

TAX CODE

TITLE 3. LOCAL TAXATION

SUBTITLE B. SPECIAL PROPERTY TAX PROVISIONS

CHAPTER 313. TEXAS ECONOMIC DEVELOPMENT ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 313.001. SHORT TITLE. This chapter may be cited as the Texas Economic Development Act.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.

Sec. 313.002. FINDINGS. The legislature finds that:

(1) many states have enacted aggressive economic development laws designed to attract large employers, create jobs, and strengthen their economies;

(2) given Texas' relatively high ad valorem taxes, it is difficult for the state to compete for new capital projects without temporarily limiting ad valorem taxes imposed on new capital investments;

(3) a significant portion of the Texas economy continues to be based in manufacturing and other capital-intensive industries, and their continued growth and overall health serve the Texas economy well;

(4) without a vibrant, strong manufacturing sector, other sectors of the economy, especially the state's service sector, will also suffer adverse consequences; and

(5) the current ad valorem tax system of this state does not favor capital-intensive businesses such as manufacturers.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. [3390](#)), Sec. 1, eff. January 1, 2014.

Sec. 313.003. PURPOSES. The purposes of this chapter are to:

(1) encourage large-scale capital investments in this state;

- (2) create new, high-paying jobs in this state;
- (3) attract to this state large-scale businesses that are exploring opportunities to locate in other states or other countries;
- (4) enable state and local government officials and economic development professionals to compete with other states by authorizing economic development incentives that are comparable to incentives being offered to prospective employers by other states and to provide state and local officials with an effective means to attract large-scale investment;
- (5) strengthen and improve the overall performance of the economy of this state;
- (6) expand and enlarge the ad valorem tax base of this state; and
- (7) enhance this state's economic development efforts by providing state and local officials with an effective economic development tool.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. [3390](#)), Sec. 1, eff. January 1, 2014.

Sec. 313.004. LEGISLATIVE INTENT. It is the intent of the legislature in enacting this chapter that:

- (1) economic development decisions involving school district taxes should occur at the local level with oversight by the state and should be consistent with identifiable statewide economic development goals;

- (2) this chapter should not be construed or interpreted to allow:

- (A) property owners to pool investments to create sufficiently large investments to qualify for an ad valorem tax benefit provided by this chapter;

- (B) an applicant for an ad valorem tax benefit provided by this chapter to assert that jobs will be eliminated if certain investments are not made if the assertion is not true; or

- (C) an entity not subject to the tax imposed by

Chapter 171 to receive an ad valorem tax benefit provided by this chapter;

(3) in implementing this chapter, school districts should:

(A) strictly interpret the criteria and selection guidelines provided by this chapter; and

(B) approve only those applications for an ad valorem tax benefit provided by this chapter that:

(i) enhance the local community;

(ii) improve the local public education system;

(iii) create high-paying jobs; and

(iv) advance the economic development goals of this state; and

(4) in implementing this chapter, the comptroller should:

(A) strictly interpret the criteria and selection guidelines provided by this chapter; and

(B) issue certificates for limitations on appraised value only for those applications for an ad valorem tax benefit provided by this chapter that:

(i) create high-paying jobs;

(ii) provide a net benefit to the state over the long term; and

(iii) advance the economic development goals of this state.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 1, eff. January 1, 2014.

Sec. 313.005. DEFINITIONS. 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.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.

Sec. 313.006. IMPOSITION OF IMPACT FEE. (a) In this section, "impact fee" means a charge or assessment imposed against a qualified property, as defined by Section 313.021, in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions for water, wastewater, or storm water services or for roads necessitated by or attributable to property that receives a limitation on appraised value under this chapter.

(b) Notwithstanding any other law, including Chapter 395, Local Government Code, a municipality or county may 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.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.

Sec. 313.007. EXPIRATION. Subchapters B and C expire December 31, 2022.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 864 (H.B. 1470), Sec. 1, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1186 (H.B. 3676), Sec. 1, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 1, eff. January 1, 2014.

Sec. 313.009. CERTAIN ENTITIES ELIGIBLE. An entity that has been issued a registration number under Section 151.359 or Section 151.3595 is not eligible to receive a limitation on appraised value under this chapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1274 (H.B. 1223), Sec. 4, eff. September 1, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 412 (H.B. 2712), Sec. 3, eff. June 10, 2015.

Redesignated from Tax Code, Section 313.010 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(47), eff. September 1, 2015.

Sec. 313.010. AUDIT OF AGREEMENTS BY STATE AUDITOR.

(a) Each year, the state auditor shall review at least three major agreements, as determined by the state auditor, under this chapter to determine whether:

(1) each agreement accomplishes the purposes of this chapter as expressed in Section 313.003;

(2) each agreement complies with the intent of the legislature in enacting this chapter as expressed in Section 313.004; and

(3) the terms of each agreement were executed in compliance with the terms of this chapter.

