

BILL ANALYSIS

Senate Research Center

H.B. 1200
By: Brimer (Harris)
Finance
5/7/2001
Engrossed

DIGEST AND PURPOSE

The property tax system in Texas may place a disproportionate burden on capital-intensive industries compared to other entities. This burden provides a significant financial disincentive to businesses who desire to invest large amounts of money in Texas, exacerbated by the fact that other states have restructured their tax laws in an effort to attract projects and high-paying jobs. H.B. 1200 creates a local option economic development tool that allows the state to compete for jobs and large projects.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Comptroller of Public Accounts in SECTION 1 (Section 313.031, Tax Code) and to the Commissioner of Education in SECTION 6 (Section 42.2515, Education Code), of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 3B, Tax Code, by adding Chapter 313, as follows:

CHAPTER 313. TEXAS ECONOMIC DEVELOPMENT ACT SUBCHAPTER A. GENERAL PROVISIONS

Sec. 313.001. SHORT TITLE. Authorizes this chapter to be cited as the Texas Economic Development Act.

Sec. 313.002. FINDINGS. Sets forth legislative findings.

Sec. 313.003. PURPOSES. Sets forth the purposes of this chapter.

Sec. 313.004. LEGISLATIVE INTENT. Sets forth legislative intent.

Sec. 313.005. DEFINITIONS. Provides that, unless this chapter defines a word or phrase used in this chapter, Section 1.04 or any other section of Title 1 or this title that defines the word or phrase or ascribes a meaning to the word or phrase applies to the word or phrase used in this chapter.

Sec. 313.006. IMPOSITION OF IMPACT FEE. (a) Defines "impact fee."

(b) Authorizes a municipality or county, notwithstanding any other law, including Chapter 395, Local Government Code, to impose and collect from the owner of a qualified property a reasonable impact fee under this section to pay for the cost of providing improvements associated with or attributable to property that receives a limitation on appraised value under this chapter.

Sec. 313.007. EXPIRATION. Provides that Subchapters B, C, and D expire December 31, 2007.

(Reserves Sections 313.008-313.020 for expansion.)

**SUBCHAPTER B. LIMITATION ON APPRAISED VALUE OF CERTAIN
PROPERTY USED TO CREATE JOBS**

Sec. 313.021. **DEFINITIONS.** Defines “qualified investment,” “qualified property,” “qualifying job,” “qualifying time period,” and “county average weekly wage for manufacturing jobs.”

Sec. 313.022. **APPLICABILITY; CATEGORIZATION OF SCHOOL DISTRICTS.** (a) Provides that this subchapter applies to each school district in this state other than a school district to which Subchapter C applies.

(b) Provides that for purposes of determining the required minimum amount of a qualified investment under Section 313.021(2)(A)(iv)(a), and the minimum amount of a limitation on appraised value under Section 313.027(b), school districts to which this subchapter applies are categorized according to the taxable value of property in the district for the preceding tax year determined under Subchapter M, Chapter 403, Government Code, as follows. Sets forth values in chart.

Sec. 313.023. **MINIMUM AMOUNTS OF QUALIFIED INVESTMENT.** Provides that for each category of school district established by Section 313.022, the minimum amount of a qualified investment under Section 313.021(2)(A)(iv)(a) is set at a certain amount.

Sec. 313.024. **ELIGIBLE PROPERTY.** (a) Provides that this subchapter and Subchapters C and D apply only to property owned by a corporation or limited liability company to which Section 171.001 applies.

(b) Requires that to be eligible for a limitation on appraised value under this subchapter, the corporation or limited liability company must use the property in connection with manufacturing; research and development; or renewable energy electric generation.

(c) Provides that for purposes of determining an applicant's eligibility for a limitation under this subchapter: the land on which a building or component of a building described by Section 313.021(1)(C) is located is not considered a qualified investment; property that is leased under a capitalized lease may be considered a qualified investment; property that is leased under an operating lease may not be considered a qualified investment and property that is owned by a person other than the applicant; and that is pooled or proposed to be pooled with property owned by the applicant may not be included in determining the amount of the applicant's qualifying investment.

(d) Defines “manufacturing,” “research and development,” and “renewable energy electric generation.”

Sec. 313.025. **APPLICATION; ACTION ON APPLICATION.** (a) Authorizes the owner of qualified property to apply to the governing body of the school district in which the property is located for a limitation on the appraised value for school district maintenance and operations ad valorem tax purposes of the person's qualified property. Requires an application to be made on the form prescribed by the comptroller and include the information required by the comptroller, and be accompanied by certain items.

