem tax revenue lost as a result
24 of the agreement; and

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

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

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

8 (b) A hearing under this section is a contested case hearing
9 and shall be conducted by the State Office of Administrative
10 Hearings in the manner provided by Section 2003.101.

11 (c) To receive a hearing under this section, an applicant
12 must file a notice of appeal with the comptroller not later than the
13 30th day after the date the comptroller notifies the applicant of
14 the comptroller's determination under Section 403.609. The
15 comptroller's determination becomes final if the applicant does not
16 file the notice of appeal as provided by this subsection.

17 (d) An applicant may seek judicial review of the
18 comptroller's determination in a Travis County district court under
19 the substantial evidence rule as provided by Subchapter G, Chapter
20 2001.

21 Sec. 403.611. SCHOOL DISTRICT ACTION ON APPLICATION. (a)
22 The governing body of a school district shall approve or disapprove
23 an application submitted to the district under this subchapter that
24 the comptroller recommends be approved by the district. The
25 governing body may approve an application only if the comptroller
26 recommends the application be approved. The governing body shall
27 approve or disapprove the application not later than the 35th day

1 after the date the comptroller notifies the district of the
2 comptroller's determination under Section 403.609. The governing
3 body may extend the deadline prescribed by this subsection on
4 written request of the applicant.

5 (b) If the governing body of the school district and the
6 applicant agree on an amendment to the application, the amended
7 application must be submitted to the comptroller for a
8 redetermination regarding the application. The comptroller shall
9 notify the applicant and school district of the comptroller's
10 redetermination regarding the application not later than the 30th
11 day after the date the comptroller receives the amended
12 application.

13 (c) The presiding officer of the governing body of a school
14 district shall notify the applicant and the comptroller of the
15 governing body's approval or disapproval of an application not
16 later than the seventh day after the date the governing body
17 approves or disapproves the application.

18 (d) Except for a payment authorized by this subchapter, an
19 employee or representative of a school district, a member of the
20 governing body of the district, or any other person may not
21 intentionally or knowingly solicit, accept, agree to accept, or
22 require any payment of money or transfer of property or other thing
23 of value, directly or indirectly, to the district, an employee or
24 representative of the district, a member of the governing body of
25 the district, or any other person in recognition of, anticipation
26 of, or consideration for approval of an application under this
27 section.

1 (e) Except for a payment authorized by this subchapter, an
2 applicant, an employee or representative of the applicant, or any
3 other person may not intentionally or knowingly offer, confer,
4 agree to confer, or make a payment of money or transfer of property
5 or other thing of value, directly or indirectly, to the school
6 district, an employee or representative of the district, a member
7 of the governing body of the district, or any other person in
8 recognition of, anticipation of, or consideration for approval of
9 an application under this section.

10 Sec. 403.612. AGREEMENT. (a) The governing body of a
11 school district that approves an application under Section 403.611
12 shall enter into an agreement with the applicant that submitted the
13 application.

14 (b) An agreement entered into under this section between an
15 applicant and a school district for an eligible project shall:

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

18 (2) specify the term of the agreement, which must:

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

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

23 (3) specify the incentive period for the project;

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

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

4 (6) if the applicant is subject to the jobs
5 requirement prescribed by Section 403.604, require that the average
6 annual wage paid to all persons employed by the applicant in
7 connection with the project used to calculate total jobs, other
8 than a required job derived from a construction job credit, exceed
9 110 percent of the county average annual wage for manufacturing
10 jobs in the county where the job is located, with the applicant's
11 average annual wage being equal to the quotient of:

12 (A) the applicant's total wages paid, other than
13 wages paid for construction jobs, as reported under Section
14 403.617(c)(4); and

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

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

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

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

27 (10) incorporate each relevant provision of this

1 subchapter.

2 (c) An agreement entered into under this section between an
3 applicant and a school district pertaining to an eligible project
4 may:

5 (1) require the applicant to:

6 (A) either:

7 (i) share a percentage of the applicant's
8 tax revenue savings with the district, as computed under Section
9 403.614; or

10 (ii) pay the district an amount specified
11 in the agreement, which may not be less than \$75,000 for each tax
12 year during the incentive period; and

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

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

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

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

24 (d) An agreement entered into under this section between an
25 applicant and a school district pertaining to an eligible project
26 may not require the applicant to make a payment to the district
27 other than a payment prescribed by this subchapter.

1 (e) This subsection applies to a term described by
2 Subsection (b)(9). The agreement must provide that the school
3 district:

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

7 (2) may not terminate the agreement until the district
8 provides written notice to the applicant of the proposed
9 termination;

10 (3) must provide the applicant the opportunity to cure
11 and dispute the alleged failure, including through judicial action;
12 and

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

16 (f) This subsection applies only if an agreement includes a
17 term described by Subsection (c)(2). In this subsection, a
18 material change is a change that results in an indemnity payment
19 calculated under this subsection for a tax year that is at least 10
20 percent of the amount of any anticipated loss of funding calculated
21 for that tax year as specified in the updated school finance impact
22 report required by Section 403.608(e). The agreement must require
23 the applicant to make an indemnity payment to the school district
24 for a tax year during the incentive period in which the district's
25 revenue is reduced as a direct result of the enactment of
26 legislation or a final judicial determination that results in a
27 substantial change that affects the Foundation School Program, not

1 including facilities funding, and directly affects an agreement
2 resulting in a material change. The amount of the indemnity payment
3 is equal to the difference between the amount of revenue the
4 district would have received in that tax year had the legislation
5 not been enacted, the constitution not been amended, or the final
6 judicial determination not been made and the amount of revenue
7 actually received by the district in that tax year. The agreement
8 must provide that, as an alternative to making the indemnity
9 payment, the applicant may elect to terminate the agreement by
10 notifying the district in writing of the termination. An agreement
11 terminated under this subsection is void, and all remaining
12 obligations and benefits under the agreement and this subchapter
13 terminate on the date the agreement is terminated. The agreement
14 may not require the applicant to pay back any benefit the applicant
15 received under the agreement before the date the agreement is
16 terminated under this subsection.

17 (g) For purposes of Subsection (f), the Texas Education
18 Agency shall determine whether a law enacted by the legislature or a
19 final judicial determination results in a substantial change that
20 affects the Foundation School Program, not including facilities
21 funding, and directly affects an agreement resulting in a material
22 change. If the agency makes a determination under this subsection
23 related to an agreement, the agency shall establish the method the
24 applicable school district must use to calculate the indemnity
25 payment and certify the calculation made by the district.

26 (h) This subsection applies only if an agreement includes a
27 term described by Subsection (c)(4). The agreement may authorize

1 the school district to terminate the agreement under the
2 circumstances described by Subsection (f) if the district
3 determines that the indemnity payment made by the applicant would
4 not fully reimburse the district as required by that subsection.
5 The district must notify the applicant in writing of the
6 termination. An agreement terminated under this subsection is
7 void, and all remaining obligations and benefits under the
8 agreement and this subchapter terminate on the date the agreement
9 is terminated. The agreement may not require the applicant to pay
10 back any benefit the applicant received under the agreement before
11 the date the agreement is terminated under this subsection.

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

16 (j) The school district shall append the economic benefit
17 statement applicable to the project that is the subject of the
18 agreement to the agreement.

19 (k) The school district shall submit each agreement entered
20 into by the district to the comptroller not later than the seventh
21 day after the date the agreement is entered into.

22 Sec. 403.613. INCENTIVE PERIOD. (a) An incentive period
23 pertaining to an eligible project is the period specified in the
24 agreement for the project, which must be a period of 10 consecutive
25 tax years.

26 (b) An incentive period may not begin:

27 (1) earlier than January 1 of the first tax year

1 following the construction completion date; or
2 (2) later than January 1 of the first tax year
3 following the 10th anniversary of the date the agreement is entered
4 into.

5 (c) Subject to Subsection (b), the beginning date of an
6 incentive period specified in an agreement pertaining to an
7 eligible project is deferred if the applicant does not satisfy the
8 minimum investment requirement applicable to the project on or
9 before the date the incentive period is specified to begin under the
10 agreement. The incentive period is deferred until January 1 of the
11 year following the year in which the applicant satisfies the
12 investment requirement pertaining to the project. The deferral of
13 an incentive period under this subsection does not affect the date
14 on which the incentive period ends as prescribed by the agreement.

15 (d) Subject to Subsection (b), an applicant may propose to
16 modify the beginning and ending dates of the incentive period as
17 provided by this subsection. The applicant shall provide notice of
18 the proposed modification to the comptroller and the school
19 district not later than the 90th day before the first day of the
20 incentive period specified in Section 403.612(b)(3) or as proposed
21 to be modified, whichever is earlier. The applicant shall revise
22 the most recent economic benefit statement as necessary to reflect
23 the proposed change to the incentive period. The applicant must
24 include the revised economic benefit statement with the notice
25 provided to the comptroller and the district under this subsection.
26 The comptroller shall make the finding required by Section
27 403.609(c)(2) regarding the project as proposed to be modified or

1 determine that the finding cannot be made. The comptroller shall
2 notify the applicant and the district of the comptroller's finding
3 or determination not later than the 60th day after the date the
4 comptroller receives notice from the applicant of the proposed
5 modification. The applicant may appeal the comptroller's
6 determination in the manner provided by Section 403.610. The
7 incentive period for the project may not be modified if the
8 comptroller determines that the finding required by Section
9 403.609(c)(2) regarding the project as proposed to be modified
10 cannot be made or, if the determination is appealed, the applicant
11 is not successful on appeal before the beginning of the original or
12 modified incentive period, whichever is earlier.

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

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

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

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

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

25 (A) the amount computed by:

26 (i) subtracting the taxable value of the
27 property as determined under Section 403.612(b)(4) from the

1 appraised value of the property for that tax year; and

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

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

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

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

13 (1) \$3 million or less is the amount equal to the
14 product of the amount computed under Subsection (a)(2) and the
15 applicable tax savings percentage specified in the agreement
16 between the applicant and the school district, which may not exceed
17 30 percent;

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

20 (A) the product of:

21 (i) \$3 million; and

22 (ii) the applicable tax savings percentage
23 specified in the agreement, which may not exceed 30 percent; and

24 (B) the product of:

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

27 (ii) the applicable tax savings percentage

1 specified in the agreement, which may not exceed 20 percent; and
2 (3) \$7 million or more is the amount equal to the sum
3 of the following amounts:

4 (A) the product of:
5 (i) \$3 million; and
6 (ii) the applicable tax savings percentage
7 specified in the agreement, which may not exceed 30 percent;

8 (B) the product of:
9 (i) \$4 million; and
10 (ii) the applicable tax savings percentage
11 specified in the agreement, which may not exceed 20 percent; and

12 (C) the product of:
13 (i) the difference between the amount
14 computed under Subsection (a)(2) and \$7 million; and
15 (ii) the applicable tax savings percentage
16 specified in the agreement, which may not exceed 10 percent.

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

25 (1) the difference between:
26 (A) the number of required jobs prescribed by the
27 agreement; and

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

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

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

14 (1) the product of:

15 (A) the actual average annual wage paid to all
16 persons employed by the applicant in connection with the project
17 that is the subject of the agreement as computed under Section
18 403.612(b)(6); and

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

21 (2) the product of:

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

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

26 (c) Notwithstanding Subsections (a) and (b), the amount of a
27 penalty imposed on an applicant under this section may not exceed

1 the amount of the ad valorem tax benefit received by the applicant
2 under the agreement that is the subject of the penalty.

3 (d) An applicant on request of the comptroller shall provide
4 to the comptroller a schedule of required jobs created as of the
5 date of the request under an agreement to which the applicant is a
6 party.

7 (e) A determination by the comptroller that an applicant has
8 failed to meet the jobs or wage requirement prescribed by an
9 agreement to which the applicant is a party is a deficiency
10 determination under Section 111.008, Tax Code. A penalty imposed
11 under this section is an amount the comptroller is required to
12 collect, receive, administer, or enforce, and is subject to the
13 payment and redetermination requirements of Sections 111.0081 and
14 111.009, Tax Code. A redetermination under Section 111.009, Tax
15 Code, of a determination under this section is a contested case as
16 defined by Section 2001.003 of this code.

17 (f) An applicant may challenge under Subchapters A and B,
18 Chapter 112, Tax Code, a determination under this section that
19 imposes a penalty on the applicant if the applicant contends that
20 the amount of the penalty is unlawful or that the comptroller may
21 not legally demand or collect the amount.

22 (g) The comptroller shall deposit the amount collected
23 under this section, including any interest applicable to the
24 amount, to the credit of the foundation school fund.

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

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

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

5 (b) 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 subchapter.

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

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

15 (c) A report required by this section must include the
16 following documents and information applicable to the agreement
17 that is the subject of the report:

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

21 (A) a sworn affidavit stating:

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

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

27 (iii) the name and contact information of

1 each person who employs a person described by Subparagraph (ii),
2 other than the applicant or the applicant's affiliates;

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

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

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

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

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

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

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

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

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

26 (9) the amount of school district maintenance and
27 operations ad valorem taxes imposed on the property composing the

1 project and paid by the applicant for each previous tax year of the
2 agreement;

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

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

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

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

18 (d) This subsection applies only to a report required to be
19 submitted under this section by an applicant for the period that
20 includes the first year of the incentive period as prescribed by the
21 agreement that is the subject of the report or as deferred. In
22 addition to the documents and information described by Subsection
23 (c), the applicant must include with the certification required by
24 Subsection (c)(1):

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

27 (2) the current total appraised value of the property

1 composing the project; and

2 (3) if applicable, a statement that the incentive
3 period was deferred because the applicant did not meet the minimum
4 investment requirement prescribed by the agreement before the date
5 specified in the agreement.