(b) As part of the review, the state auditor shall make recommendations relating to increasing the efficiency and effectiveness of the administration of this chapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 2, eff. January 1, 2014.

For expiration of this subchapter, see Sec. 313.007

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

Sec. 313.021. DEFINITIONS. In this subchapter:

(1) "Qualified investment" means:

(A) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2002, without regard to whether the property is affixed to or incorporated into real property, and that is described as Section 1245 property by Section 1245(a), Internal Revenue Code of 1986;

(B) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2002, without regard to whether the property is affixed to or incorporated into real

property, and that is used in connection with the manufacturing, processing, or fabrication in a cleanroom environment of a semiconductor product, without regard to whether the property is actually located in the cleanroom environment, including:

(i) integrated systems, fixtures, and piping;

(ii) all property necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity, or other environmental conditions or manufacturing tolerances; and

(iii) production equipment and machinery, moveable cleanroom partitions, and cleanroom lighting;

(C) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2002, without regard to whether the property is affixed to or incorporated into real property, and that is used in connection with the operation of a nuclear electric power generation facility, including:

(i) property, including pressure vessels, pumps, turbines, generators, and condensers, used to produce nuclear electric power; and

(ii) property and systems necessary to control radioactive contamination;

(D) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2002, without regard to whether the property is affixed to or incorporated into real property, and that is used in connection with operating an integrated gasification combined cycle electric generation facility, including:

(i) property used to produce electric power by means of a combined combustion turbine and steam turbine application using synthetic gas or another product produced by the gasification of coal or another carbon-based feedstock; or

(ii) property used in handling materials to be used as feedstock for gasification or used in the gasification process to produce synthetic gas or another carbon-based feedstock

for use in the production of electric power in the manner described by Subparagraph (i);

(E) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2010, without regard to whether the property is affixed to or incorporated into real property, and that is used in connection with operating an advanced clean energy project, as defined by Section 382.003, Health and Safety Code; or

(F) a building or a permanent, nonremovable component of a building that is built or constructed during the applicable qualifying time period that begins on or after January 1, 2002, and that houses tangible personal property described by Paragraph (A), (B), (C), (D), or (E).

(2) "Qualified property" means:

(A) land:

(i) that is located in an area designated as a reinvestment zone under Chapter 311 or 312 or as an enterprise zone under Chapter 2303, Government Code;

(ii) on which a person proposes to construct a new building or erect or affix a new improvement that does not exist before the date the person submits a complete application for a limitation on appraised value under this subchapter;

(iii) that is not subject to a tax abatement agreement entered into by a school district under Chapter 312; and

(iv) on which, in connection with the new building or new improvement described by Subparagraph (ii), the owner or lessee of, or the holder of another possessory interest in, the land proposes to:

(a) make a qualified investment in an amount equal to at least the minimum amount required by Section 313.023; and

(b) create at least 25 new qualifying jobs;

(B) the new building or other new improvement described by Paragraph (A)(ii); and

(C) tangible personal property:

(i) that is not subject to a tax abatement agreement entered into by a school district under Chapter 312;

(ii) for which a sales and use tax refund is not claimed under Section 151.3186; and

(iii) except for new equipment described in Section 151.318(q) or (q-1), that is first placed in service in the new building, in the newly expanded building, or in or on the new improvement described by Paragraph (A)(ii), or on the land on which that new building or new improvement is located, if the personal property is ancillary and necessary to the business conducted in that new building or in or on that new improvement.

(3) "Qualifying job" means a permanent full-time job that:

(A) requires at least 1,600 hours of work a year;

(B) is not transferred from one area in this state to another area in this state;

(C) is not created to replace a previous employee;

(D) is covered by a group health benefit plan for which the business offers to pay at least 80 percent of the premiums or other charges assessed for employee-only coverage under the plan, regardless of whether an employee may voluntarily waive the coverage; and

(E) pays at least 110 percent of the county average weekly wage for manufacturing jobs in the county where the job is located.

(F) In determining whether a property owner has created the number of qualifying jobs required under this chapter, operations, services and other related jobs created in connection with the project, including those employed by third parties under contract, may satisfy the minimum qualifying jobs requirement for the project if the Texas Workforce Commission determines that the cumulative economic benefits to the state of these jobs is the same or greater than that associated with the minimum number of qualified jobs required to be created under this chapter. The Texas Workforce Commission may adopt rules to implement this subsection.

(4) "Qualifying time period" means:

(A) the period that begins on the date that a person's application for a limitation on appraised value under this subchapter is approved by the governing body of the school district and ends on December 31 of the second tax year that begins after that date, except as provided by Paragraph (B) or (C) of this subdivision or Section 313.027(h);

(B) in connection with a nuclear electric power generation facility, the first seven tax years that begin on or after the third anniversary of the date the school district approves the property owner's application for a limitation on appraised value under this subchapter, unless a shorter time period is agreed to by the governing body of the school district and the property owner; or

(C) in connection with an advanced clean energy project, as defined by Section 382.003, Health and Safety Code, the first five tax years that begin on or after the third anniversary of the date the school district approves the property owner's application for a limitation on appraised value under this subchapter, unless a shorter time period is agreed to by the governing body of the school district and the property owner.

