

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

MAY 30 2009
Date

Honorable David Dewhurst
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S.B. 313 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Wentworth
Sen. Wentworth

Hamilton
REP. HAMILTON

Dedell
sen. Dedell

Isett
REP ISETT

Minojosa
Sen. Minojosa

Coleman
REP COLEMAN

Ogden
Sen. Ogden

Hartnett
REP HARTNETT

Zaffirini
On the part of the Senate
Sen. Zaffirini

Villarreal
On the part of the House
REP VILLARREAL

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

S.B. No. 313

A BILL TO BE ENTITLED

AN ACT

relating to tax increment financing.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 311.002(1), Tax Code, is amended to read as follows:

(1) "Project costs" means the expenditures made or estimated to be made and monetary obligations incurred or estimated to be incurred by the municipality or county designating ~~establishing~~ a reinvestment zone that are listed in the project plan as costs of public works, ~~or~~ public improvements, programs, or other projects benefiting ~~in~~ the zone, plus other costs incidental to those expenditures and obligations. "Project costs" include:

(A) capital costs, including the actual costs of the acquisition and construction of public works, public improvements, new buildings, structures, and fixtures; the actual costs of the acquisition, demolition, alteration, remodeling, repair, or reconstruction of existing buildings, structures, and fixtures; the actual costs of the remediation of conditions that contaminate public or private land or buildings; the actual costs of the preservation of the facade of a public or private building; the actual costs of the demolition of public or private buildings; and the actual costs of the acquisition of land and equipment and the clearing and grading of land;

- 1 (B) financing costs, including all interest paid
2 to holders of evidences of indebtedness or other obligations issued
3 to pay for project costs and any premium paid over the principal
4 amount of the obligations because of the redemption of the
5 obligations before maturity;
- 6 (C) real property assembly costs;
- 7 (D) professional service costs, including those
8 incurred for architectural, planning, engineering, and legal
9 advice and services;
- 10 (E) imputed administrative costs, including
11 reasonable charges for the time spent by employees of the
12 municipality or county in connection with the implementation of a
13 project plan;
- 14 (F) relocation costs;
- 15 (G) organizational costs, including the costs of
16 conducting environmental impact studies or other studies, the cost
17 of publicizing the creation of the zone, and the cost of
18 implementing the project plan for the zone;
- 19 (H) interest before and during construction and
20 for one year after completion of construction, whether or not
21 capitalized;
- 22 (I) the cost of operating the reinvestment zone
23 and project facilities;
- 24 (J) the amount of any contributions made by the
25 municipality or county from general revenue for the implementation
26 of the project plan; ~~and~~
- 27 (K) the costs of a program described by Section

1 311.010(h);

2 (L) the costs of school buildings, other
3 educational buildings, other educational facilities, or other
4 buildings owned by or on behalf of a school district, community
5 college district, or other political subdivision of this state; and

6 (M) payments made at the discretion of the
7 governing body of the municipality or county that the governing
8 body finds necessary or convenient to the creation of the zone or to
9 the implementation of the project plans for the zone.

10 SECTION 2. Sections 311.003(a) and (b), Tax Code, are
11 amended to read as follows:

12 (a) The governing body of a county by order may designate a
13 geographic area in the county or the governing body of a
14 municipality by ordinance [~~or the governing body of a county by~~
15 ~~order~~] may designate a [~~contiguous~~] geographic area that is in the
16 corporate limits of the municipality, in the extraterritorial
17 jurisdiction of the municipality, or in both [~~in the jurisdiction~~
18 ~~of the municipality or county~~] to be a reinvestment zone to promote
19 development or redevelopment of the area if the governing body
20 determines that development or redevelopment would not occur solely
21 through private investment in the reasonably foreseeable future.
22 The area need not be contiguous if the governing body determines
23 that the tracts included in the area are substantially related. The
24 designation of an area that is wholly or partly located in the
25 extraterritorial jurisdiction of a municipality is not affected by
26 a subsequent annexation of real property in the reinvestment zone
27 by the municipality. The tax increment base of a municipality that

1 annexes an area in a zone after the area is included in the zone is
2 computed as if the area were located in the corporate limits of the
3 municipality at the time the area was included in the zone.

4 (b) Before adopting an ordinance or order designating
5 ~~[providing for]~~ a reinvestment zone, the governing body of the
6 municipality or county must prepare a preliminary reinvestment zone
7 financing plan. ~~[As soon as the plan is completed, a copy of the~~
8 ~~plan must be sent to the governing body of each taxing unit that~~
9 ~~levies taxes on real property in the proposed zone.]~~

10 SECTION 3. Chapter 311, Tax Code, is amended by adding
11 Section 311.0035 to read as follows:

12 Sec. 311.0035. PROCEDURE FOR DESIGNATING JOINT
13 REINVESTMENT ZONE. (a) The governing bodies of two or more
14 municipalities by ordinance adopted by each municipality may
15 designate a contiguous area in the jurisdiction of each of the
16 municipalities to be a joint reinvestment zone. Except as otherwise
17 provided by this section, each of the municipalities must follow
18 the procedures provided by Section 311.003 to designate an area as a
19 joint reinvestment zone. The ordinances adopted by all of the
20 municipalities designating an area as a joint reinvestment zone
21 must contain the same terms and must:

22 (1) describe the boundaries of the zone with
23 sufficient definiteness to identify with ordinary and reasonable
24 certainty the territory included in the zone;

25 (2) create a board of directors for the zone and
26 specify:

27 (A) the number of directors;

- 1 (B) the qualifications of directors;
2 (C) the manner in which directors are appointed;
3 (D) the terms of directors;
4 (E) the manner in which vacancies on the board
5 are filled; and
6 (F) the manner by which officers of the board are
7 selected;
8 (3) provide that the zone takes effect immediately on
9 adoption of the ordinance by the last of the municipalities in the
10 jurisdiction of which the area contained in the zone is located;
11 (4) provide a termination date for the zone;
12 (5) assign a name to the zone, which may include the
13 name of one or more of the designating municipalities and may
14 contain a number;
15 (6) establish a tax increment fund for the zone; and
16 (7) contain findings that:
17 (A) improvements in the zone will significantly
18 enhance the value of all taxable real property in the zone and will
19 be of general benefit to the municipalities; and
20 (B) the area meets the requirements of Sections
21 311.005(a)(1) and (2) and (a-1).
22 (b) For purposes of complying with Subsection (a)(7)(A),
23 the ordinances are not required to identify the specific parcels of
24 real property to be enhanced in value.
25 (c) The boundaries of a joint reinvestment zone may be
26 enlarged or reduced by ordinance of the governing bodies of the
27 municipalities that designated the zone, subject to the

1 restrictions contained in this section.

2 (d) The municipalities designating a joint reinvestment
3 zone may exercise any power necessary and convenient to carry out
4 this section and the other provisions of this chapter, including
5 the powers listed in Section 311.008.

6 (e) Except as otherwise provided by this section, the board
7 of directors of a joint reinvestment zone has the same powers and
8 duties and is subject to the same limitations as the board of
9 directors of a reinvestment zone designated by a single
10 municipality. Sections 311.011, 311.012, 311.0123, 311.013,
11 311.014, 311.015, 311.016, 311.0163, and 311.018 apply to the
12 municipalities designating a joint reinvestment zone, except that a
13 reference in those sections to a municipality means all of the
14 municipalities designating a joint reinvestment zone and an action
15 required of a municipality under those sections is considered to be
16 required of all of the municipalities designating a joint
17 reinvestment zone.

18 (f) Expenditures from tax increment financing funds or
19 bonds secured by tax increment financing may be made without regard
20 to the location from which the funds were derived or the location
21 within the joint reinvestment zone at which the funds are spent, but
22 only if those expenditures are authorized as required by this
23 chapter.

24 SECTION 4. Section 311.005(a), Tax Code, is amended to read
25 as follows:

26 (a) To be designated as a reinvestment zone, an area must:

27 (1) substantially arrest or impair the sound growth of

1 the municipality or county designating [~~creating~~] the zone, retard
2 the provision of housing accommodations, or constitute an economic
3 or social liability and be a menace to the public health, safety,
4 morals, or welfare in its present condition and use because of the
5 presence of:

6 (A) a substantial number of substandard, slum,
7 deteriorated, or deteriorating structures;

8 (B) the predominance of defective or inadequate
9 sidewalk or street layout;

10 (C) faulty lot layout in relation to size,
11 adequacy, accessibility, or usefulness;

12 (D) unsanitary or unsafe conditions;

13 (E) the deterioration of site or other
14 improvements;

15 (F) tax or special assessment delinquency
16 exceeding the fair value of the land;

17 (G) defective or unusual conditions of title;

18 (H) conditions that endanger life or property by
19 fire or other cause; or

20 (I) structures, other than single-family
21 residential structures, less than 10 percent of the square footage
22 of which has been used for commercial, industrial, or residential
23 purposes during the preceding 12 years, if the municipality has a
24 population of 100,000 or more;

25 (2) be predominantly open, undeveloped, or
26 underdeveloped and, because of obsolete platting, deterioration of
27 structures or site improvements, or other factors, substantially

1 impair or arrest the sound growth of the municipality or county;

2 (3) be in a federally assisted new community located
3 in the municipality or county or in an area immediately adjacent to
4 a federally assisted new community; or

5 (4) be an area described in a petition requesting that
6 the area be designated as a reinvestment zone, if the petition is
7 submitted to the governing body of the municipality or county by the
8 owners of property constituting at least 50 percent of the
9 appraised value of the property in the area according to the most
10 recent certified appraisal roll for the county in which the area is
11 located.

