

SUBJECT: Extending, revising the Texas Economic Development Act (Ch. 313)

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 9 ayes — Meyer, Thierry, Button, Cole, Guerra, Murphy, Noble, Sanford, Shine

1 nay — Rodriguez

1 absent — Martinez Fischer

WITNESSES: For — Jeffrey Clark, Advanced Power Alliance; Rich Wells, Dow, Inc.; Megan Herring, Texas Association of Business; Tony Bennett, Texas Association of Manufacturers; Hector Rivero, Texas Chemical Council; Dale Craymer, Texas Taxpayers and Research Association; James LeBas, TXOGA; (*Registered, but did not testify*: Chad Wilbanks, 8minute Solar; Adam Burklund, Amshore US Wind; Lauren Spreen, Apache Corporation; David Parker, Arlington Chamber of Commerce; Dana Harris, Austin Chamber of Commerce; Metro 8 Chambers of Commerce, Texas 2050; Ed Latson, Austin Regional Manufacturing Association; Mike Meroney, BASF Corporation; Taylor Sims, Broad Reach Power, Texas Solar Branch Association; Price Ashley, Cheniere Energy; Steve Williams, City of Conroe; Guadalupe Cuellar, City of El Paso; TJ Patterson, City of Fort Worth; Angela Hale, City of McKinney, LGBTQ Chambers of Commerce, McKinney Chamber; Carrie Simmons, Conservative Texans for Energy Innovation; Logan Spence, Corteva and Engie N. A.; Micah Rodriguez, Cypress Creek Renewables and Texas Instruments; Ben Stratmann, Dallas Regional Chamber; Greg Macksood, Devon Energy; Royce Poinsett, Duke Energy Renewables; David Mindham, EDP Renewables; Michael Jewell and Shannon Meroney, Enel North America; Jay Brown, Enterprise Products and Valero Energy Corporation; Samantha Omey, ExxonMobil; Fred Shannon, Gerdau Ameristeel, Hewlett Packard Enterprise. Intel Corporation, and Applied Materials; Lindsay Munoz, Greater Houston Partnership; Shannon Ratliff, Invenergy; Jennifer Rodriguez, Lockheed Martin Aeronautics Company and North Texas Commission; Randy Cubriel, Nucor; Julie Moore,

Occidental Petroleum; Jim Grace, Onward Energy, Scout Clean Energy, and Copenhagen Infrastructure Services Co.; Michael Jewell, Pattern Energy, Able Grid Energy Solutions, Solar Energy Industries Association; Michael Lozano, Permian Basin Petroleum Association; Bruce Scott, Pfizer; Bob Adair, Phillips 66; Lucas Meyers, Recurrent Energy, LLC; Larry Gonzales, Round Rock Chamber of Commerce; Ron Lewis, RWE Renewables; Matt Grabner, Ryan, LLC; Leticia Van de Putte, San Antonio Chamber Of Commerce; Lara Keel, Savion, LLC; Carl Richie, Texas Advanced Energy Business Alliance; Justin Yancy, Texas Business Leadership Council; Carlton Schwab, Texas Economic Development Council; Patricia Shipton, Texas Healthcare & Biosciences Institute; Ricardo Lopez-Guerra, The Boeing Company; Duane Galligher, Toyota; Thomas Ratliff, Tri-Global Energy; Shayne Woodard, Tyson, Graphics Packaging)

Against — Eric Pustejovsky, Abbott ISD; JR Proctor, Axtell ISD; Abe Gott, Blackwell Cisc; Dick Lavine, Every Texan; Wade Callaway, Gruver ISD; Cory Wood, Harrison Walker Harper; Ana Cortez, Manor ISD; Betsy Burnett, Mart ISD; Mark Porterie, Port Arthur Independent School District; Shelly Leung, Powell Law Group; Adrienne Burden, Priddy ISD; Samuel Wyatt, Rankin ISD; Sheryl Moore, Sara Leon and Associates; Vance Ginn, Texas Public Policy Foundation; Blake Powell, Texas Rural Education Association; Christy Rome, Texas School Coalition; Sara Leon and Pete Pape, Texas Schools for Economic Development; Michelle Cline, Throckmorton ISD; Rickie Harris, West Orange-Cove CISD; Mark Edward Goloby; (*Registered, but did not testify*: Billy Harlan, Academy ISD; Chloe Latham Sikes, Intercultural Development Research Association; Doug Greco, Network Of Texas Industrial Areas Foundation Organizations; Steve Koebele, Sara Leon & Associates; Rene Lara, Texas AFL-CIO; Dena Donaldson, Texas AFT; Craig Eiland, Texas Schools For Economic Development; Jim Sewell)

