

BILL ANALYSIS

Senate Research Center
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S.B. 679
By: Harris
Finance
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DIGEST AND PURPOSE

Currently, Texas does not have adequate tools to compete with the efforts of other states in the creation or maintenance of large capital investments in the industrial and commercial bases of the economy. As proposed, S.B. 679 would attract new economic development to the state by capping the amount of taxable value of the project at a set amount and exempting any additional amount of value.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 1(Section 313.032, Tax Code), and to the commissioner of education in SECTION 5(Sec. 42.2515, Education Code).

SECTION BY SECTION ANALYSIS

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

CHAPTER 313. TEXAS ECONOMIC DEVELOPMENT ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 313.001. SHORT TITLE. Provides that this chapter may 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 the intent of the legislature in enacting this chapter.

Sec. 313.005. DEFINITIONS. Provides that, unless this chapter defines a word or phrase used in this chapter, Section 1.04(Definitions) or any other section of Title 1 of 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. Reserves Section 313.006-313.020 for expansion.

SUBCHAPTER B. LIMITATION ON APPRAISED VALUE OF CERTAIN COMMERCIAL OR INDUSTRIAL PROPERTY USED TO CREATE OR MAINTAIN JOBS

Sec. 313.021. DEFINITIONS. Defines “qualified investment,” “qualified property,” “qualifying job,” “qualifying time period,” “

Sec. 313.022. CATEGORIZATION OF SCHOOL DISTRICTS. Provides that for purposes of determining the required minimum amount of a qualified investment 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 313.026(b), school districts are categorized according to the taxable value of property in the district for the preceding tax year determined under Subchapter M, Chapter 403(Study of School District Property Values), Government Code. Provides chart explaining categories.

Sec. 313.023. MINIMUM AMOUNTS OF QUALIFIED INVESTMENT. Provides that 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 specified.

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

Sec. 313.025. APPLICATION; ACTION ON APPLICATION. (a) Provides the owner of a qualified property may 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 ad valorem tax purposes of the person's qualified property. Requires an application be made on the form prescribed by the comptroller and include the information required by the comptroller and it must be accompanied by certain other fees and information.

(b) Requires the governing body of the school district to conduct an economic development evaluation under Subsection (a) before the 121st day after the date the application is filed unless an extension is agreed to by the governing body and the applicant. Authorizes the governing body to approve an 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. Requires the economic evaluation of the application to include, in conducting the evaluation the governing body is required to consider certain factors.

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

(d) Requires the school district, on receipt of an application under this section, to deliver one copy of the application to the comptroller and one copy to the Legislative Budget Board(LBB). Requires the comptroller and the LBB, before the 61st day after the date the copy of the application is received 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 school district, before approving or disapproving an application under this section, to make a written finding as to each criterion listed in Subsection (b) and a separate finding as to whether the applicant will locate or relocate in another state or country if the application is not approved. Requires the governing body to deliver a copy of those findings to the applicant.

(f) Requires, if the governing body of the school district finds that the applicant will not locate or relocate in another state or country if the application is not approved, to disapprove the application.

(g) Provides that for purposes of determining an applicant's eligibility for a limitation under this subchapter certain conditions are considered.

Sec. 313.026. LIMITATION ON APPRAISED VALUE. (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 during or after the applicable applying time period, the appraised value or school district ad valorem tax purposes of the person's qualified property in the school district may not exceed the lesser of certain values.

(b) Requires that the amount agreed to by the governing body of a school district under Subsection (a)(2) to be an amount in accordance with the following, according to the category established by Section 313.022 to which the school district belongs. Sets forth categories and amount of limitation.

(c) 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. 313.027. CERATIN 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 housed on real property covered by the application in 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. 313.028. ANNUAL REPORT ON QUALIFYING JOBS. (a) Requires, that before October 1 of each year, each property owner whose property is subject to a limitation on appraised value under this subchapter to submit a report to the governing body of the school district as to the current status of the qualifying jobs specified in the property owner's application for the limitation.

(b) Requires that the report to be certified by an independent accounting firm that is a member of the American Institute of Certified Public Accountants or its successor.

(c) Provides that if the report shows that the current number of qualifying jobs is less than 250, the property's owner's eligibility for the limitation on appraised value under this subchapter and for a tax credit under Subchapter C expires on December 31 of the year in which the report is submitted.