12 SECTION 5. Sections 311.006(a) and (b), Tax Code, are
13 amended to read as follows:

14 (a) A municipality may not designate [~~create~~] a
15 reinvestment zone if:

16 (1) more than 30 [~~40~~] percent of the property in the
17 proposed zone, excluding property that is publicly owned, is used
18 for residential purposes; or

19 (2) the total appraised value of taxable real property
20 in the proposed zone and in existing reinvestment zones exceeds:

21 (A) 25 [~~45~~] percent of the total appraised value
22 of taxable real property in the municipality and in the industrial
23 districts created by the municipality, if the municipality has a
24 population of 100,000 or more; or

25 (B) 50 percent of the total appraised value of
26 taxable real property in the municipality and in the industrial
27 districts created by the municipality, if the municipality has a

1 population of less than 100,000.

2 (b) A municipality may not change the boundaries of an
3 existing reinvestment zone to include property in excess of the
4 restrictions on composition of a zone described by Subsection (a)
5 ~~[more than 10 percent of which, excluding property dedicated to~~
6 ~~public use, is used for residential purposes or to include more than~~
7 ~~15 percent of the total appraised value of taxable real property in~~
8 ~~the municipality and in the industrial districts created by the~~
9 ~~municipality].~~

10 SECTION 6. The heading to Section 311.007, Tax Code, is
11 amended to read as follows:

12 Sec. 311.007. CHANGING BOUNDARIES OR TERM OF EXISTING ZONE.

13 SECTION 7. Section 311.007, Tax Code, is amended by
14 amending Subsection (a) and adding Subsection (c) to read as
15 follows:

16 (a) The ~~[Subject to the limitations provided by Section~~
17 ~~311.006, if applicable, the]~~ boundaries of an existing reinvestment
18 zone may be reduced or enlarged by ordinance or resolution of the
19 governing body of the municipality or by order or resolution of the
20 governing body of the county that designated ~~[created]~~ the zone.

21 (c) The governing body of the municipality or county that
22 designated a reinvestment zone by ordinance or resolution or by
23 order or resolution, respectively, may extend the term of all or a
24 portion of the zone after notice and hearing in the manner provided
25 for the designation of the zone. A taxing unit other than the
26 municipality or county that designated the zone is not required to
27 participate in the zone or portion of the zone for the extended term

1 unless the taxing unit enters into a written agreement to do so.

2 SECTION 8. Section 311.008, Tax Code, is amended by
3 amending Subsection (b) and adding Subsections (f) and (g) to read
4 as follows:

5 (b) A municipality or county may exercise any power
6 necessary and convenient to carry out this chapter, including the
7 power to:

8 (1) cause project plans to be prepared, approve and
9 implement the plans, and otherwise achieve the purposes of the
10 plan;

11 (2) acquire real property by purchase, condemnation,
12 or other means [~~to implement project plans~~] and sell real [~~that~~]
13 property, on the terms and conditions and in the manner it considers
14 advisable, to implement project plans;

15 (3) enter into agreements, including agreements with
16 bondholders, determined by the governing body of the municipality
17 or county to be necessary or convenient to implement project plans
18 and achieve their purposes, which agreements may include
19 conditions, restrictions, or covenants that run with the land or
20 that by other means regulate or restrict the use of land; and

21 (4) consistent with the project plan for the zone:

22 (A) acquire blighted, deteriorated,
23 deteriorating, undeveloped, or inappropriately developed real
24 property or other property in a blighted area or in a federally
25 assisted new community in the zone for the preservation or
26 restoration of historic sites, beautification or conservation, the
27 provision of public works or public facilities, or other public

1 purposes;

2 (B) acquire, construct, reconstruct, or install
3 public works, facilities, or sites or other public improvements,
4 including utilities, streets, street lights, water and sewer
5 facilities, pedestrian malls and walkways, parks, flood and
6 drainage facilities, or parking facilities, but not including
7 educational facilities; or

8 (C) in a reinvestment zone created on or before
9 September 1, 1999, acquire, construct, or reconstruct educational
10 facilities in the municipality.

11 (f) The governing body of a municipality or county may
12 impose a fee:

13 (1) on property owners who submit a petition under
14 Section 311.005(a)(4) for processing the petition; or

15 (2) for reviewing a project designated or proposed to
16 be designated under this chapter.

17 (g) A fee under Subsection (f) must be reasonably related to
18 the estimated cost to the municipality or county of processing the
19 petition or reviewing the project, respectively.

20 SECTION 9. Section 311.0085(a), Tax Code, is amended to
21 read as follows:

22 (a) This section applies only to a municipality with a
23 population of less than 130,000 as shown by the 2000 federal
24 decennial census that has[+]

25 [~~1~~] territory in three counties[~~and~~

26 [~~2~~] ~~a population of less than 120,000~~].

27 SECTION 10. Sections 311.009(a), (b), and (e), Tax Code,

1 are amended to read as follows:

2 (a) Except as provided by Subsection (b), the board of
3 directors of a reinvestment zone consists of at least five and not
4 more than 15 members, unless more than 15 members are required to
5 satisfy the requirements of this subsection. Each taxing unit other
6 than the municipality or county that designated [~~created~~] the zone
7 that levies taxes on real property in the zone may appoint one
8 member of the board if the taxing unit has approved the payment of
9 all or part of the tax increment produced by the unit into the tax
10 increment fund for the zone. A unit may waive its right to appoint a
11 director. The governing body of the municipality or county that
12 designated [~~created~~] the zone may appoint not more than 10
13 directors to the board; except that if there are fewer than five
14 directors appointed by taxing units other than the municipality or
15 county, the governing body of the municipality or county may
16 appoint more than 10 members as long as the total membership of the
17 board does not exceed 15.

18 (b) If the zone was designated under Section 311.005(a)(4),
19 the governing body of the municipality or county that designated
20 the zone may provide that the board of directors of the zone
21 consists of nine members appointed as provided by this subsection,
22 unless more than nine members are required to comply with this
23 subsection. Each taxing unit [~~school district, county, or~~
24 ~~municipality~~], other than the municipality or county that
25 designated [~~created~~] the zone, that levies taxes on real property
26 in the zone may appoint one member of the board if the taxing unit
27 [~~school district, county, or municipality~~] has approved the payment

1 of all or part of the tax increment produced by the unit into the tax
2 increment fund for the zone. The member of the state senate in whose
3 district the zone is located is a member of the board, and the
4 member of the state house of representatives in whose district the
5 zone is located is a member of the board, except that either may
6 designate another individual to serve in the member's place at the
7 pleasure of the member. If the zone is located in more than one
8 senate or house district, this subsection applies only to the
9 senator or representative in whose district a larger portion of the
10 zone is located than any other senate or house district, as
11 applicable. If fewer than seven taxing units, other than the
12 municipality or county that designated the zone, are eligible to
13 appoint members of the board of directors of the zone, the
14 municipality or county may appoint a number of members of the board
15 such that the board comprises nine members. If at least seven taxing
16 units, other than the municipality or county that designated the
17 zone, are eligible to appoint members of the board of directors of
18 the zone, the municipality or county may appoint one member. [~~The~~
19 ~~remaining members of the board are appointed by the governing body~~
20 ~~of the municipality or county that created the zone.~~]

21 (e) To be eligible for appointment to the board by the
22 governing body of the municipality or county that designated
23 ~~[created]~~ the zone, an individual must be at least 18 years of age
24 and:

25 (1) if the board is covered by Subsection (a):
26 (A) be a resident of the county in which the zone
27 is located or a county adjacent to that county [~~qualified voter of~~

1 ~~the municipality or county, as applicable~~]; or

2 (B) ~~[be at least 18 years of age and]~~ own real
3 property in the zone, whether or not the individual resides in the
4 ~~[municipality or]~~ county in which the zone is located or a county
5 adjacent to that county; or

6 (2) if the board is covered by Subsection (b), ~~[+~~
7 ~~{A} be at least 18 years of age, and~~
8 ~~{B}]~~ own real property in the zone or be an
9 employee or agent of a person that owns real property in the zone.

10 SECTION 11. Section 311.0091, Tax Code, is amended by
11 amending Subsection (f) and adding Subsection (i) to read as
12 follows:

13 (f) Except as provided by Subsection (i), to ~~[To]~~ be
14 eligible for appointment to the board, an individual must:

15 (1) be a qualified voter of the municipality; or
16 (2) be at least 18 years of age and own real property
17 in the zone or be an employee or agent of a person that owns real
18 property in the zone.

19 (i) The eligibility criteria for appointment to the board
20 specified by Subsection (f) do not apply to an individual appointed
21 by a conservation and reclamation district:

22 (1) created under Section 59, Article XVI, Texas
23 Constitution; and

24 (2) the jurisdiction of which covers four counties.

