

SUBJECT: Extending and revising the Texas Economic Development Act

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 6 ayes — Hilderbran, Bohac, Button, Eiland, N. Gonzalez, Strama

0 nays

3 absent — Otto, Martinez Fischer, Ritter

WITNESSES: For — Bob Adair, Phillips 66; Richard A. Bennett, Texas Assn of Manufacturers; Dale Craymer, Texas Taxpayers and Research Association; Dale Cummings, Cummings Westlake LLC; Steve Hazlewood, Dow Chemical; James LeBas, TxOGA, AECT, Texas Chemical Council; (*Registered, but did not testify*: Brandon Aghamalian, City of Corpus Christi; Elizabeth Castro, LyondellBasell; Robert Flores, Texas Association of Mexican-American Chambers of Commerce; Deborah Giles, SHI Government Solutions; Bill Hammond, Texas Association of Business; Patrick Hogan, Texas Technology Consortium; Max Jones, The Metro 8 Chambers of Commerce; Julie Klumpyan, Valero; Warren Mayberry, DuPont; Mike Meroney, Huntsman Corp., Sherwin Alumina Co., and BASF Corp.; Julie Moore, Occidental Petroleum Corporation; Steve Perry, Chevron USA; Dave Porter and Drew Scheberle, Greater Austin Chamber of Commerce; Wendy Reilly, TechAmerica; Carlton Schwab, Texas Economic Development Council; Ben Sebree, Enterprise Products, LLC; Fred Shannon, Hewlett Packard; Sara Tays, Exxon Mobil Corporation; Jon Weist, Arlington Chamber of Commerce; Trisha Windham, Dallas Regional Chamber; Geoff Wurzel, TechNet)

Against — Dick Lavine, Center for Public Policy Priorities; Greg Poole; (*Registered, but did not testify*: Ted Melina Raab, Texas AFT)

On — Daniel Casey, Moak, Casey & Associates; Jeffrey Clark, The Wind Coalition; Billy Hamilton, American Wind Energy Association, Raise Your Hand Texas; Kevin O'Hanlon; Robert Webb, Texas Renewable Energy Industries Association; Robert Wood, Comptroller of Texas (*Registered, but did not testify*: Dominic Giarratani, Texas Association of School Boards)

BACKGROUND: In 2001, the 77th Legislature enacted HB 1200 by Brimer, known as the Texas Economic Development Act. The act authorized school districts to negotiate reductions on the appraised value of property for maintenance and operation (M&O) in exchange for businesses locating a manufacturing, research and development, or renewable energy electric generation facility in the district. Districts negotiating their appraised values through such agreements are held harmless by the state for purposes of state education aid. Under Tax Code sec. 313.007, the Economic Development Act expires December 31, 2014.

DIGEST: CSHB 3390 would revise provisions governing the Texas Economic Development Act (Chapter 313 of the Tax Code) and extend the expiration date from December 31, 2014 to December 31, 2024. The extension of sections of the Tax Code govern the limits on appraised value of certain property used to create jobs and the limits on appraised value in certain rural school districts. The bill would repeal subchapter D, which governs school tax credits.

The bill also would extend the qualifying time period to 10 years from eight years following an application approval. A deferral of qualifying time period could not exceed six years. The bill would repeal provisions that require companies pay wages that are 110 percent of the county's average weekly wage for manufacturing jobs, reports on compliance with energy-related agreements and other agreements.

Qualifications. CSHB 3390 would add to the definition of "qualified investment" an existing building that was expanded as part of a discrete project that increased productive capacity of an existing property.

The definition of "qualified job" would be amended to be a permanent, full-time job that:

- included coverage by a group health benefit plan that complied with the Patient Protection and Affordable Care Act; and
- paid at least 110 percent of the county average weekly wage for all jobs in the county where the job was located, but no longer the county average wage for manufacturing jobs.

Certificate of limitation. The comptroller could not issue a certificate for a limitation on appraised value without determining that:

- the project proposed by the applicant would likely generate tax revenue within 20 years in an amount sufficient to offset the school district maintenance and operations property tax revenue lost as a result of the agreement; and
- the limitation on appraised value was a significant consideration in determining whether to invest capital and construct the project in this state.

The comptroller would be instructed to strictly interpret the criteria and selection criteria and issue certificates for limitations on appraised value only for those applications for property tax benefit that create high-paying jobs, provide a net benefit to the state over the long-term, and advance the state's economic development goals.

Texas Priority Project. A Texas Priority Project would be eligible for a limitation on appraised value under Chapter 313. A Texas Priority Project would be defined as a project on which the applicant has committed to spend or allocate a qualified investment of at least \$1 billion.

Procedures. Within 90 days of receiving a copy of the application, the comptroller would issue a certificate for a limitation on appraised value of the property and provide the certificate to the governing body of the school district or provide a written explanation of the comptroller's decision not to issue a certificate. A district board could request that the comptroller submit a recommendation as to whether the new jobs creation requirement should be reduced or waived and, if reduced, the number of new jobs that would be required.