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

9 (b) A school district must submit the report not later than
10 June 1 of each even-numbered year:

11 (1) beginning in the first even-numbered year
12 following the year in which the governing body of the district
13 approves the application for the project that is the subject of the
14 agreement; and

15 (2) ending in the last even-numbered year before the
16 third anniversary of the expiration of the incentive period
17 prescribed by the agreement.

18 (c) The report must include:

19 (1) the total amount received from the applicant under
20 the agreement for each previous year;

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

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

26 Sec. 403.619. BIENNIAL REPORT TO LEGISLATURE. (a) The
27 comptroller shall submit to the lieutenant governor, the speaker of

1 the house of representatives, and each other member of the
2 legislature a report on the agreements entered into under this
3 subchapter. The comptroller must submit the report not later than
4 December 1 of each even-numbered year.

5 (b) The report must include:

6 (1) an assessment of the following with regard to the
7 agreements entered into under this subchapter, considered in the
8 aggregate:

9 (A) the total number of jobs created in this
10 state;

11 (B) the total effect on personal income in this
12 state;

13 (C) the total amount of investment in this state;

14 (D) the total taxable value of property on the
15 tax rolls in this state resulting from the agreements, including
16 property subject to an agreement that has expired;

17 (E) the total value of property subject to
18 agreements that have not expired; and

19 (F) the total fiscal effect resulting from the
20 agreements on this state and on local governments in this state; and

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

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

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

27 (i) each job described by Section

- 1 403.604(c)(1)(A);
2 (ii) each job described by Section
3 403.604(c)(1)(B);
4 (iii) each construction job credit
5 described by Section 403.604(d) counted by an applicant as a
6 required job; and
7 (iv) any additional jobs created or
8 maintained in connection with the project that is the subject of the
9 agreement, if reported by the applicant;
10 (C) the number of total jobs created under the
11 agreement, if the term of the agreement has expired;
12 (D) the amount of the investment specified by the
13 agreement;
14 (E) the amount of the actual investment made for
15 the applicable project before the expiration of the agreement;
16 (F) the difference between the amount of ad
17 valorem taxes that would have been imposed on the property
18 composing the applicable project in the absence of the agreement
19 and the amount of ad valorem taxes actually imposed on that property
20 during the term of the agreement;
21 (G) the total amount of state and local tax
22 revenue attributable to the applicable project during the term of
23 the agreement;
24 (H) the total amount received by the school
25 district from the applicant under the agreement for each previous
26 year;
27 (I) the total amount of any other direct or

1 indirect benefit received by the district from the applicant for
2 each previous year, including an in-kind contribution; and

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

6 (c) The comptroller may not include in the report
7 information that is confidential under law.

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

11 (e) The comptroller may require an applicant to submit
12 information required to complete the report on a form prescribed by
13 the comptroller.

14 Sec. 403.620. CONFLICT OF INTEREST. A person may not,
15 directly or indirectly, represent, advise, or provide a service to
16 both an applicant and a school district in connection with the same
17 application submitted or agreement entered into under this
18 subchapter.

19 Sec. 403.621. TREATMENT OF PAYMENTS TO SCHOOL DISTRICTS. A
20 payment by an applicant to a school district under this subchapter
21 other than a payment of ad valorem taxes imposed by the district may
22 not be treated as tax revenue collected by the district for any
23 purpose under Chapter 48 or 49, Education Code.

24 Sec. 403.622. CONFIDENTIALITY OF CERTAIN BUSINESS
25 INFORMATION. (a) Information provided to a school district or the
26 comptroller by an applicant under this subchapter that is a trade
27 secret, as defined by Section 134A.002, Civil Practice and Remedies

1 Code, is confidential and not subject to disclosure under Chapter
2 552.

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

6 Sec. 403.623. INTERNET POSTING OF INFORMATION. (a)
7 Subject to Section 403.622, the comptroller shall post on the
8 comptroller's Internet website the following information received
9 by the comptroller:

- 10 (1) each application submitted under this subchapter;
11 (2) each map and economic benefit statement required
12 to be submitted with an application under this subchapter;
13 (3) each amendment to an application made under this
14 subchapter;
15 (4) each agreement entered into under this subchapter;
16 and
17 (5) each biennial compliance report submitted as
18 required under this subchapter.

19 (b) Except as provided by Subsection (c), the comptroller
20 shall post the information described by Subsection (a) as soon as
21 practicable after the date the comptroller receives the
22 information.

23 (c) The comptroller shall post the information described by
24 Subsections (a)(1), (2), and (3) not later than the 10th business
25 day after the date the comptroller receives the information.

26 (d) The comptroller shall continue to post the information
27 required by this section until the date the agreement to which the

1 information relates expires.

2 Sec. 403.624. RULES AND FORMS. (a) The comptroller shall
3 adopt rules necessary to implement and administer this subchapter,
4 including rules for:

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

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

10 (b) The comptroller shall adopt forms necessary to
11 implement and administer this subchapter, including the forms to be
12 used by:

13 (1) an applicant under Section 403.606;

14 (2) an applicant under Section 403.617; and

15 (3) a school district under Section 403.618.

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

21 SECTION 2. Section 48.2551(a), Education Code, is amended
22 to read as follows:

23 (a) In this section:

24 (1) "DPV" is the taxable value of property in the
25 school district, as determined by the agency by rule, using locally
26 determined property values adjusted in accordance with Section
27 403.302(d), Government Code;

1 (2) "E" is the expiration of the exclusion of
2 appraised property value for the preceding tax year that is
3 recognized as taxable property value for the current tax year,
4 which is the sum of the following:

5 (A) property value that is no longer subject to a
6 limitation on appraised value under former Subchapter B or C,
7 Chapter 313, Tax Code, or a limitation on taxable value under
8 Subchapter T, Chapter 403, Government Code; and

9 (B) property value under Section 311.013(n), Tax
10 Code, that is no longer excluded from the calculation of "DPV" from
11 the preceding year because of refinancing or renewal after
12 September 1, 2019;

13 (3) "MCR" is the district's maximum compressed rate,
14 which is the tax rate for the current tax year per \$100 of valuation
15 of taxable property at which the district must levy a maintenance
16 and operations tax to receive the full amount of the tier one
17 allotment to which the district is entitled under this chapter;

18 (4) "PYDPV" is the district's value of "DPV" for the
19 preceding tax year; and

20 (5) "PYMCR" is the district's value of "MCR" for the
21 preceding tax year.

22 SECTION 3. Section 48.256, Education Code, is amended by
23 amending Subsections (d) and (e) and adding Subsection (d-1) to
24 read as follows:

25 (d) This subsection applies to a school district in which
26 the board of trustees entered into a written agreement with a
27 property owner [~~under Section 313.027, Tax Code,~~] for the

1 implementation of a limitation on taxable [~~appraised~~] value under
2 Subchapter T, Chapter 403, Government [~~B or C, Chapter 313, Tax~~]
3 Code. For purposes of determining "DPV" under Subsection (a) for a
4 school district to which this subsection applies, the commissioner
5 shall exclude a portion of the market value of property not
6 otherwise fully taxable by the district under Subchapter T, Chapter
7 403, Government [~~B or C, Chapter 313, Tax~~] Code[, ~~before the~~
8 ~~expiration of the subchapter~~]. The comptroller shall provide
9 information to the agency necessary for this subsection.

10 (d-1) Subsection (d) applies to an agreement for the
11 implementation of a limitation on appraised value under former
12 Subchapter B or C, Chapter 313, Tax Code, that was in effect on
13 January 1, 2023, in the same manner as that subsection applies to an
14 agreement described by that subsection. If the agreement for the
15 limitation on appraised value requires a [A] revenue protection
16 payment to the school district, the payment [~~required as part of an~~
17 ~~agreement for a limitation on appraised value~~] shall be based on the
18 district's taxable value of property for the preceding tax year.

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

23 SECTION 4. Section 2303.507, Government Code, is amended to
24 read as follows:

25 Sec. 2303.507. TAX INCREMENT FINANCING AND
26 ABATEMENT; LIMITATIONS ON APPRAISED AND TAXABLE
27 VALUE. Designation of an area as an enterprise zone is also

1 designation of the area as a reinvestment zone for:

2 (1) tax increment financing under Chapter 311, Tax
3 Code;

4 (2) tax abatement under Chapter 312, Tax Code; ~~and~~

5 (3) limitations on appraised value under former
6 Subchapter B or C, Chapter 313, Tax Code; and

7 (4) limitations on taxable value under Subchapter T,
8 Chapter 403, of this code.

9 SECTION 5. Section 23.03, Tax Code, is amended to read as
10 follows:

11 Sec. 23.03. COMPILATION OF LARGE PROPERTIES AND PROPERTIES
12 SUBJECT TO LIMITATION ON APPRAISED OR TAXABLE VALUE. Each year the
13 chief appraiser shall compile and send to the Texas ~~[Department of]~~
14 Economic Development and Tourism Office a list of properties in the
15 appraisal district that in that tax year:

16 (1) have a market value of \$100 million or more; ~~or~~

17 (2) are subject to a limitation on appraised value
18 under former Subchapter B or C, Chapter 313; or

19 (3) are subject to a limitation on taxable value under
20 Subchapter T, Chapter 403, Government Code.

21 SECTION 6. Section 26.012(6), Tax Code, is amended to read
22 as follows:

23 (6) "Current total value" means the total taxable
24 value of property listed on the appraisal roll for the current year,
25 including all appraisal roll supplements and corrections as of the
26 date of the calculation, less the taxable value of property
27 exempted for the current tax year for the first time under Section

1 11.31 or 11.315, except that:

2 (A) the current total value for a school district
3 excludes:

4 (i) the total value of homesteads that
5 qualify for a tax limitation as provided by Section 11.26; ~~and~~

6 (ii) new property value of property that is
7 subject to an agreement entered into under former Subchapter B or C,
8 Chapter 313; and

9 (iii) new property value of property that
10 is subject to an agreement entered into under Subchapter T, Chapter
11 403, Government Code; and

12 (B) the current total value for a county,
13 municipality, or junior college district excludes the total value
14 of homesteads that qualify for a tax limitation provided by Section
15 11.261.

16 SECTION 7. Section 171.602(f), Tax Code, is amended to read
17 as follows:

18 (f) The comptroller may not issue a credit under this
19 section before the later of:

20 (1) ~~September 1, 2018, or~~
21 ~~(2)~~ the expiration of an agreement under former
22 Subchapter B or C, Chapter 313, regarding the clean energy project
23 for which the credit is issued; or

24 (2) the expiration of an agreement under Subchapter T,
25 Chapter 403, Government Code, regarding the clean energy project
26 for which the credit is issued.

27 SECTION 8. Section 312.0025(a), Tax Code, is amended to

1 read as follows:

2 (a) Notwithstanding any other provision of this chapter to
3 the contrary, the governing body of a school district, in the manner
4 required for official action and for purposes of former Subchapter
5 B or C, Chapter 313, of this code or Subchapter T, Chapter 403,
6 Government Code, may designate an area entirely within the
7 territory of the school district as a reinvestment zone if the
8 governing body finds that, as a result of the designation and the
9 granting of a limitation on appraised value under former Subchapter
10 B or C, Chapter 313, of this code or the granting of a limitation on
11 taxable value under Subchapter T, Chapter 403, Government Code, for
12 property located in the reinvestment zone, the designation is
13 reasonably likely to:

14 (1) contribute to the expansion of primary employment
15 in the reinvestment zone; or

16 (2) attract major investment in the reinvestment zone
17 that would:

18 (A) be a benefit to property in the reinvestment
19 zone and to the school district; and

20 (B) contribute to the economic development of the
21 region of this state in which the school district is located.

22 SECTION 9. It is the intent of the legislature that the
23 amendment made by this Act to Section 48.2551, Education Code,
24 ensures that school district maintenance and operations ad valorem
25 tax revenue generated by the increase in taxable value of property
26 following the expiration of an agreement for a limitation on
27 taxable value of the property under Subchapter T, Chapter 403,

1 Government Code, as added by this Act, is considered in the
2 computation of the maximum compressed rate under Section 48.2551,
3 Education Code, and voter-approval tax rate under Section 26.08,
4 Tax Code, of the school district that is a party to the expired
5 agreement.

6 SECTION 10. This Act takes effect March 1, 2024.

ADOPTED

MAY 24 2023

Lacey Shaw
Secretary of the Senate

By: C. Schwab

H.B. No. 5

Substitute the following for H.B. No. 5:

By: C. Schwab

C.S.H.B. No. 5

A BILL TO BE ENTITLED

1 AN ACT

2 relating to agreements authorizing a limitation on taxable value of
3 certain property to provide for the creation of jobs and the
4 generation of state and local tax revenue; authorizing a fee;
5 authorizing penalties.

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

7 SECTION 1. Chapter 403, Government Code, is amended by
8 adding Subchapter T to read as follows:

9 SUBCHAPTER T. TEXAS JOBS, ENERGY, TECHNOLOGY, AND INNOVATION ACT

10 Sec. 403.601. PURPOSES. The purposes of this subchapter
11 are to:

12 (1) create new, high-paying permanent jobs and
13 construction jobs in this state;

14 (2) encourage financially positive economic
15 development in this state;

16 (3) provide a temporary competitive economic
17 incentive for attracting certain large-scale economic development
18 projects to this state that, in the absence of this subchapter,
19 would likely locate in another state or nation;

20 (4) encourage energy and water infrastructure
21 development, including new and expanded dispatchable electric
22 generation facilities;

23 (5) make this state a national and international
24 leader in new and innovative technologies;

1 (6) encourage the establishment of certain advanced
2 manufacturing industry sectors critical to national defense and
3 health care;

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

6 (8) provide growing and sustainable economic
7 opportunity for the residents of this state; and

8 (9) incentivize the preceding objectives in a
9 balanced, transparent, and accountable manner.

10 Sec. 403.602. DEFINITIONS. In this subchapter:

11 (1) "Additional job" means a full-time job in
12 connection with an eligible project that is not a required job for
13 the same project.