25 SECTION 12. Sections 311.010(g) and (h), Tax Code, are
26 amended to read as follows:

27 (g) Chapter 252, Local Government Code, does not apply to a

1 dedication, pledge, or other use of revenue in the tax increment
2 fund for a reinvestment zone [~~by the board of directors of the zone~~
3 ~~in carrying out its powers~~] under Subsection (b).

4 (h) Subject to the approval of the governing body of the
5 municipality or county that designated [~~created~~] the zone, the
6 board of directors of a reinvestment zone, as necessary or
7 convenient to implement the project plan and reinvestment zone
8 financing plan and achieve their purposes, may establish and
9 provide for the administration of one or more programs for the
10 public purposes of developing and diversifying the economy of the
11 zone, eliminating unemployment and underemployment in the zone, and
12 developing or expanding transportation, business, and commercial
13 activity in the zone, including programs to make grants and loans
14 [~~from the tax increment fund of the zone in an aggregate amount not~~
15 ~~to exceed the amount of the tax increment produced by the~~
16 ~~municipality and paid into the tax increment fund for the zone~~] for
17 activities that benefit the zone and stimulate business and
18 commercial activity in the zone. For purposes of this subsection,
19 on approval of the municipality or county, the board of directors of
20 the zone has all the powers of a municipality under Chapter 380,
21 Local Government Code. The approval required by this subsection may
22 be granted in an ordinance, in the case of a zone designated by a
23 municipality, or in an order, in the case of a zone designated by a
24 county, approving a project plan or reinvestment zone financing
25 plan or approving an amendment to a project plan or reinvestment
26 zone financing plan.

27 SECTION 13. Section 311.011, Tax Code, is amended by

1 amending Subsections (a), (b), (c), (d), and (g) and adding
2 Subsection (h) to read as follows:

3 (a) The board of directors of a reinvestment zone shall
4 prepare and adopt a project plan and a reinvestment zone financing
5 plan for the zone and submit the plans to the governing body of the
6 municipality or county that designated ~~[created]~~ the zone. ~~[The~~
7 ~~plans must be as consistent as possible with the preliminary plans~~
8 ~~developed for the zone before the creation of the board.]~~

9 (b) The project plan must include:

10 (1) a description of ~~[map showing]~~ existing uses and
11 conditions of real property in the zone and ~~[a map showing]~~ proposed
12 ~~[improvements to and proposed]~~ uses of that property;

13 (2) proposed changes of zoning ordinances, ~~[the master~~
14 ~~plan of the municipality,]~~ building codes, other municipal
15 ordinances, and subdivision rules and regulations, if any, of the
16 county, if applicable; and

17 (3) ~~[a list of estimated nonproject costs, and~~

18 ~~[(4)]~~ a statement of a method of relocating persons to
19 be displaced, if any, as a result of implementing the plan.

20 (c) The reinvestment zone financing plan must include:

21 (1) a detailed list describing the estimated project
22 costs of the zone, including administrative expenses;

23 (2) a statement listing the proposed kind, number, and
24 location of all ~~[proposed]~~ public works or public improvements to
25 be financed by ~~[in]~~ the zone;

26 (3) a finding that the plan is economically feasible
27 ~~[an economic feasibility study];~~

1 (4) the estimated amount of bonded indebtedness to be
2 incurred;

3 (5) the estimated time when related costs or monetary
4 obligations are to be incurred;

5 (6) a description of the methods of financing all
6 estimated project costs and the expected sources of revenue to
7 finance or pay project costs, including the percentage of tax
8 increment to be derived from the property taxes of each taxing unit
9 anticipated to contribute tax increment to the zone that levies
10 taxes on real property in the zone;

11 (7) the current total appraised value of taxable real
12 property in the zone;

13 (8) the estimated captured appraised value of the zone
14 during each year of its existence; and

15 (9) the duration of the zone.

16 (d) The governing body of the municipality or county that
17 designated [~~created~~] the zone must approve a project plan or
18 reinvestment zone financing plan after its adoption by the board.
19 The approval must be by ordinance, in the case of a municipality, or
20 by order, in the case of a county, that finds that the plan is
21 feasible [~~and conforms to the master plan, if any, of the~~
22 ~~municipality or to subdivision rules and regulations, if any, of~~
23 ~~the county~~].

24 (g) A [~~An amendment to the project plan or the reinvestment~~
25 ~~zone financing plan for a zone does not apply to a~~] school district
26 that participates in a the zone is not required to increase the
27 percentage or amount of the tax increment to be contributed by the

1 school district because of an amendment to the project plan or
2 reinvestment zone financing plan for the zone unless the governing
3 body of the school district by official action approves the
4 amendment [~~, if the amendment~~

5 [~~(1) has the effect of directly or indirectly~~
6 ~~increasing the percentage or amount of the tax increment to be~~
7 ~~contributed by the school district, or~~

8 [~~(2) requires or authorizes the municipality or county~~
9 ~~creating the zone to issue additional tax increment bonds or~~
10 ~~notes~~].

11 (h) Unless specifically provided otherwise in the plan, all
12 amounts contained in the project plan or reinvestment zone
13 financing plan, including amounts of expenditures relating to
14 project costs and amounts relating to participation by taxing
15 units, are considered estimates and do not act as a limitation on
16 the described items.

17 SECTION 14. Section 311.012, Tax Code, is amended to read as
18 follows:

19 Sec. 311.012. DETERMINATION OF AMOUNT OF TAX INCREMENT.

20 (a) The amount of a taxing unit's tax increment for a year is the
21 amount of property taxes levied and assessed by the unit for that
22 year on the captured appraised value of real property taxable by the
23 unit and located in a reinvestment zone or the amount of property
24 taxes levied and collected by the unit for that year on the captured
25 appraised value of real property taxable by the unit and located in
26 a reinvestment zone. The governing body of a taxing unit shall
27 determine which of the methods specified by this subsection is used

1 to calculate the amount of the unit's tax increment.

2 (b) The captured appraised value of real property taxable by
3 a taxing unit for a year is the total taxable [~~appraised~~] value of
4 all real property taxable by the unit and located in a reinvestment
5 zone for that year less the tax increment base of the unit.

6 (c) The tax increment base of a taxing unit is the total
7 taxable [~~appraised~~] value of all real property taxable by the unit
8 and located in a reinvestment zone for the year in which the zone
9 was designated under this chapter. If the boundaries of a zone are
10 enlarged, the tax increment base is increased by the taxable value
11 of the real property added to the zone for the year in which the
12 property was added. If the boundaries of a zone are reduced, the tax
13 increment base is reduced by the taxable value of the real property
14 removed from the zone for the year in which the property was
15 originally included in the zone's boundaries. If the municipality
16 that designates a zone does not levy an ad valorem tax in the year in
17 which the zone is designated, the tax increment base is determined
18 by the appraisal district in which the zone is located using
19 assumptions regarding exemptions and other relevant information
20 provided to the appraisal district by the municipality.

21 SECTION 15. Sections 311.013(f), (g), (l), and (n), Tax
22 Code, are amended to read as follows:

23 (f) A taxing unit is not required to pay into the tax
24 increment fund any of its tax increment produced from property
25 located in a reinvestment zone designated under Section 311.005(a)
26 or in an area added to a reinvestment zone under Section 311.007
27 unless the taxing unit enters into an agreement to do so with the

1 governing body of the municipality or county that designated
2 ~~[created]~~ the zone. A taxing unit may enter into an agreement under
3 this subsection at any time before or after the zone is designated
4 ~~[created]~~ or enlarged. The agreement may include conditions for
5 payment of that tax increment into the fund and must specify the
6 portion of the tax increment to be paid into the fund and the years
7 for which that tax increment is to be paid into the fund. In
8 addition to any other terms to which the parties may agree, the
9 agreement may specify the projects to which a participating taxing
10 unit's tax increment will be dedicated and that the taxing unit's
11 participation may be computed with respect to a base year later than
12 the original base year of the zone. The agreement and the conditions
13 in the agreement are binding on the taxing unit, the municipality or
14 county, and the board of directors of the zone.