(b) Provides that the governing body of a school district is not required to consider an application for a limitation on appraised value that is filed with the governing body under Subsection (a). Requires the governing body, if the governing body of the school

district does elect to consider an application, to engage a third person to conduct an economic impact evaluation of the application on behalf of the school district and approve or disapprove an application before the 121st day after the date the application is filed, unless an extension is agreed to by the governing body and the applicant.

(c) Provides that in determining whether to grant an application, the governing body of the school district is entitled to request and receive assistance from certain government entities.

(d) Requires the school district, on receipt of an application under this section that the governing body elects to consider, to deliver one copy of the application to the comptroller. Requires the comptroller, before the 61st day after the date the copy of the application is received, using the criteria listed in Section 313.026, to submit a recommendation to the governing body of the school district as to whether the application should be approved or disapproved.

(e) Requires the governing body of the school district, before approving or disapproving an application under this subchapter that the governing body elects to consider, to make a written finding as to each criterion listed in Section 313.026. Requires the governing body to deliver a copy of those findings to the applicant.

(f) Authorizes the governing body to approve an application only if the governing body finds that the information in the application is true and correct, finds that the applicant is eligible for the limitation on the appraised value of the person's qualified property, and determines that granting the application is in the best interest of the school district and this state.

Sec. 313.026. ECONOMIC IMPACT EVALUATION. Requires the economic impact evaluation of the application to include the following specified items.

Sec. 313.027. LIMITATION ON APPRAISED VALUE; AGREEMENT. (a) Provides that if the person's application is approved by the governing body of the school district, for each of the first eight tax years that begin after the applicable qualifying time period, the appraised value for school district maintenance and operations ad valorem tax purposes of the person's qualified property as described in the agreement between the person and the district entered into under this section in the school district may not exceed the lesser of the market value of the property or subject to Subsection (b), the amount agreed to by the governing body of the school district.

(b) Requires the amount agreed to by the governing body of a school district under Subsection (a)(2) to be an amount in accordance with the category established by Section 313.022 to which the school district belongs. Sets forth amounts in chart.

(c) Provides that the limitation amounts listed in Subsection (b) are minimum amounts. Authorizes a school district, regardless of category, to agree to a greater amount than those amounts.

(d) Requires the governing body of the school district and the property owner to enter into a written agreement for the implementation of the limitation on appraised value under this subchapter on the owner's qualified property.

(e) Requires the agreement to describe with specificity the qualified investment that the person will make on or in connection with the person's qualified property that is subject to the limitation on appraised value under this subchapter. Provides that other property

of the person that is not specifically described in the agreement is not subject to the limitation unless the governing body of the school district, by official action, provides that the other property is subject to the limitation.

(f) Requires that in addition, the agreement provide certain requirements.

(g) Requires the chief appraiser, when appraising a person's qualified property subject to a limitation on appraised value under this section, to determine the market value of the property and include both the market value and the appropriate value under Subsection (a) in the appraisal records.

Sec. 313.028. **CERTAIN BUSINESS INFORMATION CONFIDENTIAL.** Provides that information provided to a school district in connection with an application for a limitation on appraised value under this subchapter that describes the specific processes or business activities to be conducted or the specific tangible personal property to be located on real property covered by the application is confidential and not subject to public disclosure unless the governing body of the school district approves the application. Provides that information in the custody of a school district if the governing body approves the application is not confidential under this section.

Sec. 313.029. **TAX RATE LIMITATION.** Prohibits the governing body of the school district, if the governing body of a school district grants an application for a limitation on appraised value under this subchapter, for each of the first two tax years that begins after the date the application is approved, from adopting a tax rate that exceeds the school district's rollback tax rate under Section 26.08 for that year. Provides that if, in any tax year in which a restriction on the school district's tax rate under this section is in effect, the governing body approves a subsequent application for a limitation on appraised value under this section, the restriction on the school district's tax rate is extended until the first tax year that begins after the second anniversary of the date the subsequent application is approved.

Sec. 313.030. **PROPERTY NOT ELIGIBLE FOR TAX ABATEMENT.** Provides that property subject to a limitation on appraised value in a tax year under this subchapter is not eligible for tax abatement by a school district under Chapter 312 in that tax year.

Sec. 313.031. **RULES AND FORMS; FEES.** (a) Requires the comptroller to adopt rules and forms necessary for the implementation and administration of this chapter, including rules for determining whether a property owner's property qualifies as a qualified investment under Section 313.021(1) and provide without charge one copy of the rules and forms to any school district and to any person who states that the person intends to apply for a limitation on appraised value under this subchapter or a tax credit under Subchapter D.