On — Daniel Casey, Moak, Casey and Associates; (*Registered, but did not testify*: Robert Wood, Comptroller of Public Accounts; Barry Haenisch, Texas Association of Community Schools; Colby Nichols, Texas Association of School Administrators; Will Holleman, Texas

Association of School Boards)

BACKGROUND: Tax Code ch. 313, the Texas Economic Development Act, authorizes school districts to agree to temporary abatements, or limitations, of property tax in exchange for businesses using property in the district for certain projects, including manufacturing, research and development, energy projects, computer centers, and projects on which the business has committed to expend or allocate a qualified investment of more than \$1 billion, known as a "Texas priority project."

The chapter expires December 31, 2022.

DIGEST: CSHB 1556 would extend the Texas Economic Development Act through December 31, 2032, and revise certain provisions of Tax Code ch. 313.

Qualified investments and property. The bill would expand qualified investments and property that could be eligible for a limitation on appraised value to include certain renovation or improvement projects.

A "qualified investment" would include a building or permanent, nonremovable component of a building that was renovated, expanded, modernized, or improved on or after January 1, 2023, as part of a discrete project that increased the value of the building or component that housed tangible property that also was considered a qualified investment.

A building or component described above could not be considered a qualified investment unless:

- the building or component would qualify as a qualified investment if it were built during the applicable qualifying time period; and
- the agreement described with specificity how the building or component would be improved.

"Qualified property" would include land on which a person proposed to renovate, expand, modernize, or otherwise improve an existing building or improvement. The land on which a building or component that was a

qualified investment as described above was located could not be considered a qualified investment.

Applications. CSHB 1556 would amend application fees and required materials for applications for a limitation.

Application fee. The bill would repeal a provision requiring a school district to establish an application fee for a limitation and instead would require applicants to pay districts a \$60,000 application fee.

If the school district elected not to consider the application, the governing body would have to refund \$10,000 of the application fee to the applicant. If the district elected to consider the application, \$10,000 would be sent to the comptroller for an economic impact evaluation.

Application contents. The bill would repeal a provision requiring applications to include information sufficient to show that the real and personal property identified in the application as qualified property met the applicable criteria.

The application form could require the applicant to provide only the following information:

- the name and taxpayer identification number of the applicant and each parent, subsidiary, or affiliate;
- contact information;
- the name of the school district;
- a description and the location of the project;
- an estimate of the amount of the qualified investment;
- the number of qualifying jobs the applicant committed to create and the total wages that would be paid;
- an estimate of the appraised value of the project if it were not subject to the agreement;
- an estimate of the property taxes for maintenance and operations and for debt that would have been imposed on the project if it were not subject to the agreement;

- an estimate of the appraised value of the project for school district maintenance and operations property tax purposes in accordance with the agreement;
- an estimate of the amount of property taxes for maintenance and operations that would be imposed by the school district on the project in accordance with the agreement; and
- any information the comptroller required or otherwise determined was necessary to determine eligibility.

Agreements. CSHB 1556 would remove requirements for agreements, including certain supplemental and revenue protection payments, and instead would require stabilization payments. The bill also would provide for the start date of a limitation for a project involving renovations of an existing building.

Payment requirements removed. The bill would remove requirements for an agreement to include provisions for the protection of future school district revenues through the adjustment of the minimum valuations, the payment of revenue offsets, and other mechanisms agreed to.

The bill also would remove a provision authorizing an agreement to provide that the property owner would protect the school district in the event the district incurred extraordinary education-related expenses related to the project that were not directly funded in state aid formulas.

The bill would remove provisions allowing a person under an agreement to provide up to \$100 per student per year in average daily attendance, or \$50,000 per year, in supplemental payments to a school district. A person and school district could not enter into an agreement under which the person agreed to provide supplemental payments pursuant to an application filed on or after January 1, 2023.

Stabilization payments required. The bill would require an agreement to require the property owner to provide a stabilization payment to the school district in each tax year the limitation applied. The payment would be up to 38 percent of an amount calculated by applying the maintenance

and operations tax rate of the school district to the difference between the market value of the qualified property and the value of the property under the limitation.

A stabilization payment would not be considered to be a supplemental payment under current law.

Limitation start date for renovation projects. In the case of a project involving the improvement of an existing building, the agreement could provide that the beginning date of the limitation was the date the improvement was completed.

Reporting. CSHB 1556 would revise various reports required under the Texas Economic Development Act.