15 (g) Subject to the provisions of Section 311.0125, in lieu
16 of permitting a portion of its tax increment to be paid into the tax
17 increment fund, and notwithstanding the provisions of Chapter 312
18 ~~[Section 312.203]~~, a taxing unit, including ~~[other than]~~ a
19 municipality or county ~~[city]~~, may elect to offer the owners of
20 taxable real property in a reinvestment zone designated ~~[created]~~
21 under this chapter an exemption from taxation of all or part of the
22 value of the property. To be effective, an ~~[Any]~~ agreement under
23 this subsection to exempt real property ~~[concerning an exemption]~~
24 from ad valorem taxes must be approved by:

- 25 (1) the board of directors of the reinvestment zone;
26 and
27 (2) the governing body of each taxing unit that

1 imposes taxes on real property in the reinvestment zone and
2 deposits or agrees to deposit any of its tax increment into the tax
3 increment fund for the zone [~~shall be executed in the manner and~~
4 ~~subject to the limitations of Chapter 312, provided, however, the~~
5 ~~property covered by the agreement need not be in a zone created~~
6 ~~pursuant to Chapter 312. A taxing unit may not offer a tax abatement~~
7 ~~agreement to property owners in the zone after it has entered into~~
8 ~~an agreement that its tax increments would be paid into the tax~~
9 ~~increment fund pursuant to Subsection (f)].~~

10 (1) The governing body of a municipality or county that
11 designates an area as a reinvestment zone may determine, in the
12 designating ordinance or order adopted under Section 311.003 or in
13 the ordinance or order adopted under Section 311.011 approving the
14 reinvestment zone financing plan for the zone, the portion of the
15 tax increment produced by the municipality or county that the
16 municipality or county is required to pay into the tax increment
17 fund for the zone. If a municipality or county does not determine
18 the portion of the tax increment produced by the municipality or
19 county that the municipality or county is required to pay into the
20 tax increment fund for a reinvestment zone, the municipality or
21 county is required to pay into the fund for the zone the entire tax
22 increment produced by the municipality or county, except as
23 provided by Subsection (b)(1).

24 (n) This subsection applies only to a school district whose
25 taxable value computed under Section 403.302(d), Government Code,
26 is reduced in accordance with Subdivision (4) [~~(5)~~] of that
27 subsection. In addition to the amount otherwise required to be paid

1 into the tax increment fund, the district shall pay into the fund an
2 amount equal to the amount by which the amount of taxes the district
3 would have been required to pay into the fund in the current year if
4 the district levied taxes at the rate the district levied in 2005
5 exceeds the amount the district is otherwise required to pay into
6 the fund in the year of the reduction, not to exceed the amount the
7 school district receives for the current tax year under Section
8 42.2516(b)(4), Education Code. The school district shall pay the
9 additional amount required by this subsection to be paid into the
10 fund after the district receives the state revenue to which the
11 district is entitled for the current tax year under Section
12 42.2516(b)(4), Education Code [~~realizes from the reduction in the~~
13 ~~school district's taxable value under Section 403.302(d)(5),~~
14 ~~Government Code~~].

15 SECTION 16. Section 311.014(b), Tax Code, is amended to
16 read as follows:

17 (b) Tax increment and other funds deposited in the tax
18 increment fund of the zone shall be administered by the governing
19 body of the municipality or county that designated the zone or, if
20 delegated by the governing body, by the board of directors of the
21 zone, to implement the project plan and reinvestment zone financing
22 plan for the zone during the term of the zone, as it may be extended,
23 and for any period in which the zone remains in existence for
24 collection and disbursement pursuant to Section 311.017(d). Money
25 may be disbursed from the fund only to satisfy claims of holders of
26 tax increment bonds or notes issued for the zone, to pay project
27 costs for the zone, to make payments pursuant to an agreement made

1 under Section 311.010(b) or a program under Section 311.010(h)
2 dedicating revenue from the tax increment fund, or to repay other
3 obligations incurred for the zone.

4 SECTION 17. Sections 311.015(a) and (1), Tax Code, are
5 amended to read as follows:

6 (a) A municipality designating [~~creating~~] a reinvestment
7 zone may issue tax increment bonds or notes, the proceeds of which
8 may be used to make payments pursuant to agreements made under
9 Section 311.010(b), to make payments pursuant to programs under
10 Section 311.010(h), to pay project costs for the reinvestment zone
11 on behalf of which the bonds or notes were issued, or to satisfy
12 claims of holders of the bonds or notes. The municipality may issue
13 refunding bonds or notes for the payment or retirement of tax
14 increment bonds or notes previously issued by it.

15 (1) A tax increment bond or note must mature on or before the
16 date by which the final payments of tax increment into the tax
17 increment fund are due [~~within 20 years of the date of issue~~].

18 SECTION 18. Section 311.016(a), Tax Code, is amended to
19 read as follows:

20 (a) On or before the 150th [~~90th~~] day following the end of
21 the fiscal year of the municipality or county, the governing body of
22 a municipality or county shall submit to the chief executive
23 officer of each taxing unit that levies property taxes on real
24 property in a reinvestment zone created by the municipality or
25 county a report on the status of the zone. The report must include:

26 (1) the amount and source of revenue in the tax
27 increment fund established for the zone;

1 (2) the amount and purpose of expenditures from the
2 fund;

3 (3) the amount of principal and interest due on
4 outstanding bonded indebtedness;

5 (4) the tax increment base and current captured
6 appraised value retained by the zone; and

7 (5) the captured appraised value shared by the
8 municipality or county and other taxing units, the total amount of
9 tax increments received, and any additional information necessary
10 to demonstrate compliance with the tax increment financing plan
11 adopted by the governing body of the municipality or county.

12 SECTION 19. Section 311.016(b), Tax Code, as amended by
13 Chapters 977 (H.B. 1820) and 1094 (H.B. 2120), Acts of the 79th
14 Legislature, Regular Session, 2005, is reenacted to read as
15 follows:

16 (b) The municipality or county shall send a copy of a report
17 made under this section to:

18 (1) the attorney general; and

19 (2) the comptroller.

20 SECTION 20. Section 311.017, Tax Code, is amended by
21 amending Subsection (a) and adding Subsections (a-1), (c), (d),
22 (e), and (f) to read as follows:

23 (a) A reinvestment zone terminates on the earlier of:

24 (1) the termination date designated in the ordinance
25 or order, as applicable, designating [~~creating~~] the zone or an
26 earlier or later termination date designated by an ordinance or
27 order adopted under Section 311.007(c) [~~subsequent to the ordinance~~

1 ~~or order creating the zone~~; or

2 (2) the date on which all project costs, tax increment
3 bonds and interest on those bonds, and other obligations have been
4 paid in full.

5 (a-1) Notwithstanding the designation of a later
6 termination date under Section 311.007(c), a taxing unit that taxes
7 real property located in the zone, other than the municipality or
8 county that designated the zone, is not required to pay any of its
9 tax increment into the tax increment fund for the zone for any tax
10 year after the termination date designated in the ordinance or
11 order designating the zone unless the governing body of the taxing
12 unit enters into an agreement to do so with the governing body of
13 the municipality or county that designated the zone.

14 (c) A zone designated under other law as described by
15 Section 311.0031 terminates for purposes of this chapter on the
16 date specified in the ordinance or order designating the zone as a
17 reinvestment zone under this chapter, regardless of whether the
18 zone has terminated under the other law under which the zone was
19 originally designated.

20 (d) Subject to Subsection (a-1), if tax increment bonds or
21 other obligations issued or incurred for the zone are outstanding
22 when the zone terminates, the zone remains in existence solely for
23 the purpose of collecting and disbursing tax increment with respect
24 to tax years during the designated term of the zone, as it may have
25 been extended. Those funds shall be used to pay the tax increment
26 bonds or other obligations issued or incurred for the zone.
27 Notwithstanding the other provisions of this subsection or the

1 extension of the term of a zone under Section 311.007, the
2 termination date of a zone for purposes of any contract entered into
3 by the board, or by the municipality or county that designated the
4 zone, remains the termination date designated by ordinance or order
5 in effect on the date the contract was executed unless a subsequent
6 amendment to the contract expressly provides otherwise.

7 (e) After termination of the zone, the governing body of the
8 municipality or county that designated the zone may continue the
9 zone for an additional period for the purpose of continuing the
10 implementation of the reinvestment zone project plan and financing
11 plan. In that event, although tax increment shall cease to be
12 deposited with respect to tax years following termination of the
13 zone, the zone shall retain all remaining funds, property, and
14 assets of the zone to be used to implement the plans as authorized
15 by the governing body. All reporting requirements, including the
16 requirements of Section 311.016, applicable to the zone continue to
17 be applicable during any continuation of the zone under this
18 subsection.

19 (f) Notwithstanding the other provisions of this section,
20 if an agreement with a taxing unit, other than the municipality or
21 county that designated the zone, to participate in a zone expires on
22 or before the termination of the zone, the agreement provides for
23 the return of the taxing unit's tax increment if the zone
24 terminates, and all project costs directly relating to the project
25 plan adopted at the time the agreement became effective and
26 applicable to the agreement are paid, all money, including any
27 interest on the money, in the fund at the time the agreement expires

1 that is attributable to the taxing unit's tax increment shall be
2 returned to that taxing unit.

3 SECTION 21. Chapter 311, Tax Code, is amended by adding
4 Section 311.021 to read as follows:

5 Sec. 311.021. ACT OR PROCEEDING PRESUMED VALID. (a) A
6 governmental act or proceeding of a municipality or county, the
7 board of directors of a reinvestment zone, or an entity acting under
8 Section 311.010(f) relating to the designation, operation, or
9 administration of a reinvestment zone or the implementation of a
10 project plan or reinvestment zone financing plan under this chapter
11 is conclusively presumed, as of the date it occurred, valid and to
12 have occurred in accordance with all applicable statutes and rules
13 if:

14 (1) the second anniversary of the effective date of
15 the act or proceeding has expired; and

16 (2) a lawsuit to annul or invalidate the act or
17 proceeding has not been filed on or before the later of that second
18 anniversary or August 1, 2009.