(5) "County average weekly wage for manufacturing jobs" means:

(A) the average weekly wage in a county for manufacturing jobs during the most recent four quarterly periods for which data is available at the time a person submits an application for a limitation on appraised value under this subchapter, as computed by the Texas Workforce Commission; or

(B) 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, Local Government Code, in which the county is located during the most recent four quarterly periods for which data is available at the time a person submits an application for a limitation on appraised value under this subchapter, as computed by the Texas Workforce Commission.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.

Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 113, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1262 (H.B. 2994), Sec. 2, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1109 (H.B. 469), Sec. 6, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1186 (H.B. 3676), Sec. 2, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1272 (H.B. 1133), Sec. 2, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 3, eff. January 1, 2014.

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

(b) 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:

CATEGORY	TAXABLE VALUE OF PROPERTY
I	\$10 billion or more
II	\$1 billion or more but less than \$10 billion
III	\$500 million or more but less than \$1 billion
IV	\$100 million or more but less than \$500 million
V	less than \$100 million

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.

Sec. 313.023. MINIMUM AMOUNTS OF QUALIFIED INVESTMENT. 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 as follows:

CATEGORY	MINIMUM QUALIFIED INVESTMENT
I	\$100 million
II	\$80 million
III	\$60 million
IV	\$40 million
V	\$20 million

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.

Sec. 313.024. ELIGIBLE PROPERTY. (a) This subchapter and Subchapter C apply only to property owned by an entity subject to the tax imposed by Chapter 171.

(a-1) Expired.

(b) To be eligible for a limitation on appraised value under this subchapter, the entity must use the property for:

- (1) manufacturing;
- (2) research and development;
- (3) a clean coal project, as defined by Section 5.001, Water Code;
- (4) an advanced clean energy project, as defined by Section 382.003, Health and Safety Code;
- (5) renewable energy electric generation;
- (6) electric power generation using integrated gasification combined cycle technology;
- (7) nuclear electric power generation;
- (8) a computer center primarily used in connection with one or more activities described by Subdivisions (1) through (7) conducted by the entity; or
- (9) a Texas priority project.

(b-1) Expired.

(c) For purposes of determining an applicant's eligibility for a limitation under this subchapter:

(1) the land on which a building or component of a building described by Section 313.021(1)(E) is located is not considered a qualified investment;

(2) property that is leased under a capitalized lease may be considered a qualified investment;

(3) property that is leased under an operating lease may not be considered a qualified investment; and

(4) 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) To be eligible for a limitation on appraised value under this subchapter, the property owner must create the required number of new qualifying jobs as defined by Section 313.021(3) and the average weekly wage for all jobs created by the owner that are not qualifying jobs must exceed the county average weekly wage for all jobs in the county where the jobs are located.

(d-2) For purposes of determining whether a property owner has created the number of new qualifying jobs required for eligibility for a limitation on appraised value under this subchapter, the new qualifying jobs created under an agreement between the property owner and another school district may be included in the total number of new qualifying jobs created in connection with the project if the Texas Economic Development and Tourism Office determines that the projects covered by the agreements constitute a single unified project. The Texas Economic Development and Tourism Office may adopt rules to implement this subsection.

(e) In this section:

(1) "Manufacturing" means an establishment primarily engaged in activities described in sectors 31-33 of the 2007 North American Industry Classification System.

(2) "Renewable energy electric generation" means an establishment primarily engaged in activities described in

category 221119 of the 1997 North American Industry Classification System.

(3) "Integrated gasification combined cycle technology" means technology used to produce electricity in a combined combustion turbine and steam turbine application using synthetic gas or another product produced from the gasification of coal or another carbon-based feedstock, including related activities such as materials-handling and gasification of coal or another carbon-based feedstock.

(4) "Nuclear electric power generation" means activities described in category 221113 of the 2002 North American Industry Classification System.

(5) "Research and development" means an establishment primarily engaged in activities described in category 541710 of the 2002 North American Industry Classification System.

(6) "Computer center" means an establishment primarily engaged in providing electronic data processing and information storage.

(7) "Texas priority project" means a project on which the applicant has committed to expend or allocate a qualified investment of more than \$1 billion.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.

Amended by:

Acts 2005, 79th Leg., Ch. 1097 (H.B. [2201](#)), Sec. 5, eff. June 18, 2005.

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. [3](#)), Sec. 16(b), eff. January 1, 2008.

