

No. \_\_\_\_\_

---

In The Supreme Court of Texas

---

**IN RE**

**STETSON RENEWABLES HOLDINGS, LLC AND  
OGALLALA RENEWABLE PROJECT, LLC**

*Relators,*

---

**PETITION FOR WRIT OF MANDAMUS**

---

W. Scott Hastings  
Texas Bar No. 24002241  
*shastings@lockelord.com*  
Geoffrey R. Polma  
Texas Bar No. 16105280  
*gpolma@lockelord.com*  
LOCKE LORD LLP  
2200 Ross Avenue, Suite 2800  
Dallas, Texas 75201-6776  
Telephone: (214) 740-8000  
Facsimile: (214) 740-8800

***ATTORNEYS FOR RELATORS***

## IDENTITY OF PARTIES AND COUNSEL

**Relators:** Stetson Renewables Holdings, LLC and  
Ogallala Renewable Project, LLC

**Counsel for Relators:** W. Scott Hastings  
Texas Bar No. 24002241  
*shastings@lockelord.com*

Geoffrey R. Polma  
Texas Bar No. 16105280  
*gpolma@lockelord.com*  
LOCKE LORD LLP  
2200 Ross Avenue, Suite 2800  
Dallas, Texas 75201-6776  
(214) 740-8000  
(214) 740-8800 (fax)

**Respondent:** Glen Hegar, Comptroller of Public Accounts of the State  
of Texas

**Respondents Contacts:** Relators contacted the Comptroller to inform him that  
this filing would be coming as soon as possible. The  
Comptroller has requested Relators to copy:

John Villarreal  
*john.villarreal@cpa.texas.gov*  
Will Counihan  
*will.counihan@cpa.texas.gov*  
Section 313 Data Analysis & Transparency  
Texas Comptroller of Public Accounts  
P.O. Box 13528  
Austin, Texas 78711-3528  
(512) 463-5241

**Respondents' Counsel:** Office of the Attorney General  
Taxation Division  
PO Box 12548  
Austin, Texas 78711

**TABLE OF CONTENTS**

IDENTITY OF PARTIES AND COUNSEL ..... ii

TABLE OF CONTENTS..... iii

INDEX OF AUTHORITIES..... v

INTRODUCTION ..... 1

STATEMENT OF THE CASE..... 3

STATEMENT OF JURISDICTION..... 3

ISSUES PRESENTED..... 4

STATEMENT OF FACTS ..... 5

A. Chapter 313 Is Intended to Encourage Economic Development ..... 5

B. The Comptroller Notified Relators Last Week that He Will Not Review Two of Relators’ Projects Even Though He Agrees They Were Timely Filed and Are Eligible for Chapter 313 Incentives ..... 6

SUMMARY OF THE ARGUMENT ..... 9

ARGUMENT ..... 10

A. Mandamus Standard ..... 10

B. The Comptroller Has a Non-Discretionary Duty to Determine on the Merits Whether Relators’ Projects Should be Approved ..... 11

C. Mandamus Relief Is Urgently Needed ..... 14

D. The Court Should Extend the Deadlines to Comply with Chapter 313 ..... 16

PRAYER FOR RELIEF ..... 19

CERTIFICATION ..... 21

CERTIFICATE OF COMPLIANCE..... 21

CERTIFICATE OF SERVICE .....22

APPENDIX

- A. TEX. TAX CODE §313.002 – Findings
- B. TEX. TAX CODE §313.003 – Purposes
- C. TEX. TAX CODE §313.004 – Legislative Intent
- D. TEX. TAX CODE §313.024 – Eligible Property (Excerpt)
- E. TEX. TAX CODE §313.025 – Application
- F. TEX. TAX CODE §313.026 – Economic Impact Evaluation
- G. 43 TEX. ADMIN CODE §9.1055 – Comptroller Application Review and Agreement to Limit Appraised Value
- H. May 27, 2022 Letter from Bynum ISD to the Comptroller
- I. Nov. 18, 2022 Letter from the Comptroller to Bynum ISD
- J. May 27, 2022 Letter from Hart ISD to the Comptroller
- K. Nov. 18, 2022 Letter from the Comptroller to Hart ISD
- L. May 27, 2022 Letter from Miller Grove ISD to the Comptroller
- M. Nov. 18, 2022 Letter from the Comptroller to Miller Grove ISD
- N. May 27, 2022 Letter from Holliday ISD to the Comptroller
- O. Nov. 18, 2022 Letter from the Comptroller to Holliday ISD
- P. May 27, 2022 Letter from Sulphur Springs ISD to the Comptroller
- Q. Nov. 11, 2022 Letter from the Comptroller to Robstown ISD re: Tesla
- R. Nov. 28, 2022 Letter from the Comptroller to Bryan ISD re: Certain Teed
- S. Nov. 22, 2022 Letter from the Comptroller to Dallas ISD re: Hanwha

## INDEX OF AUTