

BILL ANALYSIS

Senate Research Center

S.B. 1593
By: Seliger
Economic Development
4/22/2009
Committee Report (Amended)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Since its enactment in 2001, the Texas Economic Development Act has proven to be a tremendously useful tool to enhance the economic competitiveness of Texas, and particularly to attract large-scale capital investments to this state. The beneficial impacts that the program has had in attracting large-scale capital investment are borne out by the comptroller of public accounts' report on the Texas Economic Development Act which indicates that an estimated \$40.98 billion in investment has been made under the program through June 2008. This has been a successful tool in attracting significant investment to this state, including rural areas, and these changes are needed to ensure that Texas remains competitive in attracting investment and creating jobs for our economy.

S.B. 1593 continues the Texas Economic Development Act until 2015 and clarifies and amends Chapter 313 (Texas Economic Development Act), Tax Code.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts in (Committee Amendment #2, Part 3) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 313.007, Tax Code, to provide that Subchapters B (Limitation on Appraised Value of Certain Property Used to Create Jobs), C (Limitation on Appraised Value of Property in Certain Rural School Districts), and D (School Tax Credits) expire December 31, 2015, rather than 2011.

SECTION 2. Amends Section 313.021, Tax Code, to redefine "qualified investment," "qualified property," "qualifying job," "qualifying time period," and "county average weekly wage."

SECTION 3. Amends Section 313.024(e), Tax Code, to define "research and development" and redefine "manufacturing." Creates subdivisions from existing text.

SECTION 4. Amends Section 313.025(a), Tax Code, to authorize the owner or lessee of, or other holder of a possessory interest in, any qualified property described in any of Section 313.021(2)(A) (relating to qualified property as land), (B) (relating to qualified property as a new building or other improvement), or (C) (relating to qualified property as tangible personal 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.

SECTION 5. Amends Section 313.027, Tax Code, by adding Subsection (h), as follows:

(h) Authorizes the governing body of the school district and the property owner to agree to delay the effective date of the agreement or subsequently amend the agreement to delay the effective date of the agreement for a period not to exceed five years from the date that the governing body of the school district first approves the agreement. Requires that the qualifying time period, in the event that the governing body of the school district and the property owner agree to delay the effective date of the agreement, consist of the first two tax years that begin on or after the effective date of the agreement.

SECTION 6. Amends Sections 313.051(a), (a-1), and (b), Tax Code, as follows:

(a) Provides that this subchapter applies only to a school district that has territory in an area that qualified as a strategic investment area under Subchapter O (Tax Credit for Certain Research and Development Activities), Chapter 171 (Franchise Tax), immediately before that subchapter expired. Deletes existing text that provides that this subchapter applies only to a school district that has territory in a strategic investment area, as defined by Section 171.721 (relating to definitions), or a county that is not partially or wholly located in a metropolitan statistical area. Makes nonsubstantive changes.

(a-1) Makes no changes to this subsection.

(b) Deletes existing text relating to the exception requiring each qualifying job, for a school district described by Subsection (a)(2) (relating to a school district that has territory in a certain county), to pay at least 110 percent of the average weekly wage for manufacturing jobs in the region designated for the regional planning commission, council of governments, or similar regional planning agency created under Chapter 391 (Regional Planning Commissions), Local Government Code, in which the district is located.

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

SECTION 8. Provides that Sections 313.021(1)(A) and (2), 313.024(e), and 313.025(a), Tax Code, as amended by this Act, are intended to clarify existing law in effect before the effective date of this Act and are not intended to make a substantive change in the law.

SECTION 9. Effective date: upon passage or September 1, 2009.

SUMMARY OF COMMITTEE CHANGES

(1) Amends SECTION 2 of the bill, in amended Section 313.021(3), Tax Code (page 5, lines 4 through 6), to strike amended Paragraph (E), and substitute with Paragraph (E) to provide that it pays: at least the lesser of \$50,000 or 110 percent of the county average weekly wage for manufacturing jobs in the county where the job is located, if the county has a population of less than 800,000 or at least 110 percent of the county average weekly wage for all industries in the county where the job is located, if the county has a population of 800,000 or more.