19 (b) This section does not apply to:

20 (1) an act or proceeding that was void at the time it
21 occurred;

22 (2) an act or proceeding that, under a statute of this
23 state or the United States, was a misdemeanor or felony at the time
24 the act or proceeding occurred;

25 (3) a rule that, at the time it was passed, was
26 preempted by a statute of this state or the United States, including
27 Section 1.06 or 109.57, Alcoholic Beverage Code; or

1 (4) a matter that on the effective date of the Act
2 enacting this section:

3 (A) is involved in litigation if the litigation
4 ultimately results in the matter being held invalid by a final
5 judgment of a court; or

6 (B) has been held invalid by a final judgment of a
7 court.

8 SECTION 22. Section 42.2516, Education Code, is amended by
9 amending Subsection (b) and adding Subsection (b-3) to read as
10 follows:

11 (b) Subject to Subsections (b-1), (b-2), (f-1), (g), and
12 (h), but notwithstanding any other provision of this title, a
13 school district is entitled to state revenue necessary to provide
14 the district with the sum of:

15 (1) the amount of state revenue necessary to maintain
16 state and local revenue per student in weighted average daily
17 attendance in the amount equal to the greater of:

18 (A) the amount of state and local revenue per
19 student in weighted average daily attendance for the maintenance
20 and operations of the district available to the district for the
21 2005-2006 school year;

22 (B) the amount of state and local revenue per
23 student in weighted average daily attendance for the maintenance
24 and operations of the district to which the district would have been
25 entitled for the 2006-2007 school year under this chapter, as it
26 existed on January 1, 2006, or, if the district would have been
27 subject to Chapter 41, as that chapter existed on January 1, 2006,

1 the amount to which the district would have been entitled under that
2 chapter, based on the funding elements in effect for the 2005-2006
3 school year, if the district imposed a maintenance and operations
4 tax at the rate adopted by the district for the 2005 tax year; or

5 (C) the amount of state and local revenue per
6 student in weighted average daily attendance for the maintenance
7 and operations of the district to which the district would have been
8 entitled for the 2006-2007 school year under this chapter, as it
9 existed on January 1, 2006, or, if the district would have been
10 subject to Chapter 41, as that chapter existed on January 1, 2006,
11 the amount to which the district would have been entitled under that
12 chapter, based on the funding elements in effect for the 2005-2006
13 school year, if the district imposed a maintenance and operations
14 tax at the rate equal to the rate described by Section 26.08(i) or
15 (k)(1), Tax Code, as applicable, for the 2006 tax year;

16 (2) an amount equal to the product of \$2,500
17 multiplied by the number of classroom teachers, full-time
18 librarians, full-time counselors certified under Subchapter B,
19 Chapter 21, and full-time school nurses employed by the district
20 and entitled to a minimum salary under Section 21.402; ~~and~~

21 (3) an amount equal to the product of \$275 multiplied
22 by the number of students in average daily attendance in grades nine
23 through 12 in the district; and

24 (4) an amount equal to the amount the district is
25 required to pay into the tax increment fund for a reinvestment zone
26 under Section 311.013(n), Tax Code, in the current tax year.

27 (b-3) Notwithstanding Subsection (b)(4), a school district

1 is not entitled to state revenue to compensate the district for
2 payments into a tax increment fund established under Chapter 311,
3 Tax Code, resulting from:

4 (1) participation in a tax increment reinvestment zone
5 other than a reinvestment zone described by Section 403.302(d),
6 Government Code;

7 (2) an enlargement effective after September 1, 1999,
8 of the boundaries of a tax increment reinvestment zone;

9 (3) an extension effective after September 1, 1999, of
10 the term of a tax increment reinvestment zone; or

11 (4) an amendment to the project plan or reinvestment
12 zone financing plan of a reinvestment zone that increases the
13 percentage of tax increment of the district required to be paid into
14 a tax increment fund other than an amendment for which a deduction
15 from taxable value is allowed under Section 403.302(d), Government
16 Code.

17 SECTION 23. Section 42.253, Education Code, is amended by
18 adding Subsection (c-1) to read as follows:

19 (c-1) The amounts to be paid under Section 42.2516(b)(4)
20 shall be paid at the same time as other state revenue is paid to the
21 district. Payments shall be based on amounts paid under Section
22 42.2516(b)(4) for the preceding year. Any deficiency shall be paid
23 to the district at the same time the final amount to be paid to the
24 district is determined, and any overpayment shall be deducted from
25 the payments the district would otherwise receive in the following
26 year.

27 SECTION 24. Sections 403.302(d) and (i), Government Code,

1 are amended to read as follows:

2 (d) For the purposes of this section, "taxable value" means
3 the market value of all taxable property less:

4 (1) the total dollar amount of any residence homestead
5 exemptions lawfully granted under Section 11.13(b) or (c), Tax
6 Code, in the year that is the subject of the study for each school
7 district;

8 (2) one-half of the total dollar amount of any
9 residence homestead exemptions granted under Section 11.13(n), Tax
10 Code, in the year that is the subject of the study for each school
11 district;

12 (3) the total dollar amount of any exemptions granted
13 before May 31, 1993, within a reinvestment zone under agreements
14 authorized by Chapter 312, Tax Code;

15 (4) subject to Subsection (e), the total dollar amount
16 of any captured appraised value of property that:

17 (A) is within a reinvestment zone created on or
18 before May 31, 1999, or is proposed to be included within the
19 boundaries of a reinvestment zone as the boundaries of the zone and
20 the proposed portion of tax increment paid into the tax increment
21 fund by a school district are described in a written notification
22 provided by the municipality or the board of directors of the zone
23 to the governing bodies of the other taxing units in the manner
24 provided by Section 311.003(e), Tax Code, before May 31, 1999, and
25 within the boundaries of the zone as those boundaries existed on
26 September 1, 1999, including subsequent improvements to the
27 property regardless of when made;

1 (B) generates taxes paid into a tax increment
2 fund created under Chapter 311, Tax Code, under a reinvestment zone
3 financing plan approved under Section 311.011(d), Tax Code, on or
4 before September 1, 1999; and

5 (C) is eligible for tax increment financing under
6 Chapter 311, Tax Code;

7 (5) ~~[for a school district for which a deduction from~~
8 ~~taxable value is made under Subdivision (4), an amount equal to the~~
9 ~~taxable value required to generate revenue when taxed at the school~~
10 ~~district's current tax rate in an amount that, when added to the~~
11 ~~taxes of the district paid into a tax increment fund as described by~~
12 ~~Subdivision (4)(B), is equal to the total amount of taxes the~~
13 ~~district would have paid into the tax increment fund if the district~~
14 ~~levied taxes at the rate the district levied in 2005;~~

15 [(6)] the total dollar amount of any captured
16 appraised value of property that:

17 (A) is within a reinvestment zone:

18 (i) created on or before December 31, 2008,
19 by a municipality with a population of less than 18,000; and

20 (ii) the project plan for which includes
21 the alteration, remodeling, repair, or reconstruction of a
22 structure that is included on the National Register of Historic
23 Places and requires that a portion of the tax increment of the zone
24 be used for the improvement or construction of related facilities
25 or for affordable housing;

26 (B) generates school district taxes that are paid
27 into a tax increment fund created under Chapter 311, Tax Code; and

1 (C) is eligible for tax increment financing under
2 Chapter 311, Tax Code;

3 (6) [~~7~~] the total dollar amount of any exemptions
4 granted under Section 11.251 or 11.253, Tax Code;

5 (7) [~~8~~] the difference between the comptroller's
6 estimate of the market value and the productivity value of land that
7 qualifies for appraisal on the basis of its productive capacity,
8 except that the productivity value estimated by the comptroller may
9 not exceed the fair market value of the land;

10 (8) [~~9~~] the portion of the appraised value of
11 residence homesteads of individuals who receive a tax limitation
12 under Section 11.26, Tax Code, on which school district taxes are
13 not imposed in the year that is the subject of the study, calculated
14 as if the residence homesteads were appraised at the full value
15 required by law;

16 (9) [~~10~~] a portion of the market value of property
17 not otherwise fully taxable by the district at market value because
18 of:

19 (A) action required by statute or the
20 constitution of this state that, if the tax rate adopted by the
21 district is applied to it, produces an amount equal to the
22 difference between the tax that the district would have imposed on
23 the property if the property were fully taxable at market value and
24 the tax that the district is actually authorized to impose on the
25 property, if this subsection does not otherwise require that
26 portion to be deducted; or

27 (B) action taken by the district under Subchapter

1 B or C, Chapter 313, Tax Code;

2 (10) [~~(11)~~] the market value of all tangible personal
3 property, other than manufactured homes, owned by a family or
4 individual and not held or used for the production of income;

5 (11) [~~(12)~~] the appraised value of property the
6 collection of delinquent taxes on which is deferred under Section
7 33.06, Tax Code;

8 (12) [~~(13)~~] the portion of the appraised value of
9 property the collection of delinquent taxes on which is deferred
10 under Section 33.065, Tax Code; and

11 (13) [~~(14)~~] the amount by which the market value of a
12 residence homestead to which Section 23.23, Tax Code, applies
13 exceeds the appraised value of that property as calculated under
14 that section.

