Thoughts on Texas Economic Development Programs

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Texas has a number of attractive features to attract new investment, but our tax system is NOT one of them. Texas is not a low tax state for business. Absent a personal income tax, Texas relies much more heavily on property and sales taxes—taxes than fall heavily on business.

Texas has among the highest property tax rates across the states, making it the single largest impediment to investing here. Texas also taxes business personal property, which are exempt in several states, and Texas taxes inventories, which are exempt in almost all states.

All states have some type of incentive programs to help them compete for new investment be it tax reductions or grant programs. For Texas, with our high property taxes, it would be difficult to compete with other states without incentives—particularly those addressing our high property taxes.

Texas, as many states, incorrectly assesses the cost/benefit of its incentive programs. It defines "cost" as the amount of the tax benefit to the taxpayer, even though many new investments pay far more in taxes than they demand in public services.

Texas' incentive programs are spread across several different state agencies and across local governments. Unlike many other states, Texas does not centrally coordinate incentive programs. Texas' incentive programs also tend to be very complex. Projects often incur additional costs in Texas to hire consultants to help them work through the state's incentive maze.

Given Texas' high property taxes, the single most important incentive program is Chapter 313 of the Tax Code, which allows school districts to offer a temporary limitation on the taxable value of new investments.

Chapter 313, while the most transparent incentive program (all materials associated with a 313 agreement and subsequent reporting documents are posted on-line), is the subject of controversy. Among the common misperceptions of the program are:

- it costs the state money (when in fact, it attracts projects that would not have come to Texas otherwise), and
- school districts somehow receive some benefit from the state in offering a 313 limitation (when in fact, the state reduces aid to a school district because of its increased taxable value.



Texas Job Growth Lagging the US



For the first time in 12 years, Texas' job growth is lagging the nation as a whole, a trend likely to continue through much of 2016.

The drop in oil and natural gas prices has led to a loss of 65,000 oil and gas jobs. Given that each of these jobs is supported by up to 3 other jobs in the economy, the overall job losses to the entire economy tally near 250,000.

Texas should still add jobs in 2016, but the rate of growth will be more anemic than what the state is used to. Dallas, Austin, and the Gulf Coast will be the state's most vibrant areas. Houston, the Permian Basin, and the Eagle Ford area of South Texas will be the weakest.



The Good and Not-So-Good About Texas

<u>Good</u>

- A Right-to-Work State (i.e. one may not be compelled to join a labor union as a condition of employment)
- Available land at generally reasonable cost
- A growing state with a generally ample supply of labor
- Reasonable regulatory and judicial environment
- Lack of a personal income tax
- Stable and affordable energy resources
- Centrally located to both coasts

Not-so-good

- Long term water availability is a limiting factor
- Transportation networks are strained
- While labor is in good supply, certain categories of skilled workers may be more limited
- State and local taxes, particularly property and sales taxes, are higher than average and are particularly burdensome for capital intensive industries



Tax Incidence

There are two basic types of taxpayers:

- 1. Businesses, and
- 2. Individuals.

In Texas, *individuals* incur direct taxes on many of their purchases and their real estate, but unlike most states, not on their income.

Businesses may incur taxes on their purchases (e.g. sales tax, fuels taxes), their real estate and personal assets (e.g. property tax), and be subject to special industry taxes on gross receipts (e.g. utilities, insurance). Businesses respond to taxes in one of three ways:

- 1. Pass the cost of the tax forward to individuals in the form of higher prices,
- 2. Pass the tax backward to owners in the form of lower profits, and/or
- 3. Pass the tax backward to individuals by reducing expenses, such as payroll or relocating or shifting investment to a lower cost location.

Note about the initial incidence assignments in this analysis...

- Sales and motor vehicle sales taxes: tax due is on the sale of a taxable item and is paid by the *purchaser*. For example, while a retailer collects the tax and remits it to the state, the tax is paid by the purchaser.
- Property tax is paid by the *owner* of the property, whether an individual or a business.
- Though assessed on the refiner, motor fuels taxes are assigned to the consumer, since state law requires the tax be passed on to the consumer.
- Franchise tax is paid by the business entity.
- Severance taxes and industry gross receipts taxes are paid by the business.
- Excise taxes on consumer products (tobacco and alcohol) are predominately paid by the consumer.





Individual Tax Burden Relative to Personal Income

Source: Derived from Council on State Taxation: Total State and Local Business Taxes, 2014.





Business Taxes Relative to Economic Output

Source: Council on State Taxation: Total State and Local Business Taxes, 2014.