(b) Requires the governing body of a school district by official action to establish reasonable nonrefundable application fees to be paid by property owners who apply to the district for a limitation on the appraised value of the person's property under this subchapter. Requires the amount of an application fee to be reasonable and prohibits it from exceeding the estimated cost to the district of processing and acting on an application, including the cost of the economic impact evaluation required by Sections 313.025 and 313.026.

(Reserves Sections 313.032-313.050 for expansion.)

SUBCHAPTER C. LIMITATION ON APPRAISED VALUE OF PROPERTY IN CERTAIN RURAL SCHOOL DISTRICTS

Sec. 313.051. **APPLICABILITY.** (a) Provides that this subchapter applies only to a school

district that has territory in a county that meets certain requirements.

(b) Authorizes the governing body of a school district to which this subchapter applies to enter into an agreement in the same manner as a school district to which Subchapter B applies may do so under Subchapter B, subject to Sections 313.052-313.054. Provides that except as otherwise provided by this subchapter, the provisions of Subchapter B apply to a school district to which this subchapter applies. Defines “qualified property.”

Sec. 313.052. CATEGORIZATION OF SCHOOL DISTRICTS. Provides that for purposes of determining the required minimum amount of a qualified investment under Section 313.021(2)(A)(iv)(a) and the minimum amount of a limitation on appraised value under this subchapter, school districts to which this subchapter applies are categorized according to the taxable value of industrial property in the district for the preceding tax year determined under Chapter 403M, Government Code. Sets forth values in a table.

Sec. 313.053. MINIMUM AMOUNTS OF QUALIFIED INVESTMENT. Provides that for each category of school district established by Section 313.052, the minimum amount of a qualified investment under Section 313.021(2)(A)(iv)(a) is set forth in a table.

Sec. 313.054. LIMITATION ON APPRAISED VALUE. (a) Requires that for a school district to which this subchapter applies, the amount agreed to by the governing body of the district under Section 313.027(a)(2) to be an amount in accordance with a specified table, according to the category established by Section 313.052 to which the school district belongs.

(b) Provides that the limitation amounts listed in Subsection (a) are minimum amounts. Authorizes a school district, regardless of category, to agree to a greater amount than those amounts.

(Reserves Sections 313.055-313.100 for expansion.)

SUBCHAPTER D. SCHOOL TAX CREDITS

Sec. 313.101. DEFINITION. Defines “qualifying time period.”

Sec. 313.102. ELIGIBILITY FOR TAX CREDIT; AMOUNT OF CREDIT. (a) Provides that, in addition to the limitation on the appraised value of the person's qualified property under Subchapter B or C, a person is entitled to a tax credit from the school district that approved the limitation in an amount equal to the amount of ad valorem taxes paid to that school district that were imposed on the portion of the appraised value of the qualified property that exceeds the amount of the limitation agreed to by the governing body of the school district under Section 313.027(a)(2) in each year in the applicable qualifying time period.

(b) Provides that if the person relocates the person's business outside the school district, the person is not entitled to the credit in or after the year in which the relocation occurs.

Sec. 313.103. APPLICATION. Requires an application for a tax credit under this subchapter to be made to the governing body of the school district to which the ad valorem taxes were paid. Requires the application to meet certain requirements.

Sec. 313.104. ACTION ON APPLICATION; GRANT OF CREDIT. Requires the governing body of the school district, before the 90th day after the date the application for a tax credit is filed, to meet certain requirements.

Sec. 313.105. REMEDY FOR ERRONEOUS CREDIT. (a) Provides that if the comptroller and the governing body of a school district determine that a person who received a tax credit under this subchapter for any reason was not entitled to the credit received or was entitled to a lesser amount of credit than the amount of the credit received, an additional tax is imposed on the qualified property equal to the full credit or the amount of the credit to which the person was not entitled, as applicable, plus interest at an annual rate of seven percent calculated from the date the credit was issued.

(b) Provides that a tax lien attaches to the qualified property in favor of the school district to secure payment by the person of the additional tax and interest imposed by this section and any penalties incurred. Prohibits a person delinquent in the payment of an additional tax under this section from submitting a subsequent application or receive a tax credit under this subchapter in a subsequent year.

(Reserves Sections 313.106-313.170 for expansion.)

SUBCHAPTER E. AVAILABILITY OF TAX CREDIT AFTER PROGRAM EXPIRES

Sec. 313.171. SAVING PROVISIONS. (a) Provides that a limitation on appraised value approved under Subchapter B or C before the expiration of that subchapter continues in effect according to that subchapter as that subchapter existed immediately before its expiration, and that law is continued in effect for purposes of the limitation on appraised value.