15 (i) If the comptroller determines in the annual study that
16 the market value of property in a school district as determined by
17 the appraisal district that appraises property for the school
18 district, less the total of the amounts and values listed in
19 Subsection (d) as determined by that appraisal district, is valid,
20 the comptroller, in determining the taxable value of property in
21 the school district under Subsection (d), shall for purposes of
22 Subsection (d)(13) [~~(d)(14)~~] subtract from the market value as
23 determined by the appraisal district of residence homesteads to
24 which Section 23.23, Tax Code, applies the amount by which that
25 amount exceeds the appraised value of those properties as
26 calculated by the appraisal district under Section 23.23, Tax Code.
27 If the comptroller determines in the annual study that the market

1 value of property in a school district as determined by the
2 appraisal district that appraises property for the school district,
3 less the total of the amounts and values listed in Subsection (d) as
4 determined by that appraisal district, is not valid, the
5 comptroller, in determining the taxable value of property in the
6 school district under Subsection (d), shall for purposes of
7 Subsection (d)(13) [~~(d)(14)~~] subtract from the market value as
8 estimated by the comptroller of residence homesteads to which
9 Section 23.23, Tax Code, applies the amount by which that amount
10 exceeds the appraised value of those properties as calculated by
11 the appraisal district under Section 23.23, Tax Code.

12 SECTION 25. Sections 311.003(e), (f), and (g), 311.006(c),
13 and 311.013(d) and (e), Tax Code, are repealed.

14 SECTION 26. (a) The legislature validates and confirms all
15 governmental acts and proceedings of a municipality or county, the
16 board of directors of a reinvestment zone, or an entity acting under
17 Section 311.010(f), Tax Code, that were taken before the effective
18 date of this Act and relate to or are associated with the
19 designation, operation, or administration of a reinvestment zone or
20 the implementation of a project plan or reinvestment zone financing
21 plan under Chapter 311, Tax Code, including the extension of the
22 term of a reinvestment zone, as of the dates on which they occurred.
23 The acts and proceedings may not be held invalid because they were
24 not in accordance with Chapter 311, Tax Code, or other law.

25 (b) Subsection (a) of this section does not apply to any
26 matter that on the 30th day after the effective date of this Act:

27 (1) is involved in litigation if the litigation

1 ultimately results in the matter being held invalid by a final
2 judgment of a court; or

3 (2) has been held invalid by a final judgment of a
4 court.

5 SECTION 27. (a) Section 311.002(1), Tax Code, as amended by
6 this Act, applies to all costs described by that subdivision
7 regardless of when they were incurred.

8 (b) Section 311.0091, Tax Code, as amended by this Act,
9 applies only to an individual appointed by a conservation and
10 reclamation district to the board of directors of a reinvestment
11 zone on or after the effective date of this Act. An individual
12 appointed by a conservation and reclamation district to the board
13 of a reinvestment zone before the effective date of this Act is
14 governed by Section 311.0091, Tax Code, as that section existed
15 immediately before the effective date of this Act, and the former
16 law is continued in effect for that purpose.

17 (c) Section 311.012(c), Tax Code, as amended by this Act,
18 applies only to the determination of the tax increment base of a
19 taxing unit for a tax year beginning on or after the effective date
20 of this Act, except that if the tax increment base of a taxing unit
21 for a tax year beginning before the effective date was determined in
22 the manner provided by Section 311.012(c), Tax Code, as amended by
23 this Act, the determination is validated as if the amendment were in
24 accordance with Section 311.012(c), Tax Code, as that section
25 existed immediately before the effective date of this Act.

26 SECTION 28. Section 42.2516, Education Code, as amended by
27 this Act, applies as if Subsection (b)(4) of that section were in

1 effect in the state fiscal year beginning September 1, 2006, and any
2 amounts due a school district under Subsection (b)(4) of that
3 section for the state fiscal years beginning September 1, 2006,
4 September 1, 2007, and September 1, 2008, shall be paid to the
5 district in the state fiscal year beginning September 1, 2009, at
6 the time payments are made to the district under Section 42.259(f),
7 Education Code.

8 SECTION 29. This Act takes effect immediately if it
9 receives a vote of two-thirds of all the members elected to each
10 house, as provided by Section 39, Article III, Texas Constitution.
11 If this Act does not receive the vote necessary for immediate
12 effect, this Act takes effect September 1, 2009.

Senate Bill 313
Conference Committee Report
Section-by-Section Analysis

| SENATE VERSION | HOUSE VERSION | CONFERENCE |
|---|--|--|
| No equivalent provision. | SECTION 1. Section 311.002(1), Tax Code, is amended to clarify the definition of project costs that can be incurred by a zone. | SECTION 1. Similar to House version. Deletes provision in the definition of project costs that can be incurred by a zone relating to housing and areas of public assembly. |
| No equivalent provision. | SECTION 2. Section 311.003(a) and (b), Tax Code, are amended to remove a requirement that the zone territory be contiguous and to authorize the designation of a zone in a municipality's extraterritorial jurisdiction. | SECTION 2. Same as House version. |
| No equivalent provision. | SECTION 3. Chapter 311, Tax Code, is amended by adding a new Section 311.0035 to provide that the governing bodies of two or more municipalities may designate a contiguous area in the jurisdiction of the municipalities as a joint reinvestment zone. | SECTION 3. Same as House version. |
| No equivalent provision. | SECTION 4. Section 311.005(a), Tax Code, is amended to correspond to constitutional language by adding the terms "undeveloped" and "underdeveloped" to the definition of conditions for an area to be included in a zone. | SECTION 4. Same as House version. |
| SECTION 3 of Senate version, relating to extension of zone term, is incorporated in SECTION 19 of the Conference version. | SECTION 5. Section 311.007, Tax Code, is amended to authorize a municipality or county to extend the term of all or a portion of the zone after notice and hearing in the same manner as provided for the creation of the zone, provided that no other taxing entity shall be required to participate in the extended portion of the zone for the extended term except by written agreement. | SECTION 6. Similar to House version. As a conforming change, Subsection 311.007(b), Tax Code is not deleted. |

| SENATE VERSION | HOUSE VERSION | CONFERENCE |
|--------------------------|--|---|
| No equivalent provision. | SECTION 6. Section 311.008, Tax Code is amended to authorize a municipality or county to impose a fee on property owners who submit a petition that an area be designated as a zone reasonably related to the estimated costs of the municipality or county for processing the petition or for reviewing a project designated or proposed to be designated. | SECTION 7. Same as House version. |
| No equivalent provision. | SECTION 7. Section 311.085(a), Tax Code, is amended to increase from 120,000 to 130,000, as shown by the 2000 federal decennial census, the population threshold that determines in part if provisions regarding the power of certain municipalities to enter into an agreement or amend an existing agreement with a school district located in a reinvestment zone to dedicate revenue from the tax increment fund to the district apply to a municipality. | SECTION 8. Same as House version. |
| No equivalent provision. | SECTION 8. Sections 311.009(a), (b), and (e), Tax Code, is amended to authorize each taxing unit participating in the zone to appoint a member to the zone board. Provides that board members of a zone covered by subsection (a) must be a resident citizen of the state and at least 18 years of age, rather than a qualified voter of the municipality or county, as applicable; or be at least 18 years of age and own real property in the zone, whether or not the individual resides in the municipality or county. Provides that board members of a zone covered by subsection (b) may be a tenant of a person who owns real property in the zone. | SECTION 9. Similar to House version. Provides that board members of a zone covered by subsection (a) must be a resident of the county in which the zone is located or a county adjacent to the county in which the zone is located; or at least 18 years of age and own real property in the zone, whether or not the individual resides in the county. |

| SENATE VERSION | HOUSE VERSION | CONFERENCE |
|--------------------------|---|---|
| No equivalent provision. | SECTION 9. Section 311.0091, Tax Code is amended to exempt from the eligibility criteria for appointment to the board of a reinvestment zone designated by a municipality which is wholly or partially located in a county with a population of less than 1.4 million in which the principal municipality has a population of 1.1 million or more, an individual appointed by a conservation and reclamation district with jurisdiction covering four counties. | SECTION 10. Same as House version. |
| No equivalent provision. | SECTION 10. [Part 1] Section 311.010(b), Tax Code, is amended to provide that an agreement to implement a zone plan may provide for the construction of roads sidewalks and other infrastructure. | No equivalent provision. |
| No equivalent provision. | SECTION 10. [Part 2] Section 311.010(g), Tax Code, is amended to delete reference to the board of directors of the zone in carrying out its powers. | SECTION 11. [Part 2] Same as House version. |
| No equivalent provision. | SECTION 10. [Part 3] Section 311.010(h), Tax Code, is amended to remove a restriction that economic development programs cannot exceed the amount of tax increment produced by the municipality. Provides that approval of the governing body of the municipality or the county is required that such approval may be granted by the ordinance or order approving or amending a project plan or reinvestment zone financing plan. | SECTION 11. [Part 3] Same as House version. |
| No equivalent provision. | SECTION 11. Section 311.01005, Tax Code, is amended to address certain transportation projects. | No equivalent provision. |
| No equivalent provision. | SECTION 12. Section 311.011, Tax Code, is amended by amending Subsections (a), (b), (c), (d), and (g) and | SECTION 12. Same as House version. |