Texas' Key Taxes Compared to Other States

Тах	Current Rate and Base	Comparison
Sales Tax Rate	State Tax Rate: 6.25% Local Taxes: Generally capped at 2.0 %; average is 1.9%	State Rate: 13 th highest
	Average Combined Rate: 8.17%	Combined Rate: 12 th highest
Sales Tax Base	Generally applies to all sales of tangible personal property excluding food, medicine and residential or industrial utilities; and a number of services	Texas' base is generally broader than that of other states because we tend to tax more services than other states (only 7 states tax more services)
Property Tax Rate	Residential property: average effective tax rate in 2014 was 1.85 percent of market value	Residential property: Texas' effective tax rates rank us 15 th highest nationally, 25 percent above the national average
	Industrial property: average effective tax rate in 2014 was just under 2.6% of market value	Industrial property: Texas' effective tax rates rank us 5 th highest nationally, or 61 percent above the national average
Property Tax Base	Texas taxes all real estate plus any tangible personal property used for business purposes (equipment and inventory); goods in interstate commerce are exempted at local option (i.e. Freeport property)	Texas' base is generally broader than that of other states: 11 states exempt all business tangible personal property; inventories are generally exempt in all but 7 states.
Business Franchise Tax	Texas' franchise tax is unlike the net business income tax levied by most other states; Texas' effective tax rate relative to economic output was 0.33% in 2015.	Relative to economic output, Texas' franchise tax ranks 25 th highest among the states, about 14 percent below the national average; 2016 rates will drop Texas to 39 th place, about one third below the national average.



Comparative Property Taxes on a \$1 Billion Industrial Plant



The above chart illustrates the total property taxes on an industrial facility valued at \$1 billion million over its 25 year lifespan across the various states. Texas' property tax costs are shown both with and without property tax abatements and Chapter 313 limitations. *Based on* <u>50 State Property Tax Comparison Study</u> by the Minnesota Center for Fiscal Excellence and the Lincoln Land Institute.

The average state and local property taxes paid over the life of the facility nationwide is \$400 million. In Texas, the facility, if it received no city/county property tax abatements or Chapter 313 school tax limitations, would pay over \$640 million in property taxes—60 percent higher than the national average.

If the facility received a ten year city/county property tax abatement and a ten year 313 value limitation of \$40 million, the project's lifetime property tax bill would be \$391 million—roughly equal to the average of other states, excluding any incentives.



Proposed Definition of "Economic Incentive"

An economic incentive is a <u>specific</u> offer of a financial benefit to motivate a person to engage in some type of economic activity in Texas. Incentives include grants, financing tools, tax credits, tax refunds, and tax discounts.

Incentives operate in two ways:

1. **Tax Reductions:** allowing the project to keep more of its own money by reducing the amount of taxes due.

Examples: Property tax abatements, Chapter 313, tax credits, enterprise refunds.

2. Grants: an award of public funds from the state or local community.

Examples: Texas Enterprise Fund, Events Funds, Skills Development Funds.

Tax exemptions, which are available to all taxpayers without specific application, are <u>NOT</u> incentives. Exemptions apply to all taxpayers as a way of eliminating the distorting impacts of a tax, rather than incentivizing a specific project or activity.



Selected Texas Economic Development Programs

Office of the Governor & Texas Economic Development Bank

- Texas Enterprise Fund (Government Code, Chapter 481.078)
- Texas Enterprise Project Designation
- Governor's University Research Initiative
- Defense Economic Adjustment Assistance Grants (Government Code 2310.403)
- Texas Moving Image Industry Incentive Program (Government Code, Chapter 485)
- Events Trust Fund (V.A.C.S., Article 5190.14)
- Major Events Reimbursement Program (V.A.C.S., Article 5190.14)

Office of the Comptroller

- School Tax Limitations (Tax Code, Chapter 313
- Enterprise Zone Sales Tax Refunds

Texas Workforce Commission

- Skills Development Fund (Labor Code Chapter 303)
- Skills for Small Business Program (Labor Code Chapter 303)

Texas Department of Agriculture

- Rural Economic Development and Incentive Program (Agriculture Code (12.0271)
- Texas Rural Investment Fund Program (Agriculture Code 12.046)
- Texas Agricultural Finance Authority (Agriculture Code, Chapter 58)
- Agricultural Loan Guarantee Program (Agriculture Code, Chapter 58)
- Texas Capital Fund (Government Code 487.351)

Local Governments

- County Assistance Districts (Tax Code, Chapter 387)
- City Economic Development Sales Tax (Local Government Code, Chapters 501-505
- City or County Enterprise Zones (Government Code Chapter 2303)
- City and County Property Tax Abatements (Tax Code, Chapter 312)
- School Property Tax Limitation (Tax Code, Chapter 313)
- City and County Tax Increment Financing (Tax Code, Chapter 311)



Chapter 313 Forms

Ar	oplication Forms	Pages
•	Form 50-296A Application for Appraised Value Limitation on Qualified	9
	Property	
	To be filled out by an applicant seeking an appraised value limitation and	
	submitted to the school district. The school district submits a completed	
	application to the Comptroller for review and approval.	
•	Form 50-300 Application for Tax Credit on Qualified Property (PDF)	4
	To be filled out by an agreement holder after paying property tax for the last	
	complete tax year of the qualifying time period and submitted to school	
	district.	
Ag	greement Forms	
•	Form 50-286 Texas Economic Development Act Agreement (PDF)	29
	To be used by the applicant and school distract as a template for a value	
	limitation agreement. The school district submits a draft agreement to the	
	Comptroller for review and approval. Only applies to agreements resulting	
	from applications determined to be complete after Jan. 1, 2014.	
Re	eporting Forms	
•	Form 50-772A Annual Eligibility Report (PDF)	4
	To be filled out by agreement holders and submitted by an authorized	
	representative of each company to the school district by May 15th of every	
	year using information from the previous tax (calendar) year. School districts	
	should review the submitted forms, retain the original and submit PDF scans	
	of the completed and signed forms and any attachments to the Comptroller's	
	office by June 15th of every year.	7
•	Form 50-773A Biennial Progress Report (PDF)	7
	To be filled out by agreement holders and submitted by an authorized	
	representative of each company to the school district by May 15th of each	
	even-numbered year. The Comptroller's office requests that companies	
	complete the spreadsheet version of this form, submitting both an unsigned	
	electronic version and a signed hard copy version—with any attachments—to the school district. School districts should forward to the Comptroller's office	
-	by June 15th of each even-numbered year. Form 50-287 Biennial School District Cost Data Request (PDF)	1
	School districts are also requested to submit the Biennial School District Cost	I
	Data Request Form to the Comptroller's office by July 15th of each even-	
	numbered year, indicating—for each project—actual and estimated property	
	values, tax rates, payments in lieu of taxes, extraordinary educational	
	expenses, and revenue protection payments.	
-	Form 50-825 Job Creation Compliance Report (PDF)	4
	To be filled out by agreement holders and submitted by an authorized	-+
	representative of each company directly to the Comptroller's office annually.	
	Only applies to agreements resulting from applications determined to be	
	complete after Jan. 1, 2014.	
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Texas Enterprise Fund Forms

N	ominating Forms			
٠	Nominating Ordinance or Order or Resolution	5		
	City must make take formal action to nominate a project as an "enterprise			
	project," and provide documentation to the Office of the Govenor, Economic			
	Development Bank.	4		
•	Corporate Resolution	1		
	Board of Directors must adopt a resolution approving the Enterprise Project Application to be submitted to the Office of the Governor, Economic			
	Development Bank.			
Α	oplication Forms			
•	Texas Enterprise Project Application	31		
	To be filled out by applicant and submitted to the Office of the Governor,	•		
	Economic Development Bank with application fee ranging from \$750 to			
	\$2,250. Application MUST be filed in a three-ring binder with supporting			
	materials.			
٠	Form JCF-01 Application for Program Benefits	5		
	To be filled out by a designated enterprise project to receive certification that			
	the applicant has met the criteria making it eligible for file for benefits. The			
	application is to be filed with the Office of the Governor, Enterprise Zone			
	Program and must be accompanied with a non-refundable check for \$500.			
	Required back-up documents include:			
	 Verification of Zone Resident Status 			
	 Verification of Economically Disadvantaged status 			
	 Qualified Business Recertification forms 			
	 Documentation of "Contribution to Community" Community of Documentation of Attorney (if required) 			
	 Copy of Power of Attorney (if required) Spreadsheet of qualified jobs 			
B	enefits Forms			
D	Enterprise or Defense Readjustment Project Claim for Refund of State	1		
•	Sales and Use Tax	I		
	To be filled out by enterprise project and filed with the Comptroller's Office.			
Sales tax refund is \$2,000 per job for enterprise projects. Refund only applies				
	to state sales taxes.			
L		1		



Texas Skills Development Fund Forms

Ap	oplication Forms	
٠	Proposal Submission Form	6
	Application is made to the Texas Workforce Commission per requirements	
	set in the Texas Labor Code, Chapter 36.	
•	Private Partner Information Form	5
	A separate form must be completed for each private partner participating in	
	the proposed project. Information must include title of each occupation,	
	standard occupational classification, hourly wage range, and the number of	
	new workers receiving training.	
٠	Curricula and Budget Management Forms.	14
	The applicant must report all training courses by category, training hours, and	
	administrative and direct program costs for the propose project. Separate	
	forms include:	
	 Business Technical Training Curricula and Direct Training Cost 	
	Detail: Program Services	
	 General Technical Training Curricula and Direct Training Cost 	
	Detail: Program Services	
	 Non Technical Training Curricula and Direct Training Cost Detail: 	
	Program Services	
	 Training Curricula and Direct Training Cost Detail Summary 	
	 Equipment Purchases 	
	 Curricula & Budget Management Form 	
•	Local Workforce Development Board Review and Comment Form	1
	This form must be completed and signed by the Local Workforce	
	Development Board in the workforce area where project participants will be	
	employed at the completion of the training project.	
•	Signed Agreement Between the Applicant and Private Partner	1
	This agreement must outline each entity's roles and responsibilities if a grant	
	is awarded and must be included as an appendix to the Proposal Submission	
	Form	



How a 313 Agreement Works: The Taxpayer

The Texas Economic Development Act, is commonly referred to as "Chapter 313," named for the chapter in the Tax Code in which it resides. The programs allows a new investment to qualify for a temporary (up to 10 years) limitation on the taxable value of the project. Existing property is not eligible for a limitation, only new property that does not exist at the time of the application.

A project must file an extensive application to the local school district for the limitation on forms promulgated by the Comptroller. The project must meet certain investment and job thresholds. If the school district decides to act on the application it must first forward the application to the Comptroller. If the Comptroller determines that the project:

- Qualifies as an investment eligible for the limitation under the law, and will
- Generate a greater amount in taxes than the amount of benefits it will receive, and
- That the limitation is a determining factor in the decision to invest capital and

The Comptroller may issue a certificate of those findings the school district, which may then act on the application. If approved, the school district and the project must enter into a formal agreement stipulating the terms of the limitation. The Comptroller requires a standard agreement form be used.

If the school district approves the application, it may offer the project a temporary limitation on the amount of property value that will be subject to the district's maintenance and operations taxes for a period not to exceed ten years. A district may not fully abate a project's value—some portion of value must be added to the tax rolls, even during the limitation period. This results in higher property tax collections for the district, and a corresponding reduction in state aid.

School districts typically demand the project share a portion of its tax savings, typically requiring up to 40 percent of the tax be paid to the district. These "supplemental payments" are <u>NOT</u> including in school funding formulas and are "free and clear" to the district.

I addition to the application and the agreement, projects and school districts must file numerous progress reports on either an annual or biennial basis.

Critics of the program often erroneously equate the amount of the temporary reduction as being a state "cost." In fact, a project must demonstrate that absent the incentive, they will not make the investment. Consequently, there is no real cost to the state.

Further, there is a misperception that somehow the state pays districts for awarding a limitation, when in fact, districts granting a limitation see a reduction in state aid as a result of the additional taxable value being added to their tax base.





How a 313 Agreement Works: The Taxpayer

The above example demonstrates how a Chapter 313 limitation works on a \$1 billion project with a \$40 million, 10 year limitation granted by the school district.

In this example, the project receives a temporary ten year limitation on the amount of taxable value in the amount of \$40 million. The limitation applies only to new property put in place; existing taxable property may not be removed from the tax rolls.

During the first two years, the project is under construction, and while it has not reached its operational value of \$1 billion, the value of "construction in place" is still limited to \$40 million, as it is through year ten of the project (as shown by the green portion of the bar). The limitation remains in effect once the project becomes operational, temporarily exemption \$960 million in value from the tax rolls (shown in yellow).

After ten years, the limitation expires (it may not be renewed), and the project is fully taxable.



How a 313 Agreement Works: The School District and State Aid Formulas for Maintenance and Operations