(2) Amends SECTION 4 of the bill (page 6, lines 26 and 27) to strike prefatory language and substitute the following:

SECTION 4. Section 313.025, Tax Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (d-1) to read as follows:

(3) Immediately following SECTION 4 of the bill (page 7, between lines 17 and 18), insert the following, and renumber subsequent SECTIONS as appropriate:

(a-1) Requires the district, if the school district maintains a generally accessible Internet website, to post on that site each application received under Subsection (a) and any information in the possession of the district that relates to an application. Provides that this subsection does not require a school district to post information that is confidential business information under Section 313.028.

(d-1) Authorizes the governing body of a school district to approve an application that the comptroller of public accounts (comptroller) has recommended should be disapproved only if the governing body holds a public hearing the sole purpose of which is to consider the application and the comptroller's recommendation; and at a subsequent meeting of the governing body held after the date of the public hearing, at least two-thirds of the members of the governing body vote to approve the application;

Amends SECTION 5 of the bill by amending Sections 313.026(a) and (b), Tax Code, as follows:

(a) Requires that the economic impact evaluation of the application include the name of the school district, the name of the applicant, the general nature of the applicant's investment, the number of qualifying jobs to be created by the applicant, and the impact the project will have on this state and individual local units of government, rather than the added infrastructure will have on the region, including: tax and other revenue gains, direct or indirect, that would be realized during the qualifying period, the limitation period, and the period of time after the limitation period considered appropriate by the comptroller, rather than by the school district, and the economic effects of the project, including the impact on jobs and income, during the qualifying period, the limitation period, and a period of time after the limitation period considered appropriate by the comptroller, rather than subsequent economic effects on the local and regional tax bases; the project market value of the qualified property of the applicant during the qualifying period, the limitation period, and a period of time after the limitation period considered appropriate by the comptroller; and the proposed limitation on appraised value for the qualified property of the applicant. Makes nonsubstantive changes.

(b) Requires that the comptroller's recommendations be based on the criteria listed in Subsection (a)(2)-(15), rather than (a)(2)-(9).

Amends SECTION 6 of the bill by amending Subchapter B, Chapter 313, Tax Code, by adding Section 313.0265, as follows:

Sec. 313.0265. DISCLOSURE OF APPRAISED VALUE LIMITATION INFORMATION. (a) Requires the district, if the school district maintains a generally accessible Internet website, to post each document or item of information concerning appraised value limitations under this subchapter and school tax credits under Subchapter D that the comptroller designates as substantive.

(b) Requires that each document or item of information posted under Subsection (a) continue to be posted until the appraised value limitation expires or the school district no longer maintains the website.

(c) Requires the comptroller to post on the comptroller's Internet website each document or item of information the comptroller designates as substantive. Requires that each document or item of information continue to be posted until the appraised value limitation expires.

(d) Requires the comptroller to designate the following as substantive: each application requesting a limitation on appraised value; the economic impact evaluation made in connection with the application; each application requesting school tax credits under Section 313.103; and any additional information that the comptroller deems substantive that is not otherwise confidential by law.

(e) Requires the comptroller by rule to determine the requirements for districts to post on their Internet websites the documents provided under Subsection (a) and is required to provide a link on the comptroller's website to all school districts' appraised value limitation postings.

(f) Requires the comptroller and the Texas Education Agency to annually certify that districts comply with the posting requirements of Subsection (b).

(4) Immediately following SECTION 5 of the bill (page 8, between lines 2 and 3), insert the following and renumber subsequent SECTIONS as appropriate:

SECTION _____. Amend Section 313, Tax Code, as follows:

Sec. 313.028. CERTAIN BUSINESS INFORMATION CONFIDENTIAL. Requires 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 process or business activities to be conducted or the specific tangible personal property to be located on real property covered by the application be segregated in the application from other information in the application and is confidential and not subject to public disclosure unless the governing body of the school district approves the application. Prohibits other information in the custody of a school district or the comptroller in connection with the application, including information related to the economic impact of a project or the essential elements of eligibility under this chapter, such as the nature and amount of the projected investment, employment, wages, and benefits, from being considered confidential business information if the governing body of the school district agrees to consider the application unless it is considered to be confidential under other law. Provides that information in the custody of a school district or the comptroller if the governing body approves the application is not confidential under this section.