(b) Provides that the expiration of Subchapter D does not affect a property owner's entitlement to a tax credit granted under Subchapter D if the property owner qualified for the tax credit before the expiration of Subchapter D.

SECTION 2. Amends Chapter 23A, Tax Code, by adding Section 23.03 as follows:

Sec. 23.03. COMPILATION OF LARGE PROPERTIES AND PROPERTIES SUBJECT TO LIMITATION ON APPRAISED VALUE. Requires that each year the chief appraiser compile and send to the Texas Department of Economic Development a list of properties in the appraisal district that in that tax year meets certain requirements.

SECTION 3. Amends Section 26.012(6), Tax Code, to redefine "current total value."

SECTION 4. Amends Chapter 312A, Tax Code, by adding Section 312.0025, as follows:

Sec. 312.0025. DESIGNATION OF REINVESTMENT ZONE BY SCHOOL DISTRICT. (a) Authorizes the governing body of a school district, notwithstanding any other provision of this chapter to the contrary, to, in the manner required for official action and for purposes of Subchapter B or C, Chapter 313, designate an area entirely within the territory of the school district as a reinvestment zone if the governing body finds that, as a result of the designation and the granting of a limitation on appraised value under Subchapter B or C, Chapter 313, for property located in the reinvestment zone, the designation is reasonably likely to meet certain requirements.

(b) Authorizes the governing body of the school district to seek the recommendation of the commissioners court of each county and the governing body of each municipality that has territory in the school district before designating an area as a reinvestment zone under Subsection (a).

SECTION 5. Amends Section 312.006, Tax Code, to provide that, if not continued in effect, this chapter expires September 1, 2007, rather than 2001.

SECTION 6. Amends Chapter 42E, Education Code, by adding Section 42.2515, as follows:

Sec. 42.2515. ADDITIONAL STATE AID FOR AD VALOREM TAX CREDITS UNDER TEXAS ECONOMIC DEVELOPMENT ACT. (a) Provides that for each school year, a school district, including a school district that is otherwise ineligible for state aid under this chapter, is entitled to state aid in an amount equal to the amount of all tax credits credited against ad valorem taxes of the district in that year under Subchapter D, Chapter 313, Tax Code.

(b) Authorizes the commissioner to adopt rules to implement and administer this section.

SECTION 7. Amends Section 403.302(d), Government Code, to redefine "taxable value."

SECTION 8. Amends Section 481.0044, Government Code, by adding Subsections (e) and (f), as follows:

(e) Requires the governing board, in addition to the information required by Subsection (d), to include in the report under that subsection certain information.

(f) Requires the comptroller to assist the governing board and the department in complying with Subsection (e).

SECTION 9. Amends Chapter 481K, Government Code, by adding Section 481.168 as follows:

Sec. 481.168. ANNUAL REPORT OF TAX INCENTIVE LAWS AND ECONOMIC DEVELOPMENT LAWS OF OTHER STATES. (a) Requires the attorney general, the comptroller, the Texas Department of Economic Development, and the Council on Workforce and Economic Competitiveness to conduct a survey of tax incentive laws and economic development laws enacted in other states since 1990 and deliver to the governor, the lieutenant governor, and the speaker of the house of representatives a joint report of the results of the survey.

(b) Requires the initial joint report required by this section to be delivered before December 31, 2002. Requires an update of the joint report to be delivered before December 31 of each subsequent year.

(c) Authorizes any interested person, including a trade association, to provide information the person considers useful or relevant to the survey or the joint report.

(d) Requires that any agency of this state, on request, assist in conducting the survey or in preparing the initial joint report or an update of the joint report.

(e) Requires the initial and each update of the joint report to include recommendations for legislative action.

SECTION 10. Amends Section 2303.507, Government Code, as follows:

Sec. 2303.507. New heading: TAX INCREMENT FINANCING AND ABATEMENT; LIMITATIONS ON APPRAISED VALUE. Provides that designation of an area as an enterprise zone is also designation of the area as a reinvestment zone for tax increment financing under Chapter 311, Tax Code; tax abatement under Chapter 312, Tax Code; and limitations on appraised value under Chapter 313, Tax Code.

SECTION 11. (a) Effective date: January 1, 2002, except as provided by Subsection (b) of this

section.

(b) Provides that Section 312.006, Tax Code, as amended by this Act, takes effect September 1, 2001.