14 (2) "Agreement" means an agreement entered into under
15 Section 403.612.

16 (3) "Applicant" means a person that applies for, or
17 enters into an agreement providing for, a limitation on the taxable
18 value of eligible property used as part of an eligible project,
19 including the person's assignees or successors-in-interest.

20 (4) "Appraised value," "tax year," and "taxing unit"
21 have the meanings assigned by Section 1.04, Tax Code.

22 (5) "Construction completion date" means the date on
23 which an eligible project is first capable of being used for the
24 purposes for which it is constructed.

25 (6) "Construction job" means an otherwise full-time
26 job that is temporary in nature and is performed before the start of
27 the incentive period applicable to an eligible project to perform

1 construction, maintenance, remodeling, or repair work for an
2 applicant in connection with the project.

3 (7) "Construction period" means the period prescribed
4 by an agreement as the construction period of the eligible project
5 that is the subject of the agreement.

6 (8) "Eligible project" means a project to construct a
7 new facility or expand an existing facility:

8 (A) that is:

9 (i) an electric generation facility that is
10 considered to be dispatchable because the facility's output can be
11 controlled primarily by forces under human control;

12 (ii) a petrochemical manufacturing
13 facility;

14 (iii) a semiconductor fabrication
15 facility;

16 (iv) a seawater or brackish groundwater
17 desalination facility;

18 (v) a natural gas terminal or storage
19 facility;

20 (vi) a gas processing plant, including a
21 plant used in the processing, treatment, or fractionation of
22 natural gas;

23 (vii) a facility to produce or store
24 hydrogen or hydrogen-derived fuel;

25 (viii) a carbon capture facility;

26 (ix) a petroleum refinery;

27 (x) a pharmaceutical manufacturing

1 facility;

2 (xi) a facility to manufacture emerging or
3 innovative technologies, including aerospace products and parts;

4 (xii) an automotive manufacturing
5 facility; or

6 (xiii) a facility that will serve as the
7 headquarters of a for-profit, publicly traded company with more
8 than \$5 billion in annual revenue; and

9 (B) that is not:

10 (i) a nondispatchable electric generation
11 facility; or

12 (ii) an electric energy storage facility.

13 (9) "Eligible property" means property that is used as
14 part of an eligible project that is wholly owned by an applicant or
15 leased by an applicant under a capitalized lease and consists of:

16 (A) a new building or expansion of an existing
17 building, including a permanent, nonremovable component of a
18 building, that is:

19 (i) constructed after the date the
20 agreement pertaining to the project is entered into; and

21 (ii) located in an area designated as a
22 reinvestment zone under Chapter 311 or 312, Tax Code, or as an
23 enterprise zone under Chapter 2303 of this code, at the time the
24 agreement pertaining to the project is entered into; or

25 (B) tangible personal property, other than
26 inventory, first located in the zone described by Paragraph (A)(ii)
27 after the date the agreement pertaining to the project is entered

1 into.

2 (10) "Full-time job" means a permanent full-time job
3 that requires a total of at least 1,600 hours of work a year in
4 connection with an eligible project. The term does not include a
5 construction job.

6 (11) "Incentive period" for an eligible project means
7 the period prescribed by the agreement pertaining to the project
8 during which the eligible property used as part of the project is
9 subject to a limitation on taxable value.

10 (12) "Independent contractor" has the meaning
11 assigned by Section 406.121, Labor Code.

12 (13) "Investment" means the costs incurred by an
13 applicant to acquire or construct eligible property composing an
14 eligible project, other than the cost of land or inventory.

15 (14) "Oversight committee" means the Jobs, Energy,
16 Technology, and Innovation Act Oversight Committee established
17 under Section 403.611.

18 (15) "Required job" means a job that an applicant
19 commits to create or demonstrate in connection with an eligible
20 project as prescribed by Section 403.604.

21 (16) "Total jobs" means the sum of required jobs and
22 additional jobs in connection with an eligible project.

23 Sec. 403.603. EXPIRATION. This subchapter expires December
24 31, 2033.

25 Sec. 403.604. REQUIRED JOBS AND INVESTMENT. (a) A jobs
26 requirement prescribed by this section does not apply to an
27 eligible project that is an electric generation facility described

1 by Section 403.602(8)(A)(i).

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

5 (1) if the project is to be located in a county with a
6 population of at least 750,000:

7 (A) create at least 150 required jobs by the end
8 of the first tax year of the incentive period prescribed by the
9 agreement and demonstrate an average of at least that number of jobs
10 during each following tax year until the date the agreement
11 expires; and

12 (B) make an investment in the project in an
13 amount of at least \$200 million by the end of the first tax year of
14 the incentive period prescribed by the agreement;

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

17 (A) create at least 100 required jobs by the end
18 of the first tax year of the incentive period prescribed by the
19 agreement and demonstrate an average of at least that number of jobs
20 during each following tax year until the date the agreement
21 expires; and

22 (B) make an investment in the project in an
23 amount of at least \$100 million by the end of the first tax year of
24 the incentive period prescribed by the agreement;

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

27 (A) create at least 70 required jobs by the end of

1 the first tax year of the incentive period prescribed by the
2 agreement and demonstrate an average of at least that number of jobs
3 during each following tax year until the date the agreement
4 expires; and

5 (B) make an investment in the project in an
6 amount of at least \$50 million by the end of the first tax year of
7 the incentive period prescribed by the agreement; or

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

10 (A) create at least 20 required jobs by the end of
11 the first tax year of the incentive period prescribed by the
12 agreement and demonstrate an average of at least that number of jobs
13 during each following tax year until the date the agreement
14 expires; and

15 (B) make an investment in the project in an
16 amount of at least \$20 million by the end of the first tax year of
17 the incentive period prescribed by the agreement.

18 (c) For purposes of Subsection (b), each required job
19 created in connection with an eligible project:

20 (1) must be a new full-time job in this state:

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

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

1 (2) may not be transferred by the applicant from an
2 existing facility or location in this state or otherwise created to
3 replace an existing job, unless the applicant fills the vacancy
4 caused by the transfer.

5 (d) For purposes of Subsection (b), an applicant may
6 demonstrate that the applicant has met the applicable minimum
7 investment requirement by any reasonable means. The applicant is
8 considered to have met the applicable minimum investment
9 requirement if the most recent appraisal roll for the county used to
10 determine the minimum investment requirement under this section
11 indicates that the appraised value of the eligible property
12 composing the project as of January 1 of the second tax year of the
13 incentive period prescribed by the agreement is equal to or greater
14 than the minimum investment requirement applicable to the project.

15 (e) If an eligible project is located in more than one
16 county, the jobs and investment requirement applicable to the
17 project is determined using the jobs and investment requirement
18 applicable to the county with the smallest population in which any
19 part of the project is located.

20 (f) The comptroller may adopt rules necessary to interpret
21 and administer this section, including rules regarding:

22 (1) the manner for determining:

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

25 (B) the circumstances under which a trainee under
26 the Texans Work program established under Chapter 308, Labor Code,
27 may be considered a full-time employee for purposes of this

1 section; and

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

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

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

15 (2) \$75 million, if the project subject to the
16 agreement is located in a school district with a taxable value of
17 property of at least \$1 billion but less than \$10 billion for the
18 tax year preceding the year in which the applicant submitted the
19 application to which the agreement pertains as determined under
20 Subchapter M;

21 (3) \$50 million, if the project subject to the
22 agreement is located in a school district with a taxable value of
23 property of at least \$500 million but less than \$1 billion for the
24 tax year preceding the year in which the applicant submitted the
25 application to which the agreement pertains as determined under
26 Subchapter M;

27 (4) \$25 million, if the project subject to the

1 agreement is located in a school district with a taxable value of
2 property of at least \$100 million but less than \$500 million for the
3 tax year preceding the year in which the applicant submitted the
4 application to which the agreement pertains as determined under
5 Subchapter M; or

6 (5) \$5 million, if the project subject to the
7 agreement is located in a school district with a taxable value of
8 property of less than \$100 million for the tax year preceding the
9 year in which the applicant submitted the application to which the
10 agreement pertains as determined under Subchapter M.

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

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

22 (d) The chief appraiser for the appraisal district in which
23 eligible property is located shall determine the market value and
24 appraised value of the property and include the market value,
25 appraised value, and taxable value of the property as determined
26 under this section in the appraisal records for the appraisal
27 district.

1 (e) The chief appraiser for the appraisal district in which
2 eligible property subject to an agreement is located may not use an
3 estimated value included in the application to which the agreement
4 pertains to determine the market value of the property.

5 Sec. 403.606. CERTAIN PERSONS INELIGIBLE. A person is not
6 eligible to submit an application to the comptroller or enter into
7 an agreement under this subchapter if the person is a company that:

8 (1) is listed as ineligible to receive a state
9 contract or investment under Chapter 808, 809, 2270, 2271, or 2274,
10 as added by Chapters 529 (S.B. 13), 530 (S.B. 19), and 975 (S.B.
11 2116), Acts of the 87th Legislature, Regular Session, 2021; or

12 (2) directly or indirectly prohibits or limits:

13 (A) the exploration for, or the production,
14 utilization, transport, sale, or manufacture of, fossil fuel-based
15 energy solely because of the risks associated with fossil
16 fuel-based energy; or

17 (B) participation in a legal activity for the
18 purpose of achieving environmental, social, or political ends.

19 Sec. 403.607. APPLICATION. (a) A person who proposes to
20 construct an eligible project in a school district for which the
21 person seeks a limitation on the taxable value for maintenance and
22 operations ad valorem tax purposes of the district of the eligible
23 property used as part of the proposed project must submit an
24 application to the comptroller.

25 (b) A person submitting an application under Subsection (a)
26 must use the form prescribed by the comptroller. The form must
27 contain the following information:

- 1 (1) the applicant's name, address, and Texas taxpayer
2 identification number and the contact information for the
3 applicant's authorized representative;
- 4 (2) the applicant's form of business and, if
5 applicable, the name, address, and Texas taxpayer identification
6 number of the applicant's parent entity;
- 7 (3) the applicable school district's name and address
8 and the contact information for the district's authorized
9 representative;
- 10 (4) the legal description of the property on which the
11 project is proposed to be located and, if applicable, the address of
12 the proposed project;
- 13 (5) each county in which the project is proposed to be
14 located and the population of each of those counties;
- 15 (6) the applicable number of required jobs prescribed
16 by Section 403.604 for the proposed project;
- 17 (7) a list of each taxing unit in which the project is
18 proposed to be located;
- 19 (8) a brief description of the proposed project;
- 20 (9) any grant or loan of public money or other tax
21 incentive, if applicable, that the applicant is receiving or
22 expects to receive for the project;
- 23 (10) a brief description of the eligible property to
24 be used as part of the proposed project;
- 25 (11) a projected timeline for construction and
26 completion of the proposed project, including the projected dates
27 on which construction will begin, construction will be completed,

1 and commercial operations will start;

2 (12) the proposed incentive period;

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

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

8 (15) the applicant's signature and certification of
9 the accuracy of the information included in the application.

10 (c) The form prescribed by Subsection (b) must allow the
11 applicant to segregate confidential information described by
12 Section 403.621(a) from other information in the application.

13 (d) An applicant must include with an application the
14 following:

15 (1) an application fee payable to the comptroller in
16 an amount determined by the comptroller not to exceed an amount
17 sufficient to cover the costs associated with the comptroller's
18 evaluation of the application;

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

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

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

24 (e) The comptroller may request that an applicant provide
25 any additional information the comptroller reasonably determines
26 is necessary to complete the comptroller's evaluation of the
27 application. The comptroller may require an applicant to submit

1 the additional information by a certain date and may extend that
2 deadline on a showing of good cause. The comptroller is not
3 required to take any further action on an application until it is
4 complete.

5 (f) The comptroller shall notify an applicant and the
6 applicable school district when the applicant's application is
7 administratively complete.

8 Sec. 403.608. ECONOMIC BENEFIT STATEMENT. (a) An
9 applicant shall submit an economic benefit statement with the
10 applicant's application.

11 (b) An economic benefit statement must include the
12 following information for each year of the period that begins on the
13 date the applicant projects construction of the proposed project
14 that is the subject of the application will begin and ends on the
15 25th anniversary of the date the incentive period ends:

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

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

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

22 (4) an estimate of the amount of ad valorem taxes that
23 will be imposed by each taxing unit, including the applicable
24 school district, on the property used as part of the project;

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

27 (6) an estimate of the associated economic benefits

1 that may reasonably be attributed to the project, including:

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

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

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

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

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

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

20 (c) An applicant may use standard economic estimation
21 techniques, including economic multipliers, to create an economic
22 benefit statement. An applicant must base each estimate required
23 by Subsection (b) on reasonable projections of the economic and
24 labor conditions of this state for the period for which the estimate
25 is made.

26 (d) The comptroller shall establish criteria for the
27 methodology to be used by an applicant to create an economic benefit

1 statement.

2 (e) The comptroller may require an applicant to supplement
3 or modify an economic benefit statement to ensure the accuracy of
4 the estimates required to be included in the statement under
5 Subsection (b).

6 Sec. 403.609. COMPTROLLER ACTION ON APPLICATION. (a) The
7 comptroller shall determine whether to recommend or not recommend
8 for approval an application submitted to the comptroller under
9 Section 403.607. The comptroller shall recommend an application
10 for approval if the comptroller makes the findings prescribed by
11 Subsection (b). The comptroller may not recommend an application
12 for approval if the comptroller is unable to make the findings
13 prescribed by that subsection.