The bill would delete a requirement for a school district board to conduct a public hearing and receive a vote of at least two-thirds prior to approving an application. The comptroller would submit a biennial assessment of the Economic Development Act agreements that included specific metrics.

Economic impact evaluation. An economic impact evaluation additionally would have to include:

- the comptroller's determination whether to issue a certificate for the limitation on appraised value of the property and, if requested, the comptroller's recommendation regarding waiver or reduction of the new jobs requirement; and

- the industry standard for the number of employees reasonably necessary for the operation of the facility described.

An impact evaluation would not have to include:

- the number of new facilities built or expanded in the region during the preceding two years that were eligible for a limitation;
- the effect of the applicant's proposal on the number or size of the district's instructional facilities; or
- the projected future tax credits if the applicant also applied for school tax credits.

Strategic investment area. The bill would broaden provisions in Subchapter C applying to certain rural school districts to also apply to strategic investment areas. It would define "strategic investment area" as:

- a county with unemployment above the state average and per capita income below the state average;
- an area that was a federally designated urban enterprise community or an urban enhanced enterprise community; or
- a designated defense economic readjustment zone.

The comptroller would determine areas that qualified as strategic investment areas and publish a list and map of the designated areas.

Effective date. The bill would take effect January 1, 2014.

**SUPPORTERS
SAY:**

CSHB 3390 would extend and improve the Texas Economic Development Act, which has proved to be a great engine of economic development for the state. CSHB 3390 would improve the state's ability to deliver these benefits in several key ways, including:

- securing the program for the near future with a 10-year extension of the sunset clause;
- adding measures to ensure that the incentives were ultimately a good deal for Texans by requiring that the comptroller make a judgment that the value of the project would exceed its cost; and
- extending the qualifying benefit period from eight years to 10 years to increase the maximum potential benefit of the incentives.

The local tax revenue that school districts forgo as a result of Chapter 313

projects has been more than offset by economic contributions made as a result of the credit.

According to the comptroller, owners of Chapter 313 projects have invested about \$42.2 billion in Texas through 2011 and have projected a \$62.4 billion investment over the lifetime of the project agreements. Of the total investment associated with 128 agreements, 57 percent of the investments are in manufacturing and 26 percent are in renewable energy. The remaining 17 percent are in research and development, clean coal, advanced clean energy, electric power generation, and nuclear electric power generation.

Chapter 313 has been a significant factor in the state's ability to draw industry leaders in renewable energy and other sectors to locate in Texas.

There is stiff competition nationally and internationally for industries and purposes included under chapter 313. The economic development tax abatements, along with other incentives, allow the state to maintain competitiveness and remain a leading location for businesses to relocate.

**OPPONENTS
SAY:**

CSHB 3390 would extend and expand chapter 313 without significant increases in oversight. Existing abatement agreements established under chapter 313 will cost the state an estimated \$4.2 billion in lost property taxes and tax credits over the life of these agreements.

The proposed chapter 313 expansions would reduce property taxes paid by companies to school districts by an additional \$4.4 billion over the course of newly authorized agreements, which would increase the state cost of funding school-finance formulas by the same amount. In addition, the cost per job created by chapter 313, at roughly \$350,000, is inordinately high.

The shortcomings of chapter 313 have been well documented by multiple sources. CSHB 3390 would not take clear steps to address these problems. Further, the bill would extend the program for 10 years to Dec. 31, 2024, and make all changes effective on Jan. 1, 2014. Since its inception in 2001, chapter 313 has never been extended for more than six years at a time. Most recently, the program was extended in 2007 to expire in 2011. The program has the potential to have such a massive impact on state revenue it would be dangerous to extend it for such a duration.

CSHB 3390 would weaken wage standards for all agreements to the

county average wage overall, which is generally much less than the wage for manufacturing jobs. Weakening wage requirements reduces the benefit to Texans working through the economic development program but preserves the benefit for benefactors.

The bill would add manufacturing plant expansions to qualified investments under chapter 313. This would be little more than a tax giveaway since plant expansions in industries in the state are very likely to occur irrespective of the added incentive. Companies expand all the time through the natural course of business; there is little sense in incentivizing this inevitable expansion, especially at the taxpayer's expense.

OTHER
OPPONENTS
SAY:

CSHB 3390 would amend qualification requirements to include coverage by a group health benefit plan that complied with the Patient Protection and Affordable Care Act (ACA). This specific provision is unnecessary as it enshrines the ACA in state law, where it does not belong, and replaces existing requirements, which are sufficient.

NOTES:

The Legislative Budget Board has estimated that the bill could result in a negative impact of \$430,000 in general revenue funds for fiscal 2014-15.

The fiscal note estimates that the state would incur cost under the Foundation School Program corresponding to local maintenance and operations revenue losses. The LBB estimates costs of \$29.5 million beginning in fiscal 2017, \$45.4 million in fiscal 2018, and \$267 million in fiscal 2023.