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. [3](#)), Sec. 16(c), eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1262 (H.B. [2994](#)), Sec. 3, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1262 (H.B. [2994](#)), Sec. 4, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1262 (H.B. [2994](#)), Sec. 5, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1277 (H.B. [3732](#)), Sec. 10, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 1186 (H.B. [3676](#)), Sec. 3, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1186 (H.B. [3676](#)), Sec. 4, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. [3390](#)), Sec. 4, eff. January 1, 2014.

Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. [3390](#)), Sec. 5, eff. January 1, 2014.

Sec. 313.025. APPLICATION; ACTION ON APPLICATION.

(a) The owner or lessee of, or the holder of another possessory interest in, any qualified property described by Section [313.021\(2\)\(A\)](#), (B), or (C) 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 maintenance and operations ad valorem tax purposes of the person's qualified property. An application must be made on the form prescribed by the comptroller and include the information required by the comptroller, and it must be accompanied by:

(1) the application fee established by the governing body of the school district;

(2) information sufficient to show that the real and personal property identified in the application as qualified property meets the applicable criteria established by Section [313.021\(2\)](#); and

(3) any information required by the comptroller for the purposes of Section [313.026](#).

(a-1) Within seven days of the receipt of each document, the school district shall submit to the comptroller a copy of the application and the proposed agreement between the applicant and the school district. If the applicant submits an economic analysis of the proposed project to the school district, the district shall submit a copy of the analysis to the comptroller. In addition, the school district shall submit to the comptroller any subsequent revision of or amendment to any of those documents within seven days of its receipt. The comptroller shall publish each document received from the school district under this subsection on the

comptroller's Internet website. If the school district maintains a generally accessible Internet website, the district shall provide on its website a link to the location of those documents posted on the comptroller's website in compliance with this subsection. This subsection does not require the comptroller to post information that is confidential under Section [313.028](#).

(b) The governing body of a school district is not required to consider an application for a limitation on appraised value. If the governing body of the school district elects to consider an application, the governing body shall deliver a copy of the application to the comptroller and request that the comptroller conduct an economic impact evaluation of the investment proposed by the application. The comptroller shall conduct or contract with a third person to conduct the economic impact evaluation, which shall be completed and provided to the governing body of the school district, along with the comptroller's certificate or written explanation under Subsection (d), as soon as practicable but not later than the 90th day after the date the comptroller receives the application. The governing body shall provide to the comptroller or to a third person contracted by the comptroller to conduct the economic impact evaluation any requested information. A methodology to allow comparisons of economic impact for different schedules of the addition of qualified investment or qualified property may be developed as part of the economic impact evaluation. The governing body shall provide a copy of the economic impact evaluation to the applicant on request. The comptroller may charge the applicant a fee sufficient to cover the costs of providing the economic impact evaluation. The governing body of a school district shall approve or disapprove an application not later than the 150th day after the date the application is filed, unless the economic impact evaluation has not been received or an extension is agreed to by the governing body and the applicant.

(b-1) The comptroller shall promptly deliver a copy of the application to the Texas Education Agency. The Texas Education Agency shall determine the effect that the applicant's proposal will have on the number or size of the school district's

instructional facilities and submit a written report containing the agency's determination to the school district. The governing body of the school district shall provide any requested information to the Texas Education Agency. Not later than the 45th day after the date the Texas Education Agency receives the application, the Texas Education Agency shall make the required determination and submit the agency's written report to the governing body of the school district.

(c) In determining whether to approve an application, the governing body of the school district is entitled to request and receive assistance from:

- (1) the comptroller;
- (2) the Texas Economic Development and Tourism Office;
- (3) the Texas Workforce Investment Council; and
- (4) the Texas Workforce Commission.

(d) Not later than the 90th day after the date the comptroller receives the copy of the application, the comptroller shall 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 the governing body a written explanation of the comptroller's decision not to issue a certificate.

(d-1) The governing body of a school district may not approve an application unless the comptroller submits to the governing body a certificate for a limitation on appraised value of the property.

(e) Before approving or disapproving an application under this subchapter that the governing body of the school district elects to consider, the governing body must make a written finding as to any criteria considered by the comptroller in conducting the economic impact evaluation under Section [313.026](#). The governing body shall deliver a copy of those findings to the applicant.

(f) The governing body may 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.

(f-1) Notwithstanding any other provision of this chapter to the contrary, including Section 313.003(2) or 313.004(3)(A) or (B)(iii), the governing body of a school district may waive the new jobs creation requirement in Section 313.021(2)(A)(iv)(b) or 313.051(b) and approve an application if the governing body makes a finding that the jobs creation requirement exceeds the industry standard for the number of employees reasonably necessary for the operation of the facility of the property owner that is described in the application.

(g) The Texas Economic Development and Tourism Office or its successor may recommend that a school district approve an application under this chapter. In determining whether to approve an application, the governing body of the school district shall consider any recommendation made by the Texas Economic Development and Tourism Office or its successor.