Reporting form. The bill would require the comptroller to adopt a single annual reporting form to be used by a recipient or former recipient of a limitation on appraised value. A recipient or former recipient would have to submit the form to the applicable school district and the comptroller at the same time. This provision would not apply to the form required for the report on compliance with job creation requirements.

Report to Legislature. The bill would remove the following contents of a report the comptroller is required to send to the Legislature:

- the total effect of the agreements on personal income, direct and otherwise, in the state;
- the total fiscal effect of the agreements on the state and local governments; and
- the median wage of new qualifying jobs under each agreement.

The bill would include in the report the amount of stabilization payments made to districts.

Report on compliance with agreements. The bill would repeal a provision allowing the comptroller to use standard economic estimation techniques,

including economic multipliers, when preparing the report on compliance with agreements.

Provisions of the bill making changes to Education Code would apply beginning with the 2023-2024 school year.

The bill would take effect January 1, 2023, and apply only to ch. 313 agreements entered into pursuant to an application filed on or after that date.

**SUPPORTERS
SAY:**

CSHB 1556 would allow school districts across the state to continue using a tool that has proved successful in attracting large-scale capital investment to Texas. The bill also would provide vital reforms to the program. Under Chapter 313, in exchange for a temporary abatement of school property taxes, companies agree to build facilities within school districts for qualifying projects. These investments result in more jobs and benefits to the economy. When the abatement ends, the developed facilities are taxed at full value, meaning that states pay less aid to these districts and the tax base of the districts grows. Chapter 313 agreements both expand and promote the long-term stability of school districts by attracting investments that otherwise would not have come to the state. Projects also attract additional ancillary businesses and services, indirectly generating more jobs.

Chapter 313 agreements provide a counterweight to the relatively high property taxes that businesses face when considering investment in Texas. Also, other states offer incentives to recruit businesses, and discontinuing the program would leave Texas at a competitive disadvantage.

By renewing Chapter 313 for another 10 years, CSHB 1556 would provide businesses currently considering an investment in a project in Texas with needed certainty. CSHB 1556 also would include essential reforms, such as eliminating outdated revenue protection payments that businesses pay districts under some current agreements. This would ensure the program incentivized investments that brought tax revenue to all schools and did not function as a special funding mechanism for a few.

CSHB 1556 also would expand qualifying projects under the program to include certain renovations of facilities that already qualified under chapter 313, allowing Texas to better compete for not just new headquarters but also ongoing company capital investments in qualifying projects. The bill also would streamline the application process.

Properties considered by businesses for siting often are undeveloped before an agreement is made. Chapter 313 agreements develop facilities on that land, allowing school districts to benefit at the end of the temporary abatement. Chapter 313 agreements require approval of both the school district and the comptroller, helping to ensure an investment would not have located in Texas but for the abatement.

CRITICS
SAY:

CSHB 1556 would extend and expand an unnecessary program that places a strain on the state budget. The state pays school districts for any school taxes relinquished due to these abatements, leading to less money going toward other state budgetary needs. The program also can increase inequality among school districts. While supporters claim the state will receive benefits of additional property tax revenues after the 10-year abatement ends, the taxable value remaining afterwards is only a fraction of the state's investment. In the aftermath of the COVID-19 pandemic, the state should not forfeit funds to out-of-state shareholders that could be better spent for recovery efforts in Texas.

The program struggles to achieve its mission of economic development and job creation. The gross benefits received through abatements often outweigh the number of jobs created, and the program does not go far enough in requiring more job creation or higher wages. The program even allows certain waivers on job requirements. The state should focus on other less costly economic development policies.

The abatement is largely unnecessary, as many of the businesses that have entered into chapter 313 agreements would have located to Texas even without the abatement. Many of the projects are dependent on the geography and resources of Texas. Businesses also do not need these abatements because the property tax burden has fallen significantly in the

past 20 years.

CSHB 1556 would expand chapter 313 further, including renovations, expansions, and improvements on existing projects. This could increase projects, driving up costs to the state. If the Legislature were to continue chapter 313, it should review the program, expand oversight, and establish a "but for" requirement such that a project would not locate in Texas but for an abatement.

OTHER
CRITICS
SAY:

By eliminating revenue protection payments, CSHB 1556 would remove school districts' ability to negotiate for these benefits in chapter 313 agreements. Districts should have the discretion to develop a partnership with a business so that additional funds could be shared with the local community. This could have a chilling effect on the adoption of this important economic development tool in many school districts.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact of \$756,000 to general revenue through fiscal 2023, gradually increasing to \$460.7 million by fiscal 2031.

The cost to the Foundation School Program would be about \$1.3 million in fiscal 2025, \$17 million in fiscal 2026, and \$461.7 million in fiscal 2031.