Sec. 313.029. TAX RATE LIMITATION. Prohibits, if the governing body of a school district grants an application for a limitation on appraised value under this section, for each of the first two tax years that begins after the date the application is approved, the governing body of the school district 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 year in which a restriction on the school district's tax rate under this subsection 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. EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires December 31, 2012.

Sec. 313.031. PROPERTY NOT ELIGIBLE FOR TAX ABATEMENT. Prohibits property subject to a limitation on appraised value in a tax year under this subchapter from being eligible for tax abatement by a school district under Chapter 312 in the tax year.

Sec. 313.032. RULES, FORMS; FEES. (a) Requires the comptroller adopt rules and to perform certain tasks, necessary for the implementation and administration of the Subchapter and Subchapter C.

(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 on the application fee to be reasonable and not to exceed the greater of certain costs. Reserves Sections 313.033-313.050 for expansion.

SUBCHAPTER C. SCHOOL TAX CREDITS FOR CERTAIN COMMERCIAL PROPERTY USED TO CREATE OR MAINTAIN JOBS

Sec. 313.051. DEFINITION. Defines "qualifying time period."

Sec. 313.052. ELIGIBILITY FOR TAX CREDIT. (a) Provides that in addition to the limitation on the appraised value of the person's qualified property under Subchapter B, 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 and 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 313.026(a)(2) in each year in the applicable qualifying time period under Subchapter B.

(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. 313.053. APPLICATION. Requires that 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 include certain items.

Sec. 313.054. 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 provide certain tax related tasks.

Sec. 313.055. 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 the subchapter for any reason was not entitled to the credit received or was entitled to the credit received or was entitled to a lesser amount of the credit received, an additional tax is imposed on the qualified property equal to the full amount of the credit to which the 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.

Sec. 313.056. EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires on the date Subchapter B expires. Reserves Sections 313.057-313.070 for expansion.

SUBCHAPTER D. AVAILABILITY OF TAX CREDIT AFTER PROGRAM EXPIRES

Sec. 313.071. SAVING PROVISIONS. (a) Provides that a limitation on appraised value approved under Subchapter B before the expiration of Subchapter B continues in effect according to Subchapter B 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 C does not affect a property owner's entitlement to a tax credit granted under Subchapter C if the property owner qualified for the tax credit before the expiration of Subchapter C.

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

Sec. 23.03. COMPILATION OF LARGE PROPERTIES. (a) 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 have a market value of \$100 million or more in that tax year.

(b) Requires that each year, the Texas Department of Economic Development compile and deliver certain lists.

SECTION 3. Amends Chapter 312A, Tax Code, by adding Section 312.0025, as follows:

Sec. 312.0025. DESIGNATION OF REINVESTMENT ZONE BY SCHOOL DISTRICT. Authorizes the governing body of the school district, notwithstanding any other provision of this chapter to the contrary, in the manner required for official action and for purposes of Subchapter B, Chapter 313, to 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, Chapter 313, for property located in the reinvestment zone, the designation is reasonably likely to provide certain benefits.

SECTION 4. Amends Section 312.006, Tax Code, to provide that, if not continued in effect, this chapter expires September 1, 2007, rather than 2001.

SECTION 5. 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 C, Chapter 313, Tax Code.

(b) Authorizes the Commissioner of Education to adopt rules to implement and administer this section.

SECTION 6. Amends Section 403.302(d), Government Code, providing that a portion of the market value of property not otherwise fully taxable by the district at market value because of action taken by the district under Subchapter B, Chapter 313, Tax Code.

SECTION 7. Amends Section 481.0044, Government Code, by adding Subsection (e) as follows:

(e) Requires, that in addition to the information required by Subsection (d), the governing board to include in the report under that subsection a listing of prospective projects identified by the business development division of the department that proposed to invest at least \$100 million in this state, including prospective projects that worked with the department or of which the department was aware but that located in another state or country.

SECTION 8. Amends Chapter 481K, Government Code, by adding Section 481.168, to read 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 certain survey and deliver it to the governor, lieutenant governor and speaker of the house of representatives a joint report of the result of the survey.

(b) Requires the initial joint report required by this section to be delivered before December 31, 2002. Requires that 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 the Texas Legislative Council, and any other agency of this state, on request to 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 9. 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 limitations on appraised value under Chapter 313, Tax Code.

SECTION 10. Effective date: January 1, 2002.

Provides that Section 4 of this Act takes effect September 1, 2001.