(h) After receiving a copy of the application, the comptroller shall determine whether the property meets the requirements of Section 313.024 for eligibility for a limitation on appraised value under this subchapter. The comptroller shall notify the governing body of the school district of the comptroller's determination and provide the applicant an opportunity for a hearing before the determination becomes final. A hearing under this subsection is a contested case hearing and shall be conducted by the State Office of Administrative Hearings in the manner provided by Section 2003.101, Government Code. The applicant has the burden of proof on each issue in the hearing. The applicant may seek judicial review of the comptroller's determination in a Travis County district court under the substantial evidence rule as provided by Subchapter G, Chapter 2001, Government Code.

(i) If the comptroller's determination under Subsection (h) that the property does not meet the requirements of Section 313.024 for eligibility for a limitation on appraised value under this subchapter becomes final, the comptroller is not required to provide an economic impact evaluation of the application or to submit a certificate for a limitation on appraised value of the property or a written explanation of the decision not to issue a

certificate, and the governing body of the school district may not grant the application.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.

Amended by Acts 2003, 78th Leg., ch. 818, Sec. 6.11, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 978, Sec. 7, eff. Sept. 1, 2003.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 16(d), eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 864 (H.B. 1470), Sec. 2, eff. December 31, 2007.

Acts 2007, 80th Leg., R.S., Ch. 864 (H.B. 1470), Sec. 3, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1186 (H.B. 3676), Sec. 5, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1186 (H.B. 3676), Sec. 5, eff. January 1, 2010.

Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 6, eff. January 1, 2014.

Sec. 313.026. ECONOMIC IMPACT EVALUATION. (a) The economic impact evaluation of the application must include any information the comptroller determines is necessary or helpful to:

(1) the governing body of the school district in determining whether to approve the application under Section 313.025; or

(2) the comptroller in determining whether to issue a certificate for a limitation on appraised value of the property under Section 313.025.

(b) Except as provided by Subsections (c) and (d), the comptroller's determination whether to issue a certificate for a limitation on appraised value under this chapter for property described in the application shall be based on the economic impact evaluation described by Subsection (a) and on any other information available to the comptroller, including information provided by the governing body of the school district.

(c) The comptroller may not issue a certificate for a limitation on appraised value under this chapter for property

described in an application unless the comptroller determines that:

(1) the project proposed by the applicant is reasonably likely to generate, before the 25th anniversary of the beginning of the limitation period, tax revenue, including state tax revenue, school district maintenance and operations ad valorem tax revenue attributable to the project, and any other tax revenue attributable to the effect of the project on the economy of the state, in an amount sufficient to offset the school district maintenance and operations ad valorem tax revenue lost as a result of the agreement; and

(2) the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in this state.

(d) The comptroller shall state in writing the basis for the determinations made under Subsections (c)(1) and (2).

(e) The applicant may submit information to the comptroller that would provide a basis for an affirmative determination under Subsection (c)(2).

(f) Notwithstanding Subsections (c) and (d), if the comptroller makes a qualitative determination that other considerations associated with the project result in a net positive benefit to the state, the comptroller may issue the certificate.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 864 (H.B. [1470](#)), Sec. 4, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1186 (H.B. [3676](#)), Sec. 6, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. [3390](#)), Sec. 7, eff. January 1, 2014.

Sec. 313.0265. DISCLOSURE OF APPRAISED VALUE LIMITATION INFORMATION. (a) The comptroller shall post on the comptroller's Internet website each document or item of information the comptroller designates as substantive before the 15th day after the date the document or item of information was received or created. Each document or item of information must continue to be

posted until the appraised value limitation expires.

(b) The comptroller shall designate the following as substantive:

(1) each application requesting a limitation on appraised value; and

(2) the economic impact evaluation made in connection with the application.

(c) If a school district maintains a generally accessible Internet website, the district shall maintain a link on its Internet website to the area of the comptroller's Internet website where information on each of the district's agreements to limit appraised value is maintained.

Added by Acts 2009, 81st Leg., R.S., Ch. 1186 (H.B. 3676), Sec. 7, eff. January 1, 2010.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 8, eff. January 1, 2014.

Sec. 313.027. LIMITATION ON APPRAISED VALUE; AGREEMENT.

(a) If the person's application is approved by the governing body of the school district, 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:

(1) the market value of the property; or

(2) subject to Subsection (b), the amount agreed to by the governing body of the school district.

(a-1) The agreement must:

(1) provide that the limitation under Subsection (a) applies for a period of 10 years; and

(2) specify the beginning date of the limitation, which must be January 1 of the first tax year that begins after:

(A) the application date;

(B) the qualifying time period; or

(C) the date commercial operations begin at the site of the project.

