



WHERE DID ALL THE MONEY GO? (A CONTINUING SERIES)

School Property Tax Abatements under HB 1200 (2001)

School districts may grant property tax abatements to certain businesses that make the required level of investment and meet certain wage and benefit requirements. The cost of the property tax revenue lost to these abatements is borne by the state through the school finance system and is expected to reduce revenue to the Foundation School Program by more than \$500 million in the 2010-11 biennium – enough to fund a pay increase of nearly \$1,000 for all Texas classroom teachers! Several bills would expand the scope of the abatement program or severely weaken its current wage requirements, increasing its cost to the state. The tax abatement program is due to expire at the end of 2007. The Legislature should re-authorize the abatement program for only two years and perform a comprehensive review of these abatements during the interim.

Local school boards decide state subsidies

Since 2001, school districts have been able to grant property tax abatements (officially, “limitations on appraised value”) to certain large businesses under the provisions of the Texas Economic Development Act (Tax Code, chapter 313). The Act is popularly known by the name of its originating legislation – HB 1200 (2001) by then-Rep. Kim Brimer. The state absorbs the entire cost of the foregone property tax revenue through the school finance system. Data from the comptroller’s Tax Exemption Study¹ and unpublished estimates by the comptroller indicate that the cost to the state will be over \$300 million in 2008-09 and over \$500 million in 2010-11.

The state has only a minor role in the approval process for these costly projects.

After a school district has negotiated an agreement with a company, the district hires a “third party” to conduct an economic impact evaluation and forwards the application to the comptroller for a non-binding recommendation.

The factors considered by the comptroller include: the level of investment per job; the wages and benefits offered; the ability of the applicant to locate in another state; and the economic impact of the proposed investment. This provision may change in 2008, so that the Texas Education Agency (TEA) would become responsible for the economic impact evaluation and review, which would be binding on the school district.

Once an agreement has been signed by a school district, the state conducts no further reviews to ensure that the agreement is fulfilled or even that the provisions of the agreement comply with the requirements of

¹ <http://www.window.state.tx.us/taxinfo/incidence07/>

HB 1200. The state auditor should review these projects for compliance with all statutory and contractual requirements.

HB 1200 now subsidizes mostly wind farms and other energy projects

HB 1200 was originally intended to help attract large manufacturing facilities. The bill has an unusual introductory statement of findings and purposes that focuses on the importance of the manufacturing sector in economic development. As voted out of the House Ways and Means Committee, only manufacturing or research-and-development (R&D) projects could have qualified for abatements. In the course of the legislative process, however, the bill added renewable energy electric generation investments.

The tail is now wagging the dog. Almost two-thirds of projects that have been approved or have pending applications involve energy, rather than manufacturing or R&D. Half of all pending or approved projects are wind farms. Other energy projects include liquefied natural gas (LNG) terminals, ethanol plants, low sulphur diesel refineries, and refinery cogeneration. Energy projects alone will cost the state about \$55 million a year.

Some of these projects are approved by school boards in small rural districts. For instance, three wind farms in Blackwell CISD, a school district with only 131 students, are costing the Foundation School Program nearly \$8 million a year in foregone property tax revenue. These small districts may not have the sophistication necessary to negotiate the most favorable contracts.

Clean coal projects and gasification projects were added to the list of permissible projects in 2005. Bills filed this year would add integrated gasification combined cycle technology (HB 1952 by Anderson, on the House calendar for April 11), nuclear plants (HB 2994 by Bonnen, reported from House

Ways & Means on April 4, and SB 1710 by Hagar, hearing scheduled for April 10 before Senate Business and Commerce subcommittee), and ultra-clean energy projects (HB 3732 by Hardcastle, left pending in House Energy Resources on April 5).

The legislature should undertake an interim study of HB 1200 to determine if its current use is consistent with legislative intent and if it should be revised or supplanted with a program specifically designed for energy projects and consistent with statewide energy planning.

The state should subsidize only good jobs

To qualify for an abatement, a project need create only 25 jobs (10 jobs in rural areas) and make an investment in plants and equipment ranging from \$20 million to \$100 million (\$1 million to \$30 million in rural areas), depending on the taxable value of the industrial property in the district.

Many of the jobs created by HB 1200 projects cost the state more than \$100,000 per job in lost property tax revenue. In contrast, the Texas Enterprise Fund - the governor's "deal closing fund" that distributes grants as incentives for business investments - has been spending roughly \$10,000 for each new job. The only HB 1200 projects that can match that standard are the largest manufacturing plants, such as Toyota in San Antonio, Samsung in Manor (near Austin), and Hilmar Cheese in Dalhart. Wind projects are notable for creating very expensive jobs, since they have few employees but abate large amounts of property taxes.

HB 1200 jobs must pay at least 110% of the county average weekly wage for manufacturing jobs in the county where the job is located. The employer must offer to pay at least 80% of the premiums for employee-only coverage for health insurance. These provisions are key to ensuring that state

subsidies go only to projects that create significantly better jobs than are already available in a community.

CSSB 1105 by Watson, which was reported out of the Senate Business and Commerce Committee on April 3, would severely weaken the wage requirements. The substitute would allow a job to qualify if it paid only 110% of the average wage in the county, rather than the manufacturing wage. The manufacturing wage is higher than the average wage in all but a few rural counties, which are allowed to adjust by calculating wages over a larger region.

This proposed change would commit the state to supporting jobs that pay only two-thirds or less of the current requirement. For instance, in Galveston County the average wage is only 45% of the manufacturing wage, in Travis County only 56%, and in Collin County 66%. In dollar terms, SB 1105 would permit jobs in Galveston County to qualify at \$942 per week less than the current requirement, in Travis County at \$767 less, and in Collin County at \$527 less. CSSB 1105 would also extend HB 1200 treatment to data centers and corporate headquarters.

By making it far easier to qualify for HB 1200 treatment, lower wage standards and expanded eligibility could be expected to greatly increase the number of abatements, and thus the cost to the Foundation School Program.

A full sunset review is required

HB 1200 is due to expire on December 31, 2007. During the 2006 special session, a floor amendment was added to HB 3, the franchise tax reform bill, to extend HB 1200 to the end of 2011. However, HB 3 does not become effective until January 1, 2008. There is a significant legal issue whether HB 1200 expires before its extension can take effect.

HB 1470 by Eissler (voted out of Ways and Means on April 4) and SB 746 by Seliger (referred to Finance) would extend HB 1200 to December 31, 2011. Both bills would also return to the comptroller, from TEA, the review of applications.

The legislature should renew HB 1200 for only two years – to the end of 2009. The original intent of setting an expiration date was to allow for a sunset review of the effectiveness of school property tax abatements. The manufacturing sector in Texas, as in other states, is less important now than when HB 1200 was passed. HB 1200 now functions primarily to subsidize wind farms and other energy projects, but is not integrated with statewide energy planning. There is no ongoing state review of HB 1200 projects for compliance with statutory requirements or with agreements signed with school districts.

An interim study of HB 1200, including a review by the State Auditor of existing agreements, could evaluate whether these locally granted property tax abatements are really worth the large amounts of money they cost the Foundation School Program.

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