14 (b) The comptroller may not recommend an application for
15 approval unless the comptroller finds that:

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

18 (2) the proposed project is reasonably likely to
19 generate, before the 25th anniversary of the first day of the
20 construction period, state or local tax revenue, including ad
21 valorem tax revenue attributable to the effect of the project on the
22 economy of this state, in an amount sufficient to offset the school
23 district maintenance and operations ad valorem tax revenue lost as
24 a result of the agreement; and

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

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

7 (d) The comptroller shall send to the governor with the
8 notice required by Subsection (c) regarding an application
9 recommended by the comptroller under Subsection (a) a copy of the
10 application and each document and item of information the
11 comptroller relied on to recommend the application.

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

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

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

23 (2) that was disapproved by the oversight committee as
24 provided by Section 403.611.

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

27 (d) The governor shall provide written notice of a

1 determination made under this section to the comptroller, the
2 school district in which the project is proposed to be located, and
3 the applicant.

4 Sec. 403.611. JOBS, ENERGY, TECHNOLOGY, AND INNOVATION ACT
5 OVERSIGHT COMMITTEE. (a) The Jobs, Energy, Technology, and
6 Innovation Act Oversight Committee is composed of the following
7 seven members:

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

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

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

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

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

19 (b) If a vacancy occurs in the membership of the oversight
20 committee, the appropriate appointing authority shall appoint a
21 person to fill the vacancy.

22 (c) A member of the oversight committee serves at the
23 pleasure of the appropriate appointing authority.

24 (d) The oversight committee may consider the applications
25 included on the list submitted to the committee by the governor
26 under Section 403.610. The committee may disapprove an application
27 included on the list only if a majority of the members of the

1 committee sign a resolution to disapprove the application not later
2 than the 30th day after the date the committee receives the list.
3 An application not disapproved in the time and manner prescribed by
4 this subsection is considered approved by the committee.

5 (e) If the oversight committee disapproves an application
6 under Subsection (d), the committee shall provide written notice of
7 the disapproval to the governor, the school district, and the
8 applicant as soon as practicable after the date the application is
9 disapproved.

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

17 (b) An agreement entered into under this section between the
18 governor, a school district, and an applicant pertaining to an
19 eligible project shall:

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

22 (2) specify the term of the agreement, which must:

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

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

27 (3) specify the construction and incentive periods for

1 the project;

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

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

9 (6) require that the average annual wage paid to all
10 persons employed by the applicant in connection with the project
11 used to calculate total jobs exceed the average annual wage for all
12 jobs in the county during the most recent four quarters for which
13 data is available, as computed by the Texas Workforce Commission,
14 with the applicant's average annual wage being equal to the
15 quotient of:

16 (A) the applicant's total wages paid, other than
17 wages paid for construction jobs, as reported under Section
18 403.616(c)(4); and

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

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

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

26 (9) incorporate each relevant provision of this
27 subchapter.

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

6 (d) This subsection applies to a term described by
7 Subsection (b)(8). The agreement must provide that:

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

11 (2) the governor or the district may not terminate the
12 agreement until the party provides written notice to the applicant
13 of the proposed termination;

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

17 (4) in the event the agreement is terminated, the
18 state is entitled to recover a penalty in an amount equal to all
19 lost ad valorem tax revenue from the project and interest on that
20 amount calculated as provided by Section 111.060, Tax Code.

21 (e) An agreement terminated under Subsection (d) is void,
22 and all remaining obligations and benefits under the agreement and
23 this subchapter terminate on the date the agreement is terminated.

24 (f) The parties to an agreement may modify the terms of the
25 agreement that do not materially modify the jobs or investment
26 requirements prescribed by the agreement.

27 (g) An agreement must be submitted to the comptroller not

1 later than the seventh day after the date the agreement is entered
2 into. A copy of the economic benefit statement applicable to the
3 project that is the subject of the agreement must be attached to the
4 agreement.

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

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

11 (b) An incentive period may not begin:

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

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

17 (c) Subject to Subsection (b), the beginning date of an
18 incentive period specified in an agreement pertaining to an
19 eligible project may be deferred if the applicant projects that the
20 applicant will not satisfy the minimum investment requirement
21 applicable to the project by the end of the first tax year of the
22 incentive period. The incentive period may be deferred until
23 January 1 of the second tax year following the construction
24 completion date. The deferral of an incentive period under this
25 subsection does not affect the date on which the incentive period
26 ends as prescribed by the agreement. An applicant that is a party
27 to an agreement for which the beginning date of the incentive period

1 is deferred as authorized by this subsection must provide notice of
2 the deferral to the comptroller. The notice must include the reason
3 for the deferral.

4 (d) Subject to Subsection (b), an applicant may propose to
5 modify the beginning and ending dates of the incentive period as
6 provided by this subsection. The applicant shall provide notice of
7 the proposed modification to the comptroller, the governor, and the
8 school district not later than the 90th day before the first day of
9 the incentive period specified in Section 403.612(b)(3) or as
10 proposed to be modified, whichever is earlier. The applicant shall
11 revise the most recent economic benefit statement as necessary to
12 reflect the proposed change to the incentive period. The applicant
13 must include the revised economic benefit statement with the notice
14 provided to the comptroller, the governor, and the district under
15 this subsection. The comptroller shall make the finding required
16 by Section 403.609(b)(2) regarding the project as proposed to be
17 modified or determine that the finding cannot be made. The
18 comptroller shall notify the governor, the district, and the
19 applicant of the comptroller's finding or determination not later
20 than the 60th day after the date the comptroller receives notice
21 from the applicant of the proposed modification. The incentive
22 period for the project may not be modified if the comptroller
23 determines that the finding required by Section 403.609(b)(2)
24 regarding the project as proposed to be modified cannot be made or
25 if the governor or the district objects to the proposed
26 modification.

27 Sec. 403.614. PENALTY FOR FAILURE TO COMPLY WITH JOBS OR

1 WAGE REQUIREMENT. (a) An applicant is liable to the state for a
2 penalty in the amount computed under this subsection if the
3 applicant fails to maintain at least the number of required jobs
4 prescribed by the agreement to which the applicant is a party during
5 the periods covered by two consecutive reports submitted by the
6 applicant under Section 403.616. The amount of the penalty is equal
7 to the product of:

8 (1) the difference between:

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

11 (B) the number of required jobs actually created
12 as stated in the most recent report submitted by the applicant under
13 Section 403.616; and

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

17 (b) An applicant is liable to the state for a penalty in the
18 amount computed under this subsection if the applicant fails to
19 meet the average annual wage requirement prescribed by the
20 agreement to which the applicant is a party, if any, during the
21 periods covered by two consecutive reports submitted by the
22 applicant under Section 403.616. The amount of the penalty is equal
23 to the difference between:

24 (1) the product of:

25 (A) the actual average annual wage paid to all
26 persons employed by the applicant in connection with the project
27 that is the subject of the agreement as computed under Section

1 403.612(b)(6); and

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

4 (2) the product of:

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

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

9 (c) Notwithstanding Subsections (a) and (b), the amount of a
10 penalty imposed on an applicant under this section may not exceed
11 the amount of the ad valorem tax benefit received by the applicant
12 under the agreement that is the subject of the penalty.

13 (d) An applicant on request of the comptroller shall provide
14 to the comptroller a schedule of required jobs created as of the
15 date of the request under an agreement to which the applicant is a
16 party.

17 (e) A determination by the comptroller that an applicant has
18 failed to meet the jobs or wage requirement prescribed by an
19 agreement to which the applicant is a party is a deficiency
20 determination under Section 111.008, Tax Code. A penalty imposed
21 under this section is an amount the comptroller is required to
22 collect, receive, administer, or enforce and is subject to the
23 payment and redetermination requirements of Sections 111.0081 and
24 111.009, Tax Code. A redetermination under Section 111.009, Tax
25 Code, of a determination under this section is a contested case as
26 defined by Section 2001.003 of this code.

27 (f) The comptroller shall deposit a penalty collected under

1 this section and any interest on the penalty to the credit of the
2 foundation school fund.

3 Sec. 403.615. AUDIT OF AGREEMENTS BY STATE AUDITOR. (a)
4 Each year the state auditor shall select and review at least 10
5 percent of the agreements in effect in that year to determine
6 whether:

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

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

11 (b) In determining which agreements to review under
12 Subsection (a), the state auditor may consider any risk of
13 noncompliance identified in the biennial compliance report
14 regarding an agreement submitted to the comptroller under Section
15 403.616.

16 (c) As part of the review, the state auditor shall make
17 recommendations relating to increasing the efficiency and
18 effectiveness of the administration of this subchapter. The state
19 auditor shall submit the recommendations to the governor,
20 comptroller, lieutenant governor, speaker of the house of
21 representatives, and oversight committee not later than December 15
22 of each year.

23 Sec. 403.616. BIENNIAL COMPLIANCE REPORT BY APPLICANT. (a)
24 An applicant that is a party to an agreement shall submit a report
25 to the comptroller as required by this section using the form
26 adopted by the comptroller.

27 (b) An applicant must submit a report required by this

1 section to the comptroller not later than June 1 of each
2 even-numbered year during the term of the agreement that is the
3 subject of the report.

4 (c) A report required by this section must include the
5 following documents and information applicable to the agreement
6 that is the subject of the report:

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

10 (A) a sworn affidavit stating:

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

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

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

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

22 (3) the number of total jobs created by the project in
23 each of the preceding two years;

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

27 (5) the number of construction jobs created by the

1 project;

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

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

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

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

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

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

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

25 (d) This subsection applies only to a report required to be
26 submitted under this section by an applicant for the period that
27 includes the first year of the incentive period as prescribed by the

1 agreement that is the subject of the report or as deferred. In
2 addition to the documents and information described by Subsection
3 (c), the applicant must include with the certification required by
4 Subsection (c)(1):

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

7 (2) the current total appraised value of the property
8 composing the project; and

9 (3) if applicable, a statement that the incentive
10 period was deferred because the applicant did not meet the minimum
11 investment requirement prescribed by the agreement before the date
12 specified in the agreement.

13 Sec. 403.617. BIENNIAL REPORT TO LEGISLATURE. (a) The
14 comptroller shall submit to the lieutenant governor, the speaker of
15 the house of representatives, and each other member of the
16 legislature a report on the agreements entered into under this
17 subchapter. The comptroller must submit the report not later than
18 December 1 of each even-numbered year.

19 (b) The report must include:

20 (1) an assessment of the following with regard to the
21 agreements entered into under this subchapter, considered in the
22 aggregate:

23 (A) the total number of jobs created in this
24 state;

25 (B) the total effect on personal income in this
26 state;

27 (C) the total amount of investment in this state;

1 (D) the total taxable value of property on the
2 tax rolls in this state resulting from the agreements, including
3 property subject to an agreement that has expired;
4 (E) the total value of property subject to
5 agreements that have not expired; and
6 (F) the total fiscal effect resulting from the
7 agreements on this state and on local governments in this state; and
8 (2) an assessment of each agreement entered into under
9 this subchapter that states for each agreement:
10 (A) the number of required jobs prescribed by the
11 agreement;
12 (B) the number of jobs actually created under the
13 agreement, including:
14 (i) each job described by Section
15 403.604(c)(1)(A);
16 (ii) each job described by Section
17 403.604(c)(1)(B); and
18 (iii) any additional jobs created or
19 maintained in connection with the project that is the subject of the
20 agreement, if reported by the applicant;
21 (C) the number of total jobs created under the
22 agreement, if the term of the agreement has expired;
23 (D) the amount of the investment specified by the
24 agreement;
25 (E) the amount of the actual investment made for
26 the applicable project before the expiration of the agreement;
27 (F) the difference between the amount of ad

1 valorem taxes that would have been imposed on the property
2 composing the applicable project in the absence of the agreement
3 and the amount of ad valorem taxes actually imposed on that property
4 during the term of the agreement; and

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

8 (c) The comptroller may not include in the report
9 information that is confidential under law.

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

13 (e) The comptroller may require an applicant to submit
14 information required to complete the report on a form prescribed by
15 the comptroller.

16 Sec. 403.618. REPORT BY OVERSIGHT COMMITTEE TO LEGISLATURE.
17 The oversight committee may recommend in a written report to the
18 legislature those types of projects that the committee determines
19 by majority vote should be statutorily added to or removed from the
20 definition of "eligible project" provided by Section 403.602.

21 Sec. 403.619. CONFLICT OF INTEREST. A person may not,
22 directly or indirectly, represent, advise, or provide a service to
23 both an applicant and a school district in connection with the same
24 application submitted or agreement entered into under this
25 subchapter.

26 Sec. 403.620. CERTAIN BENEFITS RELATED TO AGREEMENTS
27 PROHIBITED; ATTORNEY GENERAL ENFORCEMENT. (a) An employee or

1 representative of a school district, a member of the governing body
2 of the district, or any other person may not intentionally or
3 knowingly solicit, accept, agree to accept, or require any payment
4 of money or transfer of property or other thing of value, directly
5 or indirectly, to the district, an employee or representative of
6 the district, a member of the governing body of the district, or any
7 other person in recognition of, anticipation of, or consideration
8 for approval of an agreement unless authorized by this subchapter.

9 (b) An applicant, an employee or representative of the
10 applicant, or any other person may not intentionally or knowingly
11 offer, confer, agree to confer, or make a payment of money or
12 transfer of property or other thing of value, directly or
13 indirectly, to the governor or the school district, an employee or
14 representative of the governor or the district, a member of the
15 governing body of the district, or any other person in recognition
16 of, anticipation of, or consideration for approval of an agreement
17 unless authorized by this subchapter.

18 (c) If the attorney general receives a written complaint
19 from a party to an agreement of a violation of this section, the
20 attorney general may bring an action to enforce this section to
21 restrain or enjoin a person from continuing or repeating the
22 violation. Venue for an action brought under this subsection is in
23 a district court in Travis County.

24 Sec. 403.621. CONFIDENTIALITY OF CERTAIN BUSINESS
25 INFORMATION. (a) Information provided to the comptroller, the
26 governor, or a school district by an applicant under this
27 subchapter that is a trade secret, as defined by Section 134A.002,

1 Civil Practice and Remedies Code, is confidential and not subject
2 to disclosure under Chapter 552.

3 (b) Payroll records reported under Section 403.616(c)(1)(A)
4 or (B) by an applicant to the comptroller are confidential and not
5 subject to disclosure under Chapter 552.