(b) The amount agreed to by the governing body of a school district under Subsection (a)(2) must be an amount in accordance with the following, according to the category established by Section 313.022 to which the school district belongs:

CATEGORY	LIMITATION	MINIMUM AMOUNT OF
		\$100 million
I		\$80 million
II		\$60 million
III		\$40 million
IV		\$20 million
V		

(c) The limitation amounts listed in Subsection (b) are minimum amounts. A school district, regardless of category, may agree to a greater amount than those amounts.

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

(e) The agreement must 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. 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) In addition, the agreement:

(1) must incorporate each relevant provision of this subchapter and, to the extent necessary, 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 by the property owner and

the school district;

(2) may provide that the property owner will protect the school district in the event the district incurs extraordinary education-related expenses related to the project that are not directly funded in state aid formulas, including expenses for the purchase of portable classrooms and the hiring of additional personnel to accommodate a temporary increase in student enrollment attributable to the project;

(3) must require the property owner to maintain a viable presence in the school district for at least five years after the date the limitation on appraised value of the owner's property expires;

(4) must provide for the termination of the agreement, the recapture of ad valorem tax revenue lost as a result of the agreement if the owner of the property fails to comply with the terms of the agreement, and payment of a penalty or interest, or both, on that recaptured ad valorem tax revenue;

(5) may specify any conditions the occurrence of which will require the district and the property owner to renegotiate all or any part of the agreement;

(6) must specify the ad valorem tax years covered by the agreement; and

(7) must be in a form approved by the comptroller.

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

(h) The agreement between the governing body of the school district and the applicant may provide for a deferral of the date on which the qualifying time period for the project is to commence or, subsequent to the date the agreement is entered into, be amended to provide for such a deferral. The agreement may not provide for the deferral of the date on which the qualifying time period is to commence to a date later than January 1 of the fourth tax year that begins after the date the application is approved except that if the agreement is one of a series of agreements related to the same

project, the agreement may provide for the deferral of the date on which the qualifying time period is to commence to a date not later than January 1 of the sixth tax year that begins after the date the application is approved. This subsection may not be construed to permit a qualifying time period that has commenced to continue for more than the number of years applicable to the project under Section 313.021(4).

(i) A person and the school district may not enter into an agreement under which the person agrees to provide supplemental payments to a school district or any other entity on behalf of a school district in an amount that exceeds an amount equal to the greater of \$100 per student per year in average daily attendance, as defined by Section 42.005, Education Code, or \$50,000 per year, or for a period that exceeds the period beginning with the period described by Section 313.021(4) and ending December 31 of the third tax year after the date the person's eligibility for a limitation under this chapter expires. This limit does not apply to amounts described by Subsection (f)(1) or (2).

(j) An agreement under this chapter must disclose any consideration promised in conjunction with the application and the limitation.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1186 (H.B. 3676), Sec. 8, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 9, eff. January 1, 2014.

Sec. 313.0275. RECAPTURE OF AD VALOREM TAX REVENUE LOST.

(a) Notwithstanding any other provision of this chapter to the contrary, a person with whom a school district enters into an agreement under this subchapter must make the minimum amount of qualified investment during the qualifying time period.

(b) If in any tax year a property owner fails to comply with Subsection (a), the property owner is liable to this state for a penalty equal to the amount computed by subtracting from the market value of the property for that tax year the value of the property as

limited by the agreement and multiplying the difference by the maintenance and operations tax rate of the school district for that tax year.

(c) A penalty imposed under Subsection (b) becomes delinquent if not paid on or before February 1 of the following tax year. Section 33.01 applies to the delinquent penalty in the manner that section applies to delinquent taxes.

(d) In the event of a casualty loss that prevents a person from complying with Subsection (a), the person may request and the comptroller may grant a waiver of the penalty imposed under Subsection (b).

Added by Acts 2009, 81st Leg., R.S., Ch. 1186 (H.B. 3676), Sec. 9, eff. June 19, 2009.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 10, eff. January 1, 2014.

Sec. 313.0276. PENALTY FOR FAILURE TO COMPLY WITH JOB-CREATION REQUIREMENTS. (a) The comptroller shall conduct an annual review and issue a determination as to whether a person with whom a school district has entered into an agreement under this chapter satisfied in the preceding year the requirements of this chapter regarding the creation of the required number of qualifying jobs. If the comptroller makes an adverse determination in the review, the comptroller shall notify the person of the cause of the adverse determination and the corrective measures necessary to remedy the determination.

(b) If a person who receives an adverse determination fails to remedy the determination following notification of the determination and the comptroller makes an adverse determination with respect to the person's compliance in the following year, the person must submit to the comptroller a plan for remedying the determination and certify the person's intent to fully implement the plan not later than December 31 of the year in which the determination is made.

