

By: Louderback

H.B. No. 1623

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the eligibility of certain foreign individuals or
3 entities for a limitation on the taxable value of property for
4 school district maintenance and operations ad valorem tax purposes
5 under the Texas Jobs, Energy, Technology, and Innovation Act.

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

7 SECTION 1. Section 403.602, Government Code, as added by
8 Chapter 377 (H.B. 5), Acts of the 88th Legislature, Regular
9 Session, 2023, is amended by adding Subdivisions (7-a) and (10-a)
10 to read as follows:

11 (7-a) "Designated country" means a country identified
12 by the United States Director of National Intelligence as a country
13 that poses a risk to the national security of the United States in
14 each of the three most recent Annual Threat Assessments of the U.S.
15 Intelligence Community issued pursuant to Section 108B, National
16 Security Act of 1947 (50 U.S.C. Section 3043b).

17 (10-a) "Governing authority," "governing person," and
18 "organization" have the meanings assigned by Section 1.002,
19 Business Organizations Code.

20 SECTION 2. Section 403.606, Government Code, as added by
21 Chapter 377 (H.B. 5), Acts of the 88th Legislature, Regular
22 Session, 2023, is amended to read as follows:

23 Sec. 403.606. CERTAIN PERSONS INELIGIBLE. (a) For
24 purposes of this section, an organization is under the control of an

1 individual or another organization if the controlling individual or
2 organization owns at least 50 percent of the voting ownership
3 interest of the controlled organization necessary to elect a
4 governing person or governing authority of that organization.

5 (b) A person is not eligible to submit an application to the
6 comptroller or enter into an agreement under this subchapter if:

7 (1) the person is a company that is listed as
8 ineligible to receive a state contract or investment under Chapter
9 808, 809, 2270, 2271, ~~or~~ 2274, 2275, or 2276; or

10 (2) the person is:

11 (A) a governmental entity of a designated
12 country;

13 (B) an organization that is:

14 (i) headquartered in a designated country;

15 (ii) directly or indirectly under the
16 control of the government of a designated country; or

17 (iii) owned by or under the control of one
18 or more individuals who are citizens of a designated country;

19 (C) an organization that is owned by or under the
20 control of an organization described by Paragraph (B); or

21 (D) an individual who is a citizen of a
22 designated country ~~[as added by Chapters 529 (S.B. 13), 530 (S.B.~~
23 ~~19), and 975 (S.B. 2116), Acts of the 87th Legislature, Regular~~
24 ~~Session, 2021].~~

25 SECTION 3. Section 403.607(e), Government Code, as added by
26 Chapter 377 (H.B. 5), Acts of the 88th Legislature, Regular
27 Session, 2023, is amended to read as follows:

1 (e) The comptroller may request that an applicant provide
2 any additional information the comptroller reasonably determines
3 is necessary to complete the comptroller's evaluation of the
4 application, including information necessary to determine whether
5 the applicant is eligible under Section 403.606 to submit the
6 application. The comptroller may require an applicant to submit
7 the additional information by a certain date and may extend that
8 deadline on a showing of good cause. The comptroller is not
9 required to take any further action on an application until it is
10 complete.

11 SECTION 4. Section 403.609(b), Government Code, as added by
12 Chapter 377 (H.B. 5), Acts of the 88th Legislature, Regular
13 Session, 2023, is amended to read as follows:

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 20th 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;

25 (3) the agreement is a compelling factor in a
26 competitive site selection determination and that, in the absence
27 of the agreement, the applicant would not make the proposed

1 investment in this state; ~~and~~

2 (4) if the application indicates that the eligible
3 project is proposed to be located in a qualified opportunity zone,
4 the project is located in the zone; and

5 (5) the content of the sworn affidavit submitted by
6 the applicant with the application under Section 403.607(d)(5) is
7 true and correct and the applicant is eligible under Section
8 403.606 to submit the application.