	Baseline Without Project (\$ millions) With Project (\$ millions)			ns)	Difference (\$ millions)				
Year	Entitlement	Local Share	State Share	Entitlement	Local Share	State Share	School Taxes	State Aid	Net
1	\$128.5	\$50.0	\$78.5	\$128.5	\$50.4	\$78.1	\$0.4	(\$0.4)	\$0.0
2	\$128.5	\$50.0	\$78.5	\$128.5	\$50.4	\$78.1	\$0.4	(\$0.4)	\$0.0
3	\$128.5	\$50.0	\$78.5	\$128.5	\$50.4	\$78.1	\$0.4	(\$0.4)	\$0.0
4	\$128.5	\$50.0	\$78.5	\$128.5	\$50.4	\$78.1	\$0.4	(\$0.4)	\$0.0
5	\$128.5	\$50.0	\$78.5	\$128.5	\$50.4	\$78.1	\$0.4	(\$0.4)	\$0.0
6	\$128.5	\$50.0	\$78.5	\$128.5	\$50.4	\$78.1	\$0.4	(\$0.4)	\$0.0
7	\$128.5	\$50.0	\$78.5	\$128.5	\$50.4	\$78.1	\$0.4	(\$0.4)	\$0.0
8	\$128.5	\$50.0	\$78.5	\$128.5	\$50.4	\$78.1	\$0.4	(\$0.4)	\$0.0
9	\$128.5	\$50.0	\$78.5	\$128.5	\$50.4	\$78.1	\$0.4	(\$0.4)	\$0.0
10	\$128.5	\$50.0	\$78.5	\$128.5	\$50.4	\$78.1	\$0.4	(\$0.4)	\$0.0
Year 11 & after	\$128.5	\$50.0	\$78.5	\$128.5	\$60.0	\$68.5	\$10.0	(\$10.0)	\$0.0

This is a greatly simplified illustration for a school district with taxable value of \$5 billion and 25,000 weighted students, offering a ten year, \$40 million limitation to a \$1 billion project. For simplification, no underlying annual change in values or enrollment is assumed.

The above example illustrates the finances of a school district both with and without the 313 project. The baseline illustrates the district's finances without the project. With the project and the temporary limitation in place, the district's taxable value increases by \$40 million, which yields additional property tax revenue of \$400,000. The district's state aid is reduced by this amount. Once the limitation expires, the district gains an additional \$10 million in tax revenue, and state aid is reduced by this amount.

Under current Texas school finance formulas, the district does not gain additional net maintenance and operations revenue. The 313 limitation does not apply to debt service taxes, so the district will be able to reduce its debt service tax rate by 20 percent.



Evaluating the "Cost" of Incentives All Wrong



Texas evaluates the "cost" of incentives all wrong. Current state analysis equates the "cost" of a project as the amount of tax benefits a project receives (the amount between lines B and C in the above chart).

This completely ignores the amount of new taxes a billion dollar project brings to the state. In the above example, a project comes to Texas, and is granted a \$40 million school tax value limitation, that for the first ten years of the project will save them \$12 million annually in school taxes (the yellow portion under "Taxes Paid"). The project, however, will still pay some school property taxes (shown in purple, because Chapter 313 requires a portion of the project's value must be subject to tax). The project will also pay city/county property taxes, as well as sales taxes, franchise taxes, bringing their annual tax bill during the limitation period to \$15.2 million.

The state and local governments make a "profit" from the project, while they must build some new roads and classrooms to handle the new population, as well as hire additional some new teachers to handle the increase in enrollment, their costs total \$7.5 million annually, well below the \$15.2 million in taxes the project pays (the difference between C and B, above). Further, when the limitation expires, the project will pay \$27.2 million in taxes, far above the \$5 million in direct costs incurred by the state and local communities to support the project.



Recommendations

- 1. **Simplify**. Texas should **simplify** the application and reporting process, focusing on *quality* of information, not *quantify* of information.
- 2. **Consolidate**. Texas should **consolidate** application and reporting requirements, providing a single point of contact to process applications and assist applicants through the process.
- 3. **Evaluate**. Texas should establish a standardized matrix of factors to be used to objectively **evaluate** a project that seeks incentives, focusing on the potential value and returns to the state. That matrix should include:
 - o economic benefits,
 - o fiscal benefits, and
 - o intangible benefits.

The evaluation should also recognize potential costs of a project—not the value of the incentives, but the potential cost associated with any project-related demands for additional public services



A Rational Matrix for Evaluating Incentives and Projects

Projects seeking incentives should provide some type of benefit to the state, be it:

- economic,
- fiscal, or
- intangible.

In evaluating those incentives, the state should look not just to the **operational** period of the project, but also the impact of **construction**. Further, the state should consider the **ancillary** (indirect and induced) economic impacts of the project. In evaluating the "cost" of a project, the state should look at the cost of providing public services to the project and the population it attracts.

	Benefits		Costs	
Factors for Evaluation	Direct	Ancillary	Direct	Ancillary
	Project	Activity	Project	Activity
1. Economic Factors				
Investment				
Business Activity (Output)				
Jobs				
Wages and Income				
2. Fiscal Factors				
Tax and Other Revenues				
Public Service Costs				
Grants and Financing				
3. Intangible Factors				
Prestige				
Publicity				
Lifestyle Considerations				
Diversification/ Infrastructure/				
Other Issues				