(c) If a person who receives an adverse determination under Subsection (b) fails to comply with that subsection following

notification of the determination and receives an adverse determination in the following year, the comptroller shall impose a penalty on the person. The penalty is in an amount equal to the amount computed by:

(1) subtracting from the number of qualifying jobs required to be created the number of qualifying jobs actually created; and

(2) multiplying the amount computed under Subdivision (1) by the average annual wage for all jobs in the county during the most recent four quarters for which data is available.

(d) Notwithstanding Subsection (c), if a person receives an adverse determination and the comptroller has previously imposed a penalty on the person under this section one or more times, the comptroller shall impose a penalty on the person in an amount equal to the amount computed by multiplying the amount computed under Subsection (c)(1) by an amount equal to twice the amount computed under Subsection (c)(2).

(e) Notwithstanding Subsections (c) and (d), a penalty imposed under this section may not exceed an amount equal to the difference between the amount of the ad valorem tax benefit received by the person under the agreement in the preceding year and the amount of any supplemental payments made to the school district in that year.

(f) A job created by a person that is not a qualifying job because the job does not meet a numerical requirement of Section [313.021\(3\)\(A\)](#), (D), or (E) is considered for purposes of this section to be a nonqualifying job only if the job fails to meet the numerical requirement by at least 10 percent.

(g) An adverse determination under this section is a deficiency determination under Section [111.008](#). A penalty imposed under this section is an amount the comptroller is required to collect, receive, administer, or enforce, and the determination is subject to the payment and redetermination requirements of Sections [111.0081](#) and [111.009](#).

(h) A redetermination under Section [111.009](#) of an adverse determination under this section is a contested case as defined by Section [2001.003](#), Government Code.

(i) If a person on whom a penalty is imposed under this section contends that the amount of the penalty is unlawful or that the comptroller may not legally demand or collect the penalty, the person may challenge the determination of the comptroller under Subchapters A and B, Chapter [112](#).

(j) If the comptroller imposes a penalty on a person under this section three times, the comptroller may rescind the agreement between the person and the school district under this chapter.

(k) A person may contest a determination by the comptroller to rescind an agreement between the person and a school district under this chapter pursuant to Subsection (j) by filing suit against the comptroller and the attorney general. The district courts of Travis County have exclusive, original jurisdiction of a suit brought under this subsection. This subsection prevails over a provision of Chapter [25](#), Government Code, to the extent of any conflict.

(l) If a person files suit under Subsection (k) and the comptroller's determination to rescind the agreement is upheld on appeal, the person shall pay to the comptroller any tax that would have been due and payable to the school district during the pendency of the appeal, including statutory interest and penalties imposed on delinquent taxes under Sections [111.060](#) and [111.061](#).

(m) The comptroller shall deposit a penalty collected under this section, including any interest and penalty applicable to the penalty, to the credit of the foundation school fund.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. [3390](#)), Sec. 11, eff. January 1, 2014.

Sec. 313.028. CERTAIN BUSINESS INFORMATION CONFIDENTIAL. 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 shall 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. 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, may not be considered confidential business information if the governing body of the school district agrees to consider the application. Information in the custody of a school district or the comptroller if the governing body approves the application is not confidential under this section.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1186 (H.B. 3676), Sec. 10, eff. June 19, 2009.

Sec. 313.030. PROPERTY NOT ELIGIBLE FOR TAX ABATEMENT. 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.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.

Sec. 313.031. RULES AND FORMS; FEES. (a) The comptroller shall:

(1) 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

(2) 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.

(b) The governing body of a school district by official action shall 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. The amount of an application fee must be reasonable and may not exceed the estimated cost to the district of

processing and acting on an application, including any cost to the school district associated with the economic impact evaluation required by Section 313.025.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 12, eff. January 1, 2014.

Sec. 313.032. REPORT ON COMPLIANCE WITH AGREEMENTS.

(a) Before the beginning of each regular session of the legislature, the comptroller shall submit to the lieutenant governor, the speaker of the house of representatives, and each other member of the legislature a report on the agreements entered into under this chapter that includes:

(1) an assessment of the following with regard to the agreements entered into under this chapter, considered in the aggregate:

(A) the total number of jobs created, direct and otherwise, in this state;

(B) the total effect on personal income, direct and otherwise, in this state;

(C) the total amount of investment in this state;

(D) the total taxable value of property on the tax rolls in this state, including property for which the limitation period has expired;

(E) the total value of property not on the tax rolls in this state as a result of agreements entered into under this chapter; and

(F) the total fiscal effect on the state and local governments; and

(2) an assessment of the progress of each agreement made under this chapter that states for each agreement:

(A) the number of qualifying jobs each recipient of a limitation on appraised value committed to create;

(B) the number of qualifying jobs each recipient created;

(C) the total amount of wages and the median wage

of the new qualifying jobs each recipient created;

(D) the amount of the qualified investment each recipient committed to spend or allocate for each project;

(E) the amount of the qualified investment each recipient spent or allocated for each project;

(F) the market value of the qualified property of each recipient as determined by the applicable chief appraiser, including property that is no longer eligible for a limitation on appraised value under the agreement;

(G) the limitation on appraised value for the qualified property of each recipient;

(H) the dollar amount of the taxes that would have been imposed on the qualified property if the property had not received a limitation on appraised value; and

(I) the dollar amount of the taxes imposed on the qualified property.