6 Sec. 403.622. INTERNET POSTING OF INFORMATION. (a)
7 Subject to Section 403.621, the comptroller shall post on the
8 comptroller's Internet website the following information received
9 by the comptroller:

- 10 (1) each application submitted under this subchapter;
11 (2) each map and economic benefit statement required
12 to be submitted with an application under this subchapter;
13 (3) each amendment to an application made under this
14 subchapter;
15 (4) each agreement entered into under this subchapter;
16 and
17 (5) each biennial compliance report submitted as
18 required under this subchapter.

19 (b) Except as provided by Subsection (c), the comptroller
20 shall post the information described by Subsection (a) as soon as
21 practicable after the date the comptroller receives the
22 information.

23 (c) The comptroller shall post the information described by
24 Subsections (a)(1), (2), and (3) not later than the 10th business
25 day after the date the comptroller receives the information.

26 (d) The comptroller shall continue to post the information
27 required by this section until the date the agreement to which the

1 information relates expires.

2 (e) The comptroller shall notify the governor and the
3 applicable school district of the comptroller's posting of the
4 information described by Subsection (a)(5) on the comptroller's
5 Internet website.

6 Sec. 403.623. RULES AND FORMS. (a) The comptroller shall
7 adopt rules necessary to implement and administer this subchapter,
8 including rules for:

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

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

14 (b) The comptroller shall adopt forms necessary to
15 implement and administer this subchapter, including the forms to be
16 used by an applicant under Sections 403.607 and 403.616.

17 (c) The comptroller shall provide without charge one copy of
18 the rules and forms adopted under this section to any person that
19 states that the person intends to submit an application to the
20 comptroller under this subchapter to limit the taxable value of
21 eligible property used as part of an eligible project.

22 SECTION 2. Section 48.2551(a), Education Code, is amended
23 to read as follows:

24 (a) In this section:

25 (1) "DPV" is the taxable value of property in the
26 school district, as determined by the agency by rule, using locally
27 determined property values adjusted in accordance with Section

1 403.302(d), Government Code;

2 (2) "E" is the expiration of the exclusion of
3 appraised property value for the preceding tax year that is
4 recognized as taxable property value for the current tax year,
5 which is the sum of the following:

6 (A) property value that is no longer subject to a
7 limitation on appraised value under former Subchapter B or C,
8 Chapter 313, Tax Code, or a limitation on taxable value under
9 Subchapter T, Chapter 403, Government Code; and

10 (B) property value under Section 311.013(n), Tax
11 Code, that is no longer excluded from the calculation of "DPV" from
12 the preceding year because of refinancing or renewal after
13 September 1, 2019;

14 (3) "MCR" is the district's maximum compressed rate,
15 which is the tax rate for the current tax year per \$100 of valuation
16 of taxable property at which the district must levy a maintenance
17 and operations tax to receive the full amount of the tier one
18 allotment to which the district is entitled under this chapter;

19 (4) "PYDPV" is the district's value of "DPV" for the
20 preceding tax year; and

21 (5) "PYMCR" is the district's value of "MCR" for the
22 preceding tax year.

23 SECTION 3. Section 48.256, Education Code, is amended by
24 amending Subsections (d) and (e) and adding Subsection (d-1) to
25 read as follows:

26 (d) This subsection applies to a school district in which
27 the board of trustees entered into a written agreement with a

1 property owner [~~under Section 313.027, Tax Code,~~] for the
2 implementation of a limitation on taxable [~~appraised~~] value under
3 Subchapter T, Chapter 403, Government [~~B or C, Chapter 313, Tax~~]
4 Code. For purposes of determining "DPV" under Subsection (a) for a
5 school district to which this subsection applies, the commissioner
6 shall exclude a portion of the market value of property not
7 otherwise fully taxable by the district under Subchapter T, Chapter
8 403, Government [~~B or C, Chapter 313, Tax~~] Code[, ~~before the~~
9 ~~expiration of the subchapter~~]. The comptroller shall provide
10 information to the agency necessary for this subsection.

11 (d-1) Subsection (d) applies to an agreement for the
12 implementation of a limitation on appraised value under former
13 Subchapter B or C, Chapter 313, Tax Code, that was in effect on
14 January 1, 2023, in the same manner as that subsection applies to an
15 agreement described by that subsection. If the agreement for the
16 limitation on appraised value requires a [A] revenue protection
17 payment to the school district, the payment [~~required as part of an~~
18 ~~agreement for a limitation on appraised value~~] shall be based on the
19 district's taxable value of property for the preceding tax year.

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

24 SECTION 4. Section 2303.507, Government Code, is amended to
25 read as follows:

26 Sec. 2303.507. TAX INCREMENT FINANCING AND
27 ABATEMENT; LIMITATIONS ON APPRAISED AND TAXABLE

1 VALUE. Designation of an area as an enterprise zone is also
2 designation of the area as a reinvestment zone for:

3 (1) tax increment financing under Chapter 311, Tax
4 Code;

5 (2) tax abatement under Chapter 312, Tax Code; ~~and~~

6 (3) limitations on appraised value under former
7 Subchapter B or C, Chapter 313, Tax Code; and

8 (4) limitations on taxable value under Subchapter T,
9 Chapter 403, of this code.

10 SECTION 5. Section 23.03, Tax Code, is amended to read as
11 follows:

12 Sec. 23.03. COMPILATION OF LARGE PROPERTIES AND PROPERTIES
13 SUBJECT TO LIMITATION ON APPRAISED OR TAXABLE VALUE. Each year the
14 chief appraiser shall compile and send to the Texas ~~[Department of]~~
15 Economic Development and Tourism Office a list of properties in the
16 appraisal district that in that tax year:

17 (1) have a market value of \$100 million or more; ~~or~~

18 (2) are subject to a limitation on appraised value
19 under former Subchapter B or C, Chapter 313; or

20 (3) are subject to a limitation on taxable value under
21 Subchapter T, Chapter 403, Government Code.

22 SECTION 6. Section 26.012(6), Tax Code, is amended to read
23 as follows:

24 (6) "Current total value" means the total taxable
25 value of property listed on the appraisal roll for the current year,
26 including all appraisal roll supplements and corrections as of the
27 date of the calculation, less the taxable value of property

1 exempted for the current tax year for the first time under Section
2 11.31 or 11.315, except that:

3 (A) the current total value for a school district
4 excludes:

5 (i) the total value of homesteads that
6 qualify for a tax limitation as provided by Section 11.26; [~~and~~]

7 (ii) new property value of property that is
8 subject to an agreement entered into under former Subchapter B or C,
9 Chapter 313; and

10 (iii) new property value of property that
11 is subject to an agreement entered into under Subchapter T, Chapter
12 403, Government Code; and

13 (B) the current total value for a county,
14 municipality, or junior college district excludes the total value
15 of homesteads that qualify for a tax limitation provided by Section
16 11.261.

17 SECTION 7. Section 171.602(f), Tax Code, is amended to read
18 as follows:

19 (f) The comptroller may not issue a credit under this
20 section before the later of:

21 (1) [~~September 1, 2018, or~~

22 [~~2~~] the expiration of an agreement under former
23 Subchapter B or C, Chapter 313, regarding the clean energy project
24 for which the credit is issued; or

25 (2) the expiration of an agreement under Subchapter T,
26 Chapter 403, Government Code, regarding the clean energy project
27 for which the credit is issued.

1 SECTION 8. Section 312.0025(a), Tax Code, is amended to
2 read as follows:

3 (a) Notwithstanding any other provision of this chapter to
4 the contrary, the governing body of a school district, in the manner
5 required for official action and for purposes of former Subchapter
6 B or C, Chapter 313, of this code or Subchapter T, Chapter 403,
7 Government Code, may designate an area entirely within the
8 territory of the school district as a reinvestment zone if the
9 governing body finds that, as a result of the designation and the
10 granting of a limitation on appraised value under former Subchapter
11 B or C, Chapter 313, of this code or the granting of a limitation on
12 taxable value under Subchapter T, Chapter 403, Government Code, for
13 property located in the reinvestment zone, the designation is
14 reasonably likely to:

15 (1) contribute to the expansion of primary employment
16 in the reinvestment zone; or

17 (2) attract major investment in the reinvestment zone
18 that would:

19 (A) be a benefit to property in the reinvestment
20 zone and to the school district; and

21 (B) contribute to the economic development of the
22 region of this state in which the school district is located.

23 SECTION 9. The lieutenant governor and the speaker of the
24 house of representatives shall appoint the initial members of the
25 Jobs, Energy, Technology, and Innovation Act Oversight Committee
26 under Sections 403.611(a)(1), (2), and (3)(B), Government Code, as
27 added by this Act, as soon as practicable after the effective date

1 of this Act.

2 SECTION 10. The comptroller of public accounts shall adopt
3 rules and develop and make available the forms and materials as
4 required under Section 403.623, Government Code, as added by this
5 Act, as soon as practicable after the effective date of this
6 section.

7 SECTION 11. (a) Except as provided by Subsection (b) of
8 this section, this Act takes effect January 1, 2024.

9 (b) Section 10 of this Act takes effect September 1, 2023.

ADOPTED

MAY 24 2023

Lately Spaw
Secretary of the Senate

[Handwritten signatures]

FLOOR AMENDMENT NO. 1

BY: C. [Signature]

1 Amend C.S.H.B. No. 5 (senate committee printing) in SECTION 1
2 of the bill by striking added Section 403.602(8), Government Code
3 (page 2, lines 18 through 51), and substituting the following:

4 (8) "Eligible project":

5 (A) means a project:

6 (i) to construct or expand a new or existing
7 facility that is:

8 (a) a manufacturing facility;

9 (b) a facility related to the
10 provision of utility services, including an electric generation
11 facility that is considered to be dispatchable because the
12 facility's output can be controlled primarily by forces under human
13 control;

14 (c) a facility related to the
15 development of natural resources; or

16 (d) a facility engaged in the
17 research, development, or manufacture of high-tech equipment or
18 technology; or

19 (ii) to construct or expand critical
20 infrastructure; and

21 (B) does not include a project to construct or
22 expand a new or existing:

23 (i) nondispatchable electric generation
24 facility; or

25 (ii) electric energy storage facility.

ADOPTED

MAY 24 2023

Lately Spaw
Secretary of the Senate

as amended

FLOOR AMENDMENT NO. 2

BY: *[Signature]*

[Signature]

1 Amend C.S.H.B. No. 5 (senate committee printing) in SECTION
2 1 of the bill as follows:

3 (1) In added Section 403.602, Government Code (page 3,
4 between lines 14 and 15), insert the following appropriately
5 numbered subdivision and renumber the subsequent subdivisions and
6 cross-references to those subdivisions accordingly:

7 () "Qualified opportunity zone" means an area
8 designated as such by the secretary of the United States Treasury.

9 (2) Strike added Sections 403.605(a) and (b), Government
10 Code (page 4, line 41, through page 5, line 9), and substitute the
11 following:

12 (a) The taxable value for school district maintenance and
13 operations ad valorem tax purposes of eligible property subject to
14 an agreement for each tax year of the incentive period prescribed
15 by the agreement is equal to:

16 (1) 50 percent of the market value of the property for
17 that tax year; or

18 (2) if the property is located in a qualified
19 opportunity zone, 25 percent of the market value of the property
20 for that tax year.

21 (3) In added Section 403.605(c), Government Code (page 5,
22 line 10), strike "(c)" and substitute "(b)".

23 (4) In added Section 403.605(d), Government Code (page 5,
24 line 16), strike "(d)" and substitute "(c)".

25 (5) In added Section 403.605(e), Government Code (page 5,

1 line 22), strike "(e)" and substitute "(d)".

2 (6) In added Section 403.606, Government Code (page 5, line
3 28), strike the underlined colon.

4 (7) In added Section 403.606, Government Code (page 5, line
5 29), strike "(1)".

6 (8) In added Section 403.606, Government Code (page 5, line
7 32), strike "; or" and substitute an underlined period.

8 (9) In added Section 403.606, Government Code, strike page
9 5, lines 33 through 39.

10 (10) In added Section 403.607(b), Government Code (page 6,
11 between lines 11 and 12), insert the following appropriately
12 numbered subdivision and renumber the subsequent subdivisions and
13 cross-references to those subdivisions accordingly:

14 () whether the project is proposed to be located in a
15 qualified opportunity zone;

16 (11) In added Section 403.609(b)(2), Government Code (page
17 7, line 37), strike "25th" and substitute "20th".

18 (12) In added Section 403.609(b)(2), Government Code (page
19 7, line 42), strike "and".

20 (13) In added Section 403.609(b)(3), Government Code (page 7,
21 line 45), strike the underlined period and substitute "; and".

22 (14) In added Section 403.609(b), Government Code (page 7,
23 between lines 45 and 46), insert the following:

24 (4) if the application indicates that the eligible
25 project is proposed to be located in a qualified opportunity zone,
26 the project is located in the zone.

27 (15) In added Section 403.609(d), Government Code (page 7,

1 line 52), between "governor" and "with", insert "and the applicable
2 school district".

3 (16) On page 8 of the bill, between lines 6 and 7, insert
4 the following appropriately numbered section to added Subchapter
5 T, Chapter 403, Government Code, and renumber subsequent sections
6 of that subchapter and cross-references to those sections
7 accordingly:

8 Sec. 403. . SCHOOL DISTRICT ACTION ON APPLICATION. (a)
9 The governing body of a school district shall, not later than the
10 30th day after the date the district receives an application sent
11 to the district by the comptroller under Section 403.609, consider
12 the application and by official action determine whether the
13 district is agreeable to entering into the agreement that is the
14 subject of the application.

15 (b) The governing body of the school district shall hold a
16 public hearing on the application during the period described by
17 Subsection (a).

18 (c) The governing body of the school district shall provide
19 written notice of the district's determination under Subsection
20 (a) to the comptroller, the governor, and the applicant.

21 (17) In added Section 403.611, Government Code (page 8,
22 between lines 21 and 22), insert the following appropriately
23 lettered subsection and reletter subsequent subsections of that
24 section and cross-references to those subsections accordingly:

25 () At least one member appointed by the speaker of the house
26 of representatives and at least one member appointed by the
27 lieutenant governor under Subsection (a) must represent a district

1 that includes a county with a population of 100,000 or less.

2 (18) In added Section 403.612(d)(4), Government Code (page
3 9, line 33), strike "state is entitled to recover" and substitute
4 "state shall recover from the applicant".

ADOPTED

^{VV}
MAY 24 2023

FLOOR AMENDMENT NO. 3

ADOPTED

Secretary of the Senate

BY: Brian Bidwell

MAY 24 2023

Amend Amendment No. 2 by Fatsy Spaw Secretary of the Senate TO C.S.H.B. No. 5 (senate

committee printing) in Item (11) of the amendment, adding a new section to added Subchapter T, Chapter 403, Government Code (page 3, between lines 17 and 18), by inserting the following appropriately lettered subsection in the section and relettering the subsequent subsections of the section accordingly:

() The governing body of the school district must provide notice of the public hearing in the manner required by Chapter 551, except that the district must provide the notice not later than the 15th day before the date of the hearing. The notice must contain:

(1) the name of the applicant;

(2) the name and location of the existing or proposed reinvestment zone or enterprise zone in which the eligible project is proposed to be located;

(3) a general description of the proposed eligible project; and

(4) the projected investment the applicant will make in the project.

ADOPTED

MAY 24 2023

Latey Law
Secretary of the Senate

BY: _____

FLOOR AMENDMENT NO. 4

1 Amend C.S.H.B. No. 5 (senate committee report) in SECTION 1
2 of the bill as follows:

3 (1) Strike added Section 403.609(b)(3), Government Code
4 (page 7, lines 43-45), and substitute the following:

5 (3) the agreement is a compelling factor in a
6 competitive site selection determination and that, in the absence
7 of the agreement, the applicant would not make the proposed
8 investment in this state.

9 (2) In added Section 403.609, Government Code, between
10 Subsections (b) and (c) of the section (page 7, between lines 45 and
11 46), insert the following appropriately lettered subsection and
12 reletter subsequent subsections of the section and
13 cross-references to those subsections accordingly:

14 () In making the finding required by Subsection (b)(3), the
15 comptroller shall consider factors related to the selection of the
16 proposed site for the project, including the workforce, the
17 regulatory environment, infrastructure, transportation, market
18 conditions, investment alternatives, and any specific incentive
19 information provided by the applicant related to other potential
20 sites.

ADOPTED

FLOOR AMENDMENT NO. 5

MAY 24 2023

BY:

C. Schmidt

Lacey Saw
Secretary of the Senate

1 Amend C.S.H.B. No. 5 (senate committee printing) in SECTION 1
 2 of the bill, in added Section 403.612(b), Government Code, between
 3 Subdivisions (7) and (8) of the subsection (page 9, between lines 11
 4 and 12), by inserting the following appropriately numbered
 5 subdivision and renumbering subsequent subdivisions of the
 6 subsection and cross-references to those subdivisions accordingly:
 7 () require the applicant, at the time the applicant
 8 executes the agreement, to execute a performance bond in an amount
 9 the comptroller determines to be reasonable and necessary to
 10 protect the interests of the state and the district and conditioned
 11 on the applicant's compliance with the terms of the agreement;

ADOPTED

VV
MAY 24 2023

Lacey Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 6

BY: *C. Schmidt*

1 Amend C.S.H.B. No. 5 (senate committee printing) in SECTION 1
2 of the bill as follows:

3 (1) In added Section 403.612(b)(6), Government Code (page
4 8, lines 68 and 69), strike "the average annual wage for all jobs in
5 the county" and substitute "110 percent of the average annual wage
6 for all jobs in the applicable industry sector".

7 (2) In added Section 403.612(b), Government Code (page 9,
8 between lines 11 and 12), add the following appropriately numbered
9 subdivision and renumber the subsequent subdivisions of the
10 subsection accordingly:

11 () require the applicant to offer and contribute to a
12 group health benefit plan for each employee of the applicant who is
13 employed in a full-time job;

14 (3) In added Section 403.614(a), Government Code (page 10,
15 line 34), between "to" and "the product", insert "two times".

16 (4) In added Section 403.614(b), Government Code (page 10,
17 line 50), between "to" and "the difference", insert "two times".

ADOPTED

MAY 24 2023

Lacey Spaulding
Secretary of the Senate
Chris Farnsworth

FLOOR AMENDMENT NO. 7

Amend C.S.H.B. No. 5 (senate committee report) in SECTION 1 of the bill, in added Section 403.611, Government Code (page 8, between lines 21 and 22), by inserting the following appropriately lettered subsection and relettering subsequent subsections of that section and cross-references to those subsections accordingly:

() At least one member appointed by the speaker of the house of representatives and at least one member appointed by the lieutenant governor under Subsection (a) must represent a district that includes a county with a population of 100,000 or less.

ADOPTED
MAY 24 2023

FLOOR AMENDMENT NO. 8

Lacey Saw
Secretary of the Senate

BY: *Roger W. N.*

1 Amend C.S.H.B. No. 5 (senate committee printing) in SECTION
2 1 of the bill, in added Section 403.607(b), Government Code (page
3 6, between lines 11 and 12), by inserting the following
4 appropriately numbered subdivision and renumbering subsequent
5 subdivisions and cross-references to those subdivisions
6 accordingly:
7 () a statement indicating whether the applicant
8 considered locating the proposed project in an area designated as
9 a qualified opportunity zone by the secretary of the United States
10 Treasury;

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 25, 2023

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

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.), **As Passed 2nd House**

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

However, the cost to the Foundation School Program increases to (\$336.0 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:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2024	(\$2,979,688)
2025	(\$3,011,404)
2026	(\$3,011,404)
2027	(\$1,454,404)
2028	(\$2,276,404)
2029	(\$9,394,404)
2030	(\$40,865,404)
2031	(\$89,645,404)
2032	(\$194,856,404)
2033	(\$336,586,404)

All Funds, Ten-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from General Revenue Fund 1	Probable Savings/(Cost) from Foundation School Fund 193	Probable Savings/(Cost) from Recapture Payments Atten Crdts 8905	Probable Revenue Gain/(Loss) from School Districts
2024	(\$2,979,688)	\$0	\$0	\$0
2025	(\$3,011,404)	\$0	\$0	\$0
2026	(\$3,011,404)	\$0	\$0	\$0
2027	(\$611,404)	(\$843,000)	\$431,000	(\$870,000)
2028	(\$611,404)	(\$1,665,000)	\$822,000	(\$1,724,000)
2029	(\$611,404)	(\$8,783,000)	\$3,967,000	(\$9,060,000)
2030	(\$611,404)	(\$40,254,000)	\$17,909,000	(\$41,528,000)
2031	(\$611,404)	(\$89,034,000)	\$42,816,000	(\$93,029,000)
2032	(\$611,404)	(\$194,245,000)	\$96,998,000	(\$201,602,000)
2033	(\$611,404)	(\$335,975,000)	\$167,035,000	(\$357,480,000)

<i>Fiscal Year</i>	Change in Number of State Employees from FY 2023
2024	7.0
2025	7.0
2026	7.0
2027	7.0
2028	7.0
2029	7.0
2030	7.0
2031	7.0
2032	7.0
2033	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: manufacturing facilities, utility service provision facilities including dispatchable energy generation facilities, facilities related to the development of natural resources, or critical infrastructure expansion or construction facilities.

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 a proportion of the project's market value and if the property were located in a qualified opportunity zone. Specifically, projects not located in a qualified opportunity zone would be limited to a school district maintenance and operations ad valorem taxable value of 50 percent of the market value of the property for that tax year. Projects that are within a qualified opportunity zone would be limited to a taxable value of 25 percent of the of the market value of the property for that tax year.

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; and
- 5) at agreement execute a performance bond in an amount the Comptroller determines to be reasonable and necessary to protect the interests of the state and school district conditioned on the applicant's compliance with the terms of the agreement.

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) provide a copy of received applications to the applicable school district;
- 6) recommend an application for consideration by the Governor if conditions met;
- 7) collect, receive, administer, or enforce penalties imposed for the applicant's failure to comply with the jobs or wages requirement; and
- 8) 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; and
- 4) terminate the agreement if job or wage conditions are not met;

The bill would require the school district to:

- 1) determine whether the district agrees to enter an agreement for applications received by the comptroller within 30 days of their receipt;
- 2) hold a public hearing on received applications; and
- 3) provide written notice of the district's determination to the Comptroller, Governor and the applicant.

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. Using the Texas Opportunity Zone mapping tool on the Texas Economic Development and Tourism Office website, selected projects were mapped to determine if they were located in qualified opportunity zones to determine their incentive values. Additionally, as added categories such as the expansion of critical infrastructure and the development of natural resources are not clearly defined, one example possible infrastructure project was added to the model class. Cohort estimates were increased 8 percent in each year to adjust for estimated annual applicant program growth.

A conservative 5 percent inflation over the model class base value is also applied to accurately reflect increased program participation due to the addition of new broad project eligibility categories as compared to the previous Chapter 313 program. Additionally, it is the opinion of this office that the adopted Senate floor amendment with "compelling factor" site selection language would not result in a reduction in the number of applicants. Consequently, the size of the model class was not reduced on account of this change.

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 \$0.8 million in fiscal year 2027, \$1.7 million in fiscal year 2028, increasing to \$336.0 million in fiscal year 2033. The cost to the FSP includes estimated decreases in Recapture Payments - Attendance Credits of \$0.4 million in fiscal year 2027, \$0.8 million in fiscal year 2028, increasing to \$167.0 million in fiscal year 2033 as a result of school district tax revenue loss. The decrease in recapture is reflected as a savings in the table above because recapture is appropriated as a method of finance for the FSP in the General Appropriations Act.

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 fiscal impact to school districts is shown in the table above.

Source Agencies: 304 Comptroller of Public Accounts

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

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:

<i>Fiscal Year</i>	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:

<i>Fiscal Year</i>	<i>Probable Savings/(Cost) from General Revenue Fund</i> 1	<i>Probable Savings/(Cost) from Foundation School Fund</i> 193	<i>Change in Number of State Employees from FY 2023</i>
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 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) \$5 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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 16, 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 on certain property to provide for the creation of jobs and the generation of state and local tax revenue; authorizing fees; authorizing a penalty.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB5, As Engrossed : a negative impact of (\$5,650,780) through the biennium ending August 31, 2025.

However, the cost to the Foundation School Program increases to (\$458.6 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:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2024	(\$2,814,063)
2025	(\$2,836,717)
2026	(\$2,836,717)
2027	(\$1,279,717)
2028	(\$2,344,717)
2029	(\$9,385,717)
2030	(\$42,382,717)
2031	(\$110,859,717)
2032	(\$258,547,717)
2033	(\$458,996,717)

All Funds, Ten-Year Impact:

<i>Fiscal Year</i>	<i>Probable Savings/(Cost) from General Revenue Fund 1</i>	<i>Probable Savings/(Cost) from Foundation School Fund 193</i>	<i>Probable Savings/(Cost) from Recapture Payments Atten Crdts 8905</i>	<i>Probable Revenue Gain/(Loss) from School Districts</i>
2024	(\$2,814,063)	\$0	\$0	\$0
2025	(\$2,836,717)	\$0	\$0	\$0
2026	(\$2,836,717)	\$0	\$0	\$0
2027	(\$436,717)	(\$843,000)	\$431,000	(\$870,000)
2028	(\$436,717)	(\$1,908,000)	\$925,000	(\$1,974,000)
2029	(\$436,717)	(\$8,949,000)	\$4,043,000	(\$9,231,000)
2030	(\$436,717)	(\$41,946,000)	\$18,687,000	(\$43,271,000)
2031	(\$436,717)	(\$110,423,000)	\$53,098,000	(\$115,379,000)
2032	(\$436,717)	(\$258,111,000)	\$128,962,000	\$267,888,000
2033	(\$436,717)	(\$458,560,000)	\$226,850,000	(\$485,142,000)

<i>Fiscal Year</i>	<i>Change in Number of State Employees from FY 2023</i>
2024	5.0
2025	5.0
2026	5.0
2027	5.0
2028	5.0
2029	5.0
2030	5.0
2031	5.0
2032	5.0
2033	5.0

Fiscal Analysis

The bill would amend Chapter 403 of the Government Code by adding Subchapter T, relating to agreements to create jobs and generate state and local tax revenue; authorizing fees; authorizing a penalty. This bill would create a program to provide temporary and limited incentives for large scale manufacturing projects in a qualified industry that is defined as a national or state security project or supply chain infrastructure project, a manufacturing project (including semiconductor fabrication cleanrooms and equipment), and a project that requires \$1.0 billion in investment in a school district in this state.

The bill defines "National or state security project or supply chain infrastructure project" as a grid reliability project or a seawater or brackish groundwater desalination project. A "Grid reliability project" is defined as a project that that generates base load or dispatchable electricity for the power grid, or from batteries, regardless of power source, that increases the output capacity or reliability of an existing dispatchable electric power generation facility or that replaces dispatchable electric power generation assets to extend the useful life of the facility.