9 SECTION 5. Section 403.612, Government Code, as added by
10 Chapter 377 (H.B. 5), Acts of the 88th Legislature, Regular
11 Session, 2023, is amended by amending Subsections (b) and (e) and
12 adding Subsection (d-1) to read as follows:

13 (b) An agreement entered into under this section between the
14 governor, a school district, and an applicant pertaining to an
15 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 construction and incentive periods for
24 the project;

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

1 eligible property subject to the agreement;

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

5 (6) require that the average annual wage paid to all
6 persons employed by the applicant in connection with the project
7 used to calculate total jobs exceed 110 percent of the average
8 annual wage for all jobs in the applicable industry sector during
9 the most recent four quarters for which data is available, as
10 computed by the Texas Workforce Commission, 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
14 403.616(c)(4); and

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

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

20 (8) require the applicant to offer and contribute to a
21 group health benefit plan for each employee of the applicant who is
22 employed in a full-time job;

23 (9) require the applicant, at the time the applicant
24 executes the agreement, to execute a performance bond in an amount
25 the comptroller determines to be reasonable and necessary to
26 protect the interests of the state and the district and conditioned
27 on the applicant's compliance with the terms of the agreement;

1 (9-a) require the applicant to agree that, during the
2 term of the agreement, the applicant will not:

3 (A) be acquired by or transfer an ownership
4 interest in the applicant to a person ineligible under Section
5 403.606(b)(2) to submit an application or enter into an agreement;
6 or

7 (B) transfer an ownership interest in the
8 eligible project that is the subject of the agreement to a person
9 ineligible under Section 403.606(b)(2) to submit an application or
10 enter into an agreement;

11 (10) authorize the governor or the district to
12 terminate the agreement as provided by Subsection (d);

13 (10-a) authorize the attorney general to bring an
14 action to terminate the agreement as provided by Subsection (d-1);
15 and

16 (11) incorporate each relevant provision of this
17 subchapter.

18 (d-1) This subsection applies to a term described by
19 Subsection (b)(10-a). The agreement must provide that, if the
20 attorney general is made aware or independently learns of a
21 violation of Subsection (b)(9-a) by an applicant, the attorney
22 general may bring an action to terminate the agreement. The
23 attorney general may bring an action under this subsection in a
24 district court in Travis County or a district court in the county in
25 which a majority of the eligible project that is the subject of the
26 agreement is located. The comptroller shall promptly notify the
27 attorney general if the comptroller is made aware or independently

1 learns of a violation of Subsection (b)(9-a) by an applicant.

2 (e) An agreement terminated under Subsection (d) or (d-1) is
3 void, and all remaining obligations and benefits under the
4 agreement and this subchapter terminate on the date the agreement
5 is terminated.

6 SECTION 6. Section 403.615(a), Government Code, as added by
7 Chapter 377 (H.B. 5), Acts of the 88th Legislature, Regular
8 Session, 2023, is amended to read as follows:

9 (a) Each year the state auditor shall select and review at
10 least 10 percent of the agreements in effect in that year to
11 determine whether:

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

14 (2) the terms of each agreement were executed in
15 compliance with the terms of this subchapter, including Section
16 403.606.

17 SECTION 7. Section 403.617, Government Code, as added by
18 Chapter 377 (H.B. 5), Acts of the 88th Legislature, Regular
19 Session, 2023, is amended by adding Subsection (b-1) to read as
20 follows:

21 (b-1) In addition to the information required under
22 Subsection (b), the comptroller must include the following
23 information in the report, if applicable:

24 (1) the number of agreements entered into under this
25 subchapter pursuant to applications submitted before September 1,
26 2025, and in effect during the period covered by the report to which
27 a person described by Section 403.606(b)(2) is a party;

1 (2) the number of applications submitted to the
2 comptroller under Section 403.607 during the period covered by the
3 report that the comptroller determined were submitted by a person
4 described by Section 403.606(b)(2); and

5 (3) the number of agreements terminated during the
6 period covered by the report as a result of an action brought by the
7 attorney general under Section 403.612(d-1).

8 SECTION 8. The changes in law made by this Act to Subchapter
9 T, Chapter 403, Government Code, as added by Chapter 377 (H.B. 5),
10 Acts of the 88th Legislature, Regular Session, 2023, apply only to
11 an agreement entered into under that subchapter pursuant to an
12 application submitted under that subchapter on or after the
13 effective date of this Act. An agreement entered into under that
14 subchapter pursuant to an application submitted before the
15 effective date of this Act is governed by the law in effect on the
16 date the application was submitted, and the former law is continued
17 in effect for that purpose.

18 SECTION 9. To the extent of any conflict, this Act prevails
19 over another Act of the 89th Legislature, Regular Session, 2025,
20 relating to nonsubstantive additions to and corrections in enacted
21 codes.

22 SECTION 10. This Act takes effect September 1, 2025.