(b) The report may not include information that is confidential by law.

(b-1) In preparing the portion of the report described by Subsection (a)(1), the comptroller may use standard economic estimation techniques, including economic multipliers.

(c) The portion of the report described by Subsection (a)(2) must be based on data certified to the comptroller by each recipient or former recipient of a limitation on appraised value under this chapter.

(d) The comptroller may require a recipient or former recipient of a limitation on appraised value under this chapter to submit, on a form the comptroller provides, information required to complete the report.

Added by Acts 2007, 80th Leg., R.S., Ch. 1262 (H.B. 2994), Sec. 6, eff. June 15, 2007.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 13, eff. January 1, 2014.

Sec. 313.033. REPORT ON COMPLIANCE WITH JOB-CREATION REQUIREMENTS. Each recipient of a limitation on appraised value

under this chapter shall submit to the comptroller an annual report on a form provided by the comptroller that provides information sufficient to document the number of qualifying jobs created.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 14, eff. January 1, 2014.

For expiration of this subchapter, see Sec. 313.007

SUBCHAPTER C. LIMITATION ON APPRAISED VALUE OF PROPERTY IN STRATEGIC INVESTMENT AREA OR CERTAIN RURAL SCHOOL DISTRICTS

Sec. 313.051. APPLICABILITY. (a) In this section, "strategic investment area" means an area the comptroller determines under Subsection (a-3) is:

(1) a county within this state with unemployment above the state average and per capita income below the state average;

(2) an area within this state that is a federally designated urban enterprise community or an urban enhanced enterprise community; or

(3) a defense economic readjustment zone designated under Chapter 2310, Government Code.

(a-1) This subchapter applies only to a school district that has territory in:

(1) an area that qualifies as a strategic investment area; or

(2) a county:

(A) that has a population of less than 50,000; and

(B) in which, from 2000 to 2010, according to the federal decennial census, the population:

(i) remained the same;

(ii) decreased; or

(iii) increased, but at a rate of not more than the average rate of increase in the state during that period.

(a-2) Notwithstanding Subsection (a-1), if on January 1, 2002, this subchapter applied to a school district in whose territory is located a federal nuclear facility, this subchapter continues to apply to the school district regardless of whether the

school district ceased or ceases to be described by Subsection (a-1) after that date.

(a-3) Not later than September 1 of each year, the comptroller shall determine areas that qualify as a strategic investment area using the most recently completed full calendar year data available on that date and, not later than October 1, shall publish a list and map of the designated areas. A determination under this subsection is effective for the following tax year for purposes of this subchapter.

(b) The governing body of a school district to which this subchapter applies may 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. Except as otherwise provided by this subchapter, the provisions of Subchapter B apply to a school district to which this subchapter applies. For purposes of this subchapter, a property owner is required to create at least 10 new qualifying jobs as defined by Section 313.021(3) on the owner's qualified property.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 16(e), eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 1186 (H.B. 3676), Sec. 11, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 16, eff. January 1, 2014.

Sec. 313.052. CATEGORIZATION OF SCHOOL DISTRICTS. 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 Subchapter M, Chapter 403, Government Code, as follows:

CATEGORY	TAXABLE VALUE OF INDUSTRIAL PROPERTY
----------	--------------------------------------

I	\$200 million or more
II	\$90 million or more but less than \$200 million
III	\$1 million or more but less than \$90 million
IV	\$100,000 or more but less than \$1 million
V	less than \$100,000

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.

Sec. 313.053. MINIMUM AMOUNTS OF QUALIFIED INVESTMENT. 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 as follows:

CATEGORY	MINIMUM QUALIFIED INVESTMENT
I	\$30 million
II	\$20 million
III	\$10 million
IV	\$5 million
V	\$1 million

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.

Sec. 313.054. LIMITATION ON APPRAISED VALUE. (a) 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) must be an amount in accordance with the following, according to the category established by Section 313.052 to which the school district belongs:

CATEGORY	MINIMUM AMOUNT OF LIMITATION
I	\$30 million
II	\$25 million
III	\$20 million
IV	\$15 million
V	\$10 million

(b) The limitation amounts listed in Subsection (a) are minimum amounts. A school district, regardless of category, may agree to a greater amount than those amounts.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 17, eff. January 1, 2014.

SUBCHAPTER E. AVAILABILITY OF TAX CREDIT AFTER PROGRAM EXPIRES OR
IS REPEALED

Sec. 313.171. SAVING PROVISIONS. (a) 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) The repeal 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 repeal of Subchapter D.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 19, eff. January 1, 2014.