Eligibility for an agreement to reduce taxable value would be contingent on achieving minimum job and investment amounts. The minimum investment amounts must be met prior to the beginning of the incentive period and the jobs must be created by the first year of the incentive period. These minimums would not be applicable to a national or state security project or supply chain infrastructure project. The applicant may also invest not less than 25.0 percent of the minimum investment in a work-place based education program. The required investment minimums would be based on school district taxable property values for the proceeding tax year as follows:

- 1) at least \$100.0 million in investment and 50 jobs created in districts with taxable values of \$10.0 billion or more;

- 2) at least \$80.0 million in investment and 40 jobs created in districts with taxable values of at least \$1 billion but less than \$10.0 billion;
- 3) at least \$50.0 million in investment and 25 jobs created in districts with taxable values of at least \$500 million but less than \$1.0 billion;
- 4) at least \$25.0 million in investment and 10 jobs created in districts with taxable values of at least \$100 million but less than \$500.0 million; and
- 5) at least \$10.0 million in investment and 5 jobs created in districts with taxable values of less than \$100.0 million or districts that are not located in a metropolitan statistical area.

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. The bill also permits the start of the incentive period to automatically move to January 1 of the subsequent tax year if the applicant fails to make its minimum investment before the start of the incentive period without changing the end date for the incentive period.

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) \$100.0 million in a district with total taxable values of \$10.0 billion or more;
- 2) \$75.0 million in a district with total taxable values of at least \$1.0 billion but less than \$10.0 billion;
- 3) \$50.0 million in taxable value of eligible property located in a district with total taxable values of at least \$500.0 million but less than \$1.0 billion would be reduced to;
- 4) \$25.0 million in a district with total taxable values of at least \$100.0 million but less than \$500.0 million; and
- 5) \$5.0 million in a district with total taxable values less than \$100.0 million or a district that is not located in a metropolitan statistical area.

The bill also provides a 100.0 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 school district 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 school district in an amount not to exceed \$60,000;
 - b. a map of the proposed project site; and
 - c. the economic benefit statement;
- 3) enter into agreements with school districts as specified in the bill; and
- 4) submit an annual 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 approval to the school district 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.

Under provisions of the bill, the Comptroller would be required to recommend that a school district approve an application if it is determined that the project is eligible for an agreement, is reasonably likely to generate state

or local tax revenue in an amount sufficient to offset the tax revenue lost as a result of the agreement, and the agreement is a determining factor to make the investment and locate the project in this state. However, the Comptroller would not be required to establish whether the agreement is a determining factor in the applicant's decision to pursue a grid reliability project in this state.

The bill would require the governing body of an individual school district to:

- 1) forward the application to the Comptroller within seven days of receipt from the applicant;
- 2) by March 1 of the first year of the incentive period prepare and submit to the Comptroller a school finance report that includes:
 - a. a calculation of any anticipated loss of funding (disregarding facilities funding) for each year of the agreement
 - b. and the annual projected tax and revenue consequences for the district for the 25 years after the application was received by the district
- 3) approve or disapprove the application within 35 days of receipt of the Comptroller's recommendation and notify the applicant and comptroller of its decision within seven days;
- 4) enter into agreements with applicants as specified in the bill;
- 5) submit agreements to the Comptroller; and
- 6) submit biennial reports to the comptroller containing the total payments received from the applicant under the agreement for each previous year, including any other direct or indirect benefit, and the purposes for which the payments and benefits were used by the school district.

The bill provides that agreements may contain tax revenue savings sharing and indemnity payment provisions that are outlined in the bill. The bill outlines a specific tax sharing formula that is based on total tax benefit realized by the applicant.

The bill authorizes a penalty for failure to comply with the jobs or wage requirements. The Comptroller would be required to collect, administer or enforce the penalty and deposit amounts collected in the foundation school fund (General Revenue dedicated account 0193). The penalty could not exceed the amount of the ad valorem tax benefit received by the applicant under the agreement that is the subject of the penalty.

The bill would require an annual audit of at least three major agreements 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 makes conforming changes in the Education and Tax Code.

Methodology

The bill will create an incentive program to provide temporary and limited incentives for large scale manufacturing projects. The program would consist of 10-year reductions of eligible property taxable value for purpose of school district maintenance and operations ad valorem taxes, minimum investment and job requirements stratified by school district total taxable property 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. Further, under the proposed

program grid reliability projects are not subject to determining factor evaluations, job requirements, or minimum investment amounts in the program proposed by the bill which should attract projects that otherwise would not have been eligible under the prior program. Additionally, grid reliability projects that previously entered into agreements under the Chapter 313 program could be eligible for a new agreement under the proposed program since they are not required to demonstrate that the agreement is a determining factor to make the investment and locate the project in this state.

The model class base values were increased by five percent to reflect increased program participation due to the addition of new project types, construction period tax savings, reduced requirements for grid reliability projects and likely cross-over from projects previously approved under the Chapter 313 program.

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 \$0.8 million in fiscal year 2027, \$1.9 million in fiscal year 2028, increasing to \$458.6 million in fiscal year 2033. The cost to the FSP includes estimated decreases in Recapture Payments - Attendance Credits of \$0.4 million in fiscal year 2027, \$0.9 million in fiscal year 2028, increasing to \$226.9 million in fiscal year 2033 as a result of school district tax revenue loss. The decrease in recapture is reflected as a savings in the table above because recapture is appropriated as a method of finance for the FSP in the General Appropriations Act.

The Comptroller's office anticipates needing to hire 5.0 Program Specialist IVs to implement the provisions of the bill. This analysis assumes staffing related costs of \$414,063 in fiscal year 2024 and \$436,717 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 fiscal impact to school districts is shown in the table above.

Source Agencies: 304 Comptroller of Public Accounts

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

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

Revision 1

May 2, 2023

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB5 by Hunter (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; authorizing fees; authorizing a penalty.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB5, Committee Report 1st House, Substituted : a negative impact of (\$5,480,624) through the biennium ending August 31, 2025.

However, the cost to the Foundation School Program increases to (\$458.6 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:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2024	(\$2,731,250)
2025	(\$2,749,374)
2026	(\$2,749,374)
2027	(\$1,192,374)
2028	(\$2,257,374)
2029	(\$9,298,374)
2030	(\$42,295,374)
2031	(\$110,772,374)
2032	(\$258,460,374)
2033	(\$458,909,374)

All Funds, Ten-Year Impact:

<i>Fiscal Year</i>	<i>Probable Savings/(Cost) from General Revenue Fund 1</i>	<i>Probable Savings/(Cost) from Foundation School Fund 193</i>	<i>Probable Savings/(Cost) from Recapture Payments Atten Crdts 8905</i>	<i>Probable Revenue Gain/(Loss) from School Districts</i>
2024	(\$2,731,250)	\$0	\$0	\$0
2025	(\$2,749,374)	\$0	\$0	\$0
2026	(\$2,749,374)	\$0	\$0	\$0
2027	(\$349,374)	(\$843,000)	\$431,000	(\$870,000)
2028	(\$349,374)	(\$1,908,000)	\$925,000	(\$1,974,000)
2029	(\$349,374)	(\$8,949,000)	\$4,043,000	(\$9,231,000)
2030	(\$349,374)	(\$41,946,000)	\$18,687,000	(\$43,271,000)
2031	(\$349,374)	(\$110,423,000)	\$53,098,000	(\$115,379,000)
2032	(\$349,374)	(\$258,111,000)	\$128,962,000	\$267,888,000
2033	(\$349,374)	(\$458,560,000)	\$226,850,000	(\$485,142,000)

<i>Fiscal Year</i>	<i>Change in Number of State Employees from FY 2023</i>
2024	4.0
2025	4.0
2026	4.0
2027	4.0
2028	4.0
2029	4.0
2030	4.0
2031	4.0
2032	4.0
2033	4.0

Fiscal Analysis

The bill would amend Chapter 403 of the Government Code to create a program to provide temporary and limited incentives for large scale manufacturing projects in a qualified industry that is defined as a national or state security project or supply chain infrastructure project, a manufacturing project (including semiconductor fabrication cleanrooms and equipment), and a project that requires \$1.0 billion in investment in a school district in this state.

The bill defines "National or state security project or supply chain infrastructure project" as a grid reliability project or a seawater or brackish groundwater desalination project. A "Grid reliability project" is defined as a project that that generates base load or dispatchable electricity for the power grid, or from batteries, regardless of power source, that increases the output capacity or reliability of an existing dispatchable electric power generation facility or that replaces dispatchable electric power generation assets to extend the useful life of the facility.

Eligibility for an agreement to reduce taxable value would be contingent on achieving minimum job and investment amounts. The minimum investment amounts must be met prior to the beginning of the incentive period and the jobs must be created by the first year of the incentive period. These minimums would not be applicable to a national or state security project or supply chain infrastructure project. The required minimums would be based on school district taxable property values for the proceeding tax year as follows:

- 1) at least \$100.0 million in investment and 50 jobs created in districts with taxable values of \$10.0 billion or more;
- 2) at least \$80.0 million in investment and 40 jobs created in districts with taxable values of at least \$1.0 billion but less than \$10.0 billion;

- 3) at least \$50.0 million in investment and 25 jobs created in districts with taxable values of at least \$500.0 million but less than \$1.0 billion;
- 4) at least \$25.0 million in investment and 10 jobs created in districts with taxable values of at least \$100.0 million but less than \$500.0 million; and
- 5) at least \$10.0 million in investment and 5 jobs created in districts with taxable values of less than \$100.0 million or districts that are not located in a metropolitan statistical area.

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. The bill also permits the start of the incentive period to automatically move to January 1 of the subsequent tax year if the applicant fails to make its minimum investment before the start of the incentive period without changing the end date for the incentive period.

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) \$100.0 million in a district with total taxable values of \$10.0 billion or more;
- 2) \$75.0 million in a district with total taxable values of at least \$1.0 billion but less than \$10.0 billion;
- 3) \$50.0 million in taxable value of eligible property located in a district with total taxable values of at least \$500.0 million but less than \$1 billion would be reduced to;
- 4) \$25.0 million in a district with total taxable values of at least \$100.0 million but less than \$500.0 million; and
- 5) \$5.0 million in a district with total taxable values less than \$100.0 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 school district 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 school district in an amount not to exceed \$60,000;
 - b. a map of the proposed project site; and
 - c. the economic benefit statement;
- 3) enter into agreements with school districts as specified in the bill; and
- 4) submit a 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 approval to the school district 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.

Under provisions of the bill, the comptroller would be required to recommend that a school district approve an application if it is determined that the project is eligible for an agreement, is reasonably likely to generate state or local tax revenue in an amount sufficient to offset the tax revenue lost as a result of the agreement, and the

agreement is a determining factor to make the investment and locate the project in this state. However, the comptroller is not required to establish whether the agreement is a determining factor in the applicant's decision to pursue a grid reliability project in this state.

The bill would require the governing body of an individual school district to:

- 1) forward the application to the Comptroller within seven days of receipt from the applicant;
- 2) prepare a school finance report with the annual projected tax and revenue consequences for the district for the 25 years after the application was received by the district; approve or disapprove the application within 35 days of receipt of the comptroller's recommendation and notify the applicant and comptroller of its decision within seven days;
- 3) enter into agreements with applicants as specified in the bill;
- 4) submit agreements to the comptroller; and
- 5) submit biennial reports to the comptroller containing the total payments received from the applicant under the agreement for each previous year, including any other direct or indirect benefit, and the purposes for which the payments and benefits were used by the school district.

The bill provides that agreements may contain tax revenue savings sharing and indemnity payment provisions that are outlined in the bill. The bill outlines a specific tax sharing formula that is based on total tax benefit realized by the applicant.

The bill authorizes a penalty for failure to comply with the jobs or wage requirements. The comptroller is required to collect, administer or enforce the penalty and deposit amounts collected in the foundation school fund. The penalty may not exceed the amount of the ad valorem tax benefit received by the applicant under the agreement that is the subject of the penalty.

The bill requires an annual audit of at least three major agreements 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, 2036.

The bill makes conforming changes in the Education and Tax Code.

Methodology

The bill would create an incentive program to provide temporary and limited incentives for large scale manufacturing projects. The program would consist of 10 year reductions of eligible property taxable value for purpose of school district maintenance and operations ad valorem taxes, minimum investment and job requirements stratified by school district total taxable property values. Additionally, the bill provides for a 100.0 percent reduction of taxable value on property for school district maintenance and operations ad valorem tax purposes during the construction period.

Annual 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. The model class revenue estimates were increased 8.0 percent in each year to adjust for estimated annual program growth.

The program proposed in this bill would allow projects and property not previously permitted in the Chapter 313 program, including desalination projects, natural gas terminals and natural gas storage facilities. The program adds a 100.0 percent reduction of taxable value during the constructions period while project under the Chapter 313 program were fully taxed during construction. Further, under the proposed program grid reliability projects are not subject to determining factor evaluations, job requirements, or minimum investment amounts in the program proposed by the bill which should attract projects that otherwise would not have been eligible under the prior program. Additionally, grid reliability projects that previously entered into agreements under the Chapter 313 program could be eligible for a new agreement under the proposed program since they are not required to demonstrate that the agreement is a determining factor to make the investment and locate the

project in this state.

Therefore, a conservative 5.0 percent inflation over the model class base value is required to accurately reflect increased program participation due to the addition of new project types, construction period tax savings, reduced requirements for grid reliability projects and likely cross-over from projects previously approved under the Chapter 313 program.

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 \$0.8 million in fiscal year 2027, \$1.9 million in fiscal year 2028, increasing to \$458.6 million in fiscal year 2033. The cost to the FSP includes estimated decreases in Recapture Payments - Attendance Credits of \$0.4 million in fiscal year 2027, \$0.9 million in fiscal year 2028, increasing to \$226.9 million in fiscal year 2033 as a result of school district tax revenue loss. The decrease in recapture is reflected as a savings in the table above because recapture is appropriated as a method of finance for the FSP in the General Appropriations Act.