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| | <p>adding Subsection (h) to streamline and modify the provisions relating to the project plan and financing plan for a zone. Eliminates requirement that the final plan be the same as the preliminary plan. Provides that a description of the project and improvements may be used instead of maps. Eliminates the inclusion of a description of proposed changes to the master plan of the municipality. Eliminates the inclusion of a list of estimated "nonproject costs." Substitutes a finding that the plan is economically feasible for the inclusion of an economic feasibility study. Eliminates the inclusion of projections of increment to be generated by the project for entities that do not participate in the zone. Eliminates a requirement of a finding that the plan conforms to the master plan of the municipality or to the subdivision rules and regulations of the county. Clarifies that a school district is not required to participate in a plan that is amended to increase its participation. Provides that numbers in the plan are estimates only and do not act as a cap on participation or costs.</p> | |
| <p>SECTION 1. Section 311.012(a), Tax Code, is amended to provide that the amount of a taxing unity's tax increment is the amount of property taxes assessed and levied, as opposed to levied and collected, on the captured appraised value.</p> | <p>SECTION 13. Sections 311.012(a) and (c), Tax Code, are amended to provide that the governing body of a taxing unit shall determine whether the unit's tax increment is the amount of property taxes levied and assessed or levied and collected for the year on the captured appraised value. Provides that the tax increment base of a taxing unit for the calculation of the unit's tax increment for a year is the total taxable, rather than appraised, value of all real property in the zone for the year in which the zone was designated. Provides for determination of base values if the municipality does not</p> | <p>SECTION 13. Similar to House version. Provides that "appraised" is changed to "taxable" in Subsection (c).</p> |

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| | yet have a property tax and provides a method for calculating base values for annexed land. | |
| SECTION 2. Section 311.013(c) and (i), Tax Code, are amended to clarify a taxing unit's payment of tax increment. | No equivalent provision. | No equivalent provision. |
| No equivalent provision. | SECTION 14. [Part 1] Sections 311.013(f), (g), and (l), Tax Code, are amended to provide that a tax increment agreement between the governing body that created a zone and a participating taxing unit may specify the projects to which the taxing unit's tax increment will be dedicated and that the taxing unit's participation may be computed with respect to a base year later than the original base year of the zone. Authorizes a municipality to grant tax abatements in the zone subject to certain restrictions in the same manner as other participating entities. Provides that a county that designates a zone may determine the portion of the tax increment paid into the tax increment fund for the zone in the same manner as a municipality that designates a zone. | SECTION 14. [Part 1] Similar to House version. Provides that in Subsection (g) references to Section 312.203 are corrected to Chapter 312 and clarifies that counties have same authority as cities to grant tax abatements in the zone subject to certain restrictions. |
| No equivalent provision. | SECTION 14. [Part 2] Section 311.013(n), Tax Code, is amended to reference Section 42.2516, Education Code, for purposes of addressing the impact of tax rate compression, rather than Section 403.302, Government Code. | SECTION 14. [Part 2] Similar to House version. Clarifies that a school district shall pay the additional amount into the tax increment fund only after the district receives the state revenue allocable for such purpose. |
| No equivalent provision. | SECTION 15. Section 311.014(b), Tax Code, is amended to clarify that funds deposited in the tax increment fund are not funds of the participating taxing entities and are required to be administered by the zone board to | SECTION 15. Same as House version. |

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| | implement the zone's project plan and financing plan. Adds the making of payments for an economic development program to the authorized purposes for which money may be disbursed from the tax increment fund. | |
| No equivalent provision. | SECTION 16. Sections 311.015(a) and (l), Tax Code, are amended to authorize counties to sell zone bonds. Provides that bonds may be used to make payments pursuant to agreements made under Section 311.011(b) and to make payments pursuant to economic development programs. Provides that certificates of obligation may be issued to pay the project costs for a zone. Specifies that bonds mature on or before the date by which the final payments of tax increment into the tax increment fund are due, rather than within 20 years of the date of issue. | SECTION 16. Similar to House version. As no corresponding constitutional amendment will pass the legislature, deletes authority for counties to sell zone bonds. Does not provide that certificates of obligations may be issued to pay the project costs for a zone. |
| No equivalent provision. | SECTION 17. Section 311.016(a), Tax Code, is amended to extend the deadline by which the governing body of a municipality or county is required to submit various reports. | SECTION 17. Same as House version. |
| No equivalent provision. | SECTION 18. Section 311.016(b), Tax Code, as amended by Chapters 977 (H.B. 1820) and 1094 (H.B. 2120), Acts of the 79 th Legislature, Regular Session, 2005, is reenacted relating to the filing of documents with State agencies to correct conflicting provisions. | SECTION 18. Same as House version. |
| SECTION 3. Section 311.017, Tax Code, is amended by Amending subsection (a) and adding Subsection (a-1) to provide that a zone termination date may be extended. | SECTION 19. Section 311.017, Tax Code, is amended by amending Subsection (a) and adding Subsections (a-1), (c), (d), and (e) to provide that a zone termination date | SECTION 19. Similar to both Senate and House versions. Provides that all reporting requirements applicable to the zone continue to be applicable during |

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| | <p>may be extended by ordinance, but a taxing unit is not required to participate in the extended term. Provides that a zone established as a zone because of its designation under the Texas Enterprise Zone Act or homestead preservation district and reinvestment zone provisions shall terminate on the date specified in the ordinance or order designating the zone as a tax increment reinvestment zone for the expiration of the tax increment aspects of the zone. Provides that a zone will be extended for purposes of collecting funds due with respect to years during the term of the zone and that this provision will not extend the obligations of a zone under development agreements that specify otherwise. Provides that after termination of the zone, the zone may continue for the purpose implementing the zone project plan and financing plan.</p> | <p>any continuation of the zone. Adds a new Subsection (f) that provides that a taxing unit's tax increments may be returned to the taxing unit in the event of termination of the zone if provided by agreement.</p> |
| <p>No equivalent provision.</p> | <p>SECTION 20. Chapter 311, Tax Code, is amended by adding a new Section 311.021 to provide that certain acts or proceedings of zones or relating to zones are presumed valid.</p> | <p>SECTION 20. Same as House version.</p> |
| <p>No equivalent provision.</p> | <p>SECTION 21. Section 42.2516(b), Education Code, is amended to add Subsection (b)(4) to replace Section 403.302, Government Code, provisions which determine state payments to school districts allocable to tax rate compression.</p> | <p>SECTION 21. Same as House version.</p> |
| <p>No equivalent provision.</p> | <p>No equivalent provision.</p> | <p>SECTION 22. Section 42.2516, Education Code, is amended by adding Subsection (b-3) to further clarify state payments described in SECTION 21 by providing that a school district is not entitled to state revenue</p> |

| SENATE VERSION | HOUSE VERSION | CONFERENCE |
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| | | resulting from participation in a zone other than described in Section 403.302(d), Government Code, a boundary enlargement of a zone, a term extension of a zone, or an amendment to a project plan or reinvestment zone financing plan that increase the percentage of tax increment of the school district. |
| No equivalent provision. | SECTION 22. Section 42.253, Education Code, is amended to add Subsection (c-1) to provide that the amounts relating to tax increment participation shall be paid at the same time as other state revenue is paid to a school district. | SECTION 23. Same as House version. |
| No equivalent provision. | SECTION 23. Sections 403.302(d) and (i), Government Code, are amended to delete Subsection 403.302(d)(5), Government Code, renumber subsequent subsections appropriately, and update cross references to renumbered subsections. | SECTION 24. Same as House version. |
| No equivalent provision. | SECTION 24. Section 373A.151(b), Local Government Code, is amended to delete a reference to Chapter 311, Tax Code, that is repealed by this act. | No equivalent provision. |
| No equivalent provision. | SECTION 25. [Part 1] Sections 311.003(e), (f), and (g), Tax Code, are repealed relating to the presentation of zone plans to taxing units, the notice period for zone hearings, and requiring the implementation of the plan by a certain date. | SECTION 25. [Part 1] Same as House version. |
| No equivalent provision. | SECTION 25. [Part 2] Section 311.006, Tax Code, is repealed relating to restrictions on the composition of | SECTION 5. Section 311.006, Tax Code, is amended, rather than repealed, to provide that no more than 30 |