The Comptroller's office anticipates needing to hire 4.0 Program Specialist IVs to implement the provisions of the bill. This analysis assumes staffing related costs of \$331,250 in fiscal year 2024 and \$349,374 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 fiscal impact to school districts is shown in the table above.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JMc, KK, SD, BRI

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 1, 2023

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB5 by Hunter (relating to agreements to create jobs and generate state and local tax revenue; authorizing fees; authorizing a penalty.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB5, Committee Report 1st House, Substituted : a negative impact of (\$5,480,624) through the biennium ending August 31, 2025.

However, the cost to the Foundation School Program increases to (\$458.6 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:

<i>Fiscal Year</i>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2024	(\$2,731,250)
2025	(\$2,749,374)
2026	(\$2,749,374)
2027	(\$1,192,374)
2028	(\$2,257,374)
2029	(\$9,298,374)
2030	(\$42,295,374)
2031	(\$110,772,374)
2032	(\$258,460,374)
2033	(\$458,909,374)

All Funds, Ten-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Savings/(Cost) from <i>Foundation School Fund</i> 193	Probable Savings/(Cost) from <i>Recapture Payments Atten</i> <i>Crdts</i> 8905	Probable Revenue Gain/(Loss) from <i>School Districts</i>
2024	(\$2,731,250)	\$0	\$0	\$0
2025	(\$2,749,374)	\$0	\$0	\$0
2026	(\$2,749,374)	\$0	\$0	\$0
2027	(\$349,374)	(\$843,000)	\$431,000	(\$870,000)
2028	(\$349,374)	(\$1,908,000)	\$925,000	(\$1,974,000)
2029	(\$349,374)	(\$8,949,000)	\$4,043,000	(\$9,231,000)
2030	(\$349,374)	(\$41,946,000)	\$18,687,000	(\$43,271,000)
2031	(\$349,374)	(\$110,423,000)	\$53,098,000	(\$115,379,000)
2032	(\$349,374)	(\$258,111,000)	\$128,962,000	\$267,888,000
2033	(\$349,374)	(\$458,560,000)	\$226,850,000	(\$485,142,000)

<i>Fiscal Year</i>	<i>Change in Number of State Employees from FY 2023</i>
2024	4.0
2025	4.0
2026	4.0
2027	4.0
2028	4.0
2029	4.0
2030	4.0
2031	4.0
2032	4.0
2033	4.0

Fiscal Analysis

The bill would amend Chapter 403 of the Government Code to create a program to provide temporary and limited incentives for large scale manufacturing projects in a qualified industry that is defined as a national or state security project or supply chain infrastructure project, a manufacturing project (including semiconductor fabrication cleanrooms and equipment), and a project that requires \$1.0 billion in investment in a school district in this state.

The bill defines "National or state security project or supply chain infrastructure project" as a grid reliability project or a seawater or brackish groundwater desalination project. A "Grid reliability project" is defined as a project that that generates base load or dispatchable electricity for the power grid, or from batteries, regardless of power source, that increases the output capacity or reliability of an existing dispatchable electric power generation facility or that replaces dispatchable electric power generation assets to extend the useful life of the facility.

Eligibility for an agreement to reduce taxable value would be contingent on achieving minimum job and investment amounts. The minimum investment amounts must be met prior to the beginning of the incentive period and the jobs must be created by the first year of the incentive period. These minimums would not be applicable to a national or state security project or supply chain infrastructure project. The required minimums would be based on school district taxable property values for the proceeding tax year as follows:

- 1) at least \$100.0 million in investment and 50 jobs created in districts with taxable values of \$10.0 billion or more;
- 2) at least \$80.0 million in investment and 40 jobs created in districts with taxable values of at least \$1.0 billion but less than \$10.0 billion;

- 3) at least \$50.0 million in investment and 25 jobs created in districts with taxable values of at least \$500.0 million but less than \$1.0 billion;
- 4) at least \$25.0 million in investment and 10 jobs created in districts with taxable values of at least \$100.0 million but less than \$500.0 million; and
- 5) at least \$10.0 million in investment and 5 jobs created in districts with taxable values of less than \$100.0 million or districts that are not located in a metropolitan statistical area.

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. The bill also permits the start of the incentive period to automatically move to January 1 of the subsequent tax year if the applicant fails to make its minimum investment before the start of the incentive period without changing the end date for the incentive period.

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) \$100.0 million in a district with total taxable values of \$10.0 billion or more;
- 2) \$75.0 million in a district with total taxable values of at least \$1.0 billion but less than \$10.0 billion;
- 3) \$50.0 million in taxable value of eligible property located in a district with total taxable values of at least \$500.0 million but less than \$1 billion would be reduced to;
- 4) \$25.0 million in a district with total taxable values of at least \$100.0 million but less than \$500.0 million; and
- 5) \$5.0 million in a district with total taxable values less than \$100.0 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 school district 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 school district in an amount not to exceed \$60,000;
 - b. a map of the proposed project site; and
 - c. the economic benefit statement;
- 3) enter into agreements with school districts as specified in the bill; and
- 4) submit a 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 approval to the school district 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.

Under provisions of the bill, the comptroller would be required to recommend that a school district approve an application if it is determined that the project is eligible for an agreement, is reasonably likely to generate state or local tax revenue in an amount sufficient to offset the tax revenue lost as a result of the agreement, and the

agreement is a determining factor to make the investment and locate the project in this state. However, the comptroller is not required to establish whether the agreement is a determining factor in the applicant's decision to pursue a grid reliability project in this state.

The bill would require the governing body of an individual school district to:

- 1) forward the application to the Comptroller within seven days of receipt from the applicant;
- 2) prepare a school finance report with the annual projected tax and revenue consequences for the district for the 25 years after the application was received by the district; approve or disapprove the application within 35 days of receipt of the comptroller's recommendation and notify the applicant and comptroller of its decision within seven days;
- 3) enter into agreements with applicants as specified in the bill;
- 4) submit agreements to the comptroller; and
- 5) submit biennial reports to the comptroller containing the total payments received from the applicant under the agreement for each previous year, including any other direct or indirect benefit, and the purposes for which the payments and benefits were used by the school district.

The bill provides that agreements may contain tax revenue savings sharing and indemnity payment provisions that are outlined in the bill. The bill outlines a specific tax sharing formula that is based on total tax benefit realized by the applicant.

The bill authorizes a penalty for failure to comply with the jobs or wage requirements. The comptroller is required to collect, administer or enforce the penalty and deposit amounts collected in the foundation school fund. The penalty may not exceed the amount of the ad valorem tax benefit received by the applicant under the agreement that is the subject of the penalty.

The bill requires an annual audit of at least three major agreements 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, 2036.

The bill makes conforming changes in the Education and Tax Code.

Methodology

The bill would create an incentive program to provide temporary and limited incentives for large scale manufacturing projects. The program would consist of 10 year reductions of eligible property taxable value for purpose of school district maintenance and operations ad valorem taxes, minimum investment and job requirements stratified by school district total taxable property values. Additionally, the bill provides for a 100.0 percent reduction of taxable value on property for school district maintenance and operations ad valorem tax purposes during the construction period.

Annual 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. The model class revenue estimates were increased 8.0 percent in each year to adjust for estimated annual program growth.

The program proposed in this bill would allow projects and property not previously permitted in the Chapter 313 program, including desalination projects, natural gas terminals and natural gas storage facilities. The program adds a 100.0 percent reduction of taxable value during the constructions period while project under the Chapter 313 program were fully taxed during construction. Further, under the proposed program grid reliability projects are not subject to determining factor evaluations, job requirements, or minimum investment amounts in the program proposed by the bill which should attract projects that otherwise would not have been eligible under the prior program. Additionally, grid reliability projects that previously entered into agreements under the Chapter 313 program could be eligible for a new agreement under the proposed program since they are not required to demonstrate that the agreement is a determining factor to make the investment and locate the

project in this state.

Therefore, a conservative 5.0 percent inflation over the model class base value is required to accurately reflect increased program participation due to the addition of new project types, construction period tax savings, reduced requirements for grid reliability projects and likely cross-over from projects previously approved under the Chapter 313 program.

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 \$0.8 million in fiscal year 2027, \$1.9 million in fiscal year 2028, increasing to \$458.6 million in fiscal year 2033. The cost to the FSP includes estimated decreases in Recapture Payments - Attendance Credits of \$0.4 million in fiscal year 2027, \$0.9 million in fiscal year 2028, increasing to \$226.9 million in fiscal year 2033 as a result of school district tax revenue loss. The decrease in recapture is reflected as a savings in the table above because recapture is appropriated as a method of finance for the FSP in the General Appropriations Act.

The Comptroller's office anticipates needing to hire 4.0 Program Specialist IVs to implement the provisions of the bill. This analysis assumes staffing related costs of \$331,250 in fiscal year 2024 and \$349,374 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 fiscal impact to school districts is shown in the table above.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JMc, KK, SD, BRI

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

April 9, 2023

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB5 by Hunter (Relating to agreements to create jobs and to generate state and local tax revenue for this state.), **As Introduced**

Passage of the bill would create an incentive program to provide temporary and limited incentives for large scale investment projects. Costs associated with implementing the bill would be dependent on program requirements related to project eligibility, investment levels, or potential tax savings that may result from agreements under the program. These requirements are unknown. As a result, the fiscal impact of the bill cannot be determined.

The bill would amend Chapter 403 of the Government Code by adding Subchapter S, relating to agreements to create jobs and generate state and local revenue. This bill would create a program to provide temporary and limited incentives for large scale investment projects in a qualified industry that is defined as manufacturing, critical infrastructure, or national and state security and critical domestic supply chain support.

This bill would require the eligible applicant to:

- (1) submit the application with the minimal criteria as defined by the bill to the school district for approval of an agreement;
- (2) include in the submission, a) applicant and school district information; b) the property parcel number; c) the total number of jobs created and wages paid; d) the total investment amount; e) the appraised value and taxable values of all property associated with the project; f) the total amount of school district maintenance and operations and interest and sinking fund ad valorem taxes paid by the applicant; g) the total amount of school district ad valorem taxes the applicant would have paid in the absence of an agreement; and j) the total amount of payments other than ad valorem taxes made by the applicant to the school district; and
- (3) annually calculate the tax savings from the agreement by multiplying the school district maintenance and operations tax rate by the difference between the taxable value in the absence of the agreement and the taxable value as specified by the agreement. The applicant shall retain the greater percentage of any tax savings resulting from the agreement and remit the lesser percentage to the Comptroller annually.

This bill would require Comptroller to : (1) promulgate the application form; (2) establish evaluation criteria of the economic benefits; (3) publicly post all application information excluding the economic benefits statement and any information deemed confidential; (4) must recommend applications for approval by the school district if it finds that the project provides a net economic or financial benefit to the state; and (5) distribute the greater percentage of the funds received to the school district that levies the ad valorem taxes on the project and deposit the lesser percentage to the credit of the general revenue fund for distribution as specified by a general appropriations act

Under provision of this bill individual school district would be required to: (1) forward the application to the Comptroller within 30 days of receipt from the applicant; (2) approve or disapprove the application within days of receipt of the comptroller's approval and (3) submit the report to the Comptroller, that would detail all payments and any other direct or indirect benefits received by the school district from the applicant and the purposes for which the payments and benefits were used by the district.

The bill will create an incentive program to provide temporary and limited incentives for large scale manufacturing projects. Fiscal impact will be significant; however, as the bill language is lacking a number of details relating to project eligibility, investment levels, or potential tax savings that may result from agreements under the program, the fiscal impact cannot be estimated.

The Comptroller's office anticipates technology costs in fiscal years 2024 to 2026 to modify the tax systems needed to implement the provisions of the bill.

Local Government Impact

Passage of the bill would create an incentive program to provide temporary and limited incentives for large scale investment projects. Costs associated with implementing the bill would be dependent on program requirements related to project eligibility, investment levels, or potential tax savings that may result from agreements under the program. These requirements are unknown. As a result, the fiscal impact of the bill cannot be determined.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JMc, KK, SD, BRI

LEGISLATIVE BUDGET BOARD

Austin, Texas

TAX/FEE EQUITY NOTE

88TH LEGISLATIVE REGULAR SESSION

May 16, 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 on certain property to provide for the creation of jobs and the generation of state and local tax revenue; authorizing fees; authorizing a penalty.), **As Engrossed**

No statistically significant impact on the overall distribution of a state tax or fee burden among individuals and businesses is anticipated from the provisions of this bill.

Source

Agencies:

LBB Staff: JMc, KK

LEGISLATIVE BUDGET BOARD

Austin, Texas

TAX/FEE EQUITY NOTE

88TH LEGISLATIVE REGULAR SESSION

Revision 1

May 2, 2023

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB5** by Hunter (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; authorizing fees; authorizing a penalty.), **Committee Report 1st House, Substituted**

No statistically significant impact on the overall distribution of a state tax or fee burden among individuals and businesses is anticipated from the provisions of this bill.

Source

Agencies:

LBB Staff: JMc, KK

LEGISLATIVE BUDGET BOARD

Austin, Texas

TAX/FEE EQUITY NOTE

88TH LEGISLATIVE REGULAR SESSION

May 1, 2023

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB5 by Hunter (relating to agreements to create jobs and generate state and local tax revenue; authorizing fees; authorizing a penalty.), **Committee Report 1st House, Substituted**

No statistically significant impact on the overall distribution of a state tax or fee burden among individuals and businesses is anticipated from the provisions of this bill.

Source

Agencies:

LBB Staff: JMc, KK

LEGISLATIVE BUDGET BOARD

Austin, Texas

TAX/FEE EQUITY NOTE

88TH LEGISLATIVE REGULAR SESSION

April 9, 2023

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB5 by Hunter (Relating to agreements to create jobs and to generate state and local tax revenue for this state.), **As Introduced**

No statistically significant impact on the overall distribution of a state tax or fee burden among individuals and businesses is anticipated from the provisions of this bill.

Source

Agencies:

LBB Staff: JMc, KK