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| | zones. | percent, as opposed to 10 percent, of the property in the zone is used for residential purposes. Provides that if the municipality has a population of 100,000 or more, the appraised value in the zone cannot exceed 25 percent of the total value of property in the municipality. Provides that if the municipality has a population of 100,000 or less, the appraised value in the zone cannot exceed 50 percent of the total value of property in the municipality. Provides that a municipality may not change the boundaries of an existing zone in excess of the restrictions. Deletes restrictions on composition of zones relating to the amount of appraised value in a county or school district. |
| No equivalent provision. | SECTION 25. [Part 3] Section 311.013(d) and (e), Tax Code, is repealed relating to the collection and deposit of certain tax increment | SECTION 25. [Part 3] Same as House version. |
| SECTION 4. Validates and confirms certain governmental acts and proceedings of and relating to zones. | SECTION 26. Validates and confirms certain governmental acts and proceedings of and relating to zones. | SECTION 26. Similar to Senate version; same as House version. |
| SECTION 5. Provides that this act applies only to a taxing unit's tax increment for a period occurring on or after the effective date of this act. | SECTION 27. Provides that the changes in this act to the definition of the term "project costs" in Section 311.002(1), Tax Code, apply to all costs, regardless of when incurred. Provides that changes in this act to the appointment of directors by certain conservation and reclamation districts in the bill will not apply to existing appointments. Provides that the changes in this act to the definition of tax increment base shall apply only with respect to tax years after the effective date of the bill, but | SECTION 27. Same as House version. |

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| | the actions of zones that have previously determined their base years with respect to taxable values, are validated with respect to all prior years. | |
| No equivalent provision. | SECTION 28. Provides that the amendment to Section 42.2516, Education Code, applies as if Subsection (b)(4) of that section were in effect in the state fiscal year beginning September 1, 2006, and any amounts due a school district under Subsection (b)(4) of that section for the state fiscal years beginning September 1, 2006, September 1, 2007, and September 1, 2008, shall be paid to the district in the state fiscal year beginning September 1, 2009, at the time payments are made to the district under Section 42.259(f), Education Code. | SECTION 28. Same as House version. |
| SECTION 6. This act takes effect immediately or September 1, 2009, if the act does not receive the necessary vote. | SECTION 29. This act takes effect immediately or September 1, 2009, if the act does not receive the necessary vote. | SECTION 29. Same as both Senate and House versions. |

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 30, 2009

TO: Honorable David Dewhurst , Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: SB313 by Wentworth (Relating to tax increment financing.), Conference Committee
Report

To the extent that provisions of the bill would result in the inclusion of more property and longer durations in tax increment financing agreements, the provisions would create a cost to taxing units and the state. Because information necessary to estimate the amount of new property or extensions of tax increment financing agreements is not available, there would be an indeterminable cost to the state.

The bill would amend several provisions of Chapter 311 of the Tax Code, regarding tax increment reinvestment zones. SECTIONS of the bill that would have a fiscal impact are summarized:

The bill would add remediation of contaminated land or buildings, certain building preservation and demolition costs, and certain reinvestment zone development programs to the capital costs that may be incurred by a municipality or county and that are listed in the project plan for the tax increment zone.

The bill would strike the provision requiring that the reinvestment zone's area be contiguous and would specify that the area need not be contiguous if the non-contiguous areas are substantially related.

The bill would create a procedure for two or more municipalities to jointly designate a contiguous area in their jurisdictions as a reinvestment zone. The bill would provide the procedures for creating the zone's board of directors, provide that the zone take effect immediately on adoption of the ordinance required in each participating municipality, provide that the board of directors of a joint reinvestment zone have the same powers and duties as single-municipality zones unless otherwise specified, and provide that expenditures from the tax increment fund that are otherwise authorized may be spent at any location in the zone regardless of the location from which the funds were derived.

The bill would allow the municipality or county that created a reinvestment zone to change the boundaries of the zone without restrictions based on the percentage of taxable real or residential property in the zone, and to extend the term of the zone after following notice and hearing requirements. No other taxing unit would be required to participate in the zone during the extended term.

The bill would allow the governing body of a municipality or county to impose a reasonable petition processing fee on property owners who submit a petition requesting that an area be designated as a reinvestment zone, and would make other non-substantive clarifications.

The bill would amend language allowing a municipality to agree with a school district to acquire, construct, or reconstruct an educational facility located in or outside of the zone to allow these activities only in a city with a population of less than 130,000 as shown by the 2000 federal decennial census that has territory in three counties.

The bill would include, subject to approval by the governing body, counties as entities that may

administer development programs and make grants or loans. The restriction on grants and loans in excess of the amount of tax increment paid into the tax increment fund would be deleted.

The bill would strike the requirement that final project and financing plans be as consistent as possible with the preliminary plans developed for the zone. The requirement that project plans include maps, a municipality master plan, and a list of estimated non-project costs would be deleted. The project plan would be required to include a finding that the plan is economically feasible and other items. School districts would not be required to increase the percentage or amount of their tax increment paid into a tax increment fund because of an amendment to the project plan or reinvestment zone financing plan. All figures contained in a project or reinvestment zone plan would be considered estimates.

The bill would replace "appraised" with "taxable" in the definition of "tax increment base" and would provide that the base year for any land annexed into the zone is the year in which such land was annexed.

The bill would provide that an agreement may specify the projects to which a participating taxing unit's tax increment will be dedicated and would permit agreements to specify that a taxing unit's participation may be computed on a base year later than the original base year.

The bill would specify that money deposited in a tax increment fund does not belong to the participating taxing units and would permit disbursement of money from the tax increment fund for certain economic development programs.

The bill would allow a municipality or county to make payments pursuant to certain agreements and economic development programs from the proceeds of tax increment bonds or notes. Language requiring that tax increment bonds or notes must mature within 20 years of the date of issue would be deleted and replaced with language requiring maturity by the date on which the final payment of tax increment is due.

The bill would extend the deadline by which the municipality or county must submit to the chief executive of each taxing unit a reinvestment zone status report from 90 to 150 days following the end of the fiscal year.

The bill would re-enact Section 311.016(b) as amended in 2005 requiring a municipality or county to send a copy of the reinvestment zone status report to the attorney general and to the comptroller.

The bill would provide for varying reinvestment zone termination dates depending on individual circumstances in each zone and make clarifications regarding the termination of the zone, the disbursement of funds after termination, the retention of assets and other matters pertaining to the end of the zone's term.

The bill would provide that a governmental act or proceeding relating to the designation, operation, or administration of a reinvestment zone or implementation of a project plan or financing plan is conclusively presumed valid and to have occurred in accordance with all applicable statutes and rules if two years have passed since the action in question, if no lawsuit has been filed to annul or invalidate the action, if the action was not a felony or misdemeanor, and the action was not void at the time it occurred or subject to other similar restrictions.

The bill would amend Chapter 42 of the Education Code to instruct the Texas Education Agency to reduce school district revenue by the amount of payments into a tax increment zone based on the difference between the school district's 2005 tax rate and current tax rate in computing the target revenue for purposes of the state hold-harmless funding provision.

The bill would amend Chapter 42, Education Code, to require that the amounts paid under Section 42.2516(b)(4) shall be paid at the same time as other state revenue is paid to a school district, would establish that the amounts would be based on amounts paid under that section in the preceding year, and would specify requirements related to payments of deficiencies and overpayments.

The bill would repeal Sections 311.003(e), (f), and (g), which require a municipality or county to send

notices, provide information and provide for meetings with taxing units on the subject of a proposed reinvestment zone; Section 311.006, which prohibits tax increment zones with more than certain percentages of residential property or taxable real property in the municipality; and sections with certain outdated and duplicative provisions.

Certain sections specify when different proposed changes to the Tax Code and Education Code would apply.

The bill would take effect immediately if it was to receive the required two-thirds vote in each house; otherwise, it would take effect September 1, 2009.

According to the Comptroller of Public Accounts, to the extent that provisions of the bill would result in the inclusion of more property and longer durations in tax increment financing agreements, the provisions would create a cost to taxing units and the state. Because information necessary to estimate the amount of new property or extensions of tax increment financing agreements is not available, the cost cannot be estimated.

The provision that would change the definition of tax increment base to reflect taxable value rather than appraised value would create a cost to taxing units and the state to the extent that taxable value is less than appraised value because of exemptions. In calculating a taxing unit's tax increment, the base value (reduced for exemptions under the bill) is subtracted from the captured appraised value (not reduced for exemptions under the bill) resulting in a higher tax increment which would translate into a higher payment into the tax increment fund. Because information necessary to estimate the amount of exempt property associated with future tax increment financing is unavailable, the cost of this provision cannot be estimated.

Local Government Impact

Based on analysis from the Comptroller of Public Accounts, for the reasons stated above, the fiscal impact to units of local government cannot be estimated.

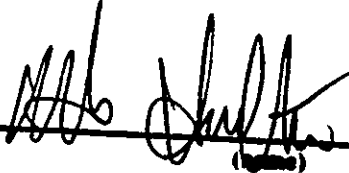
Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, SJS, DB, MN, SD

Certification of Compliance with Rule 13, Section 6(b), House Rules of Procedure

Rule 13, Section 6(b), House Rules of Procedure, requires that a copy of a conference committee report signed by a majority of each committee of the conference must be furnished to each member of the committee in person or if unable to deliver in person by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Section 10(a) of this rule. The paper copies of the report submitted to the chief clerk under Section 10(b) of this rule must contain a certificate that the requirement of this subsection has been satisfied, and that certificate must be attached to the printed copy of the report furnished to each member under Section 10(d) of this rule. Failure to comply with this subsection is not a sustainable point of order under this rule.

I certify that a copy of the conference committee report on S. B. 313 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Section 10(b), Rule 13, House Rules of Procedure.



(name)

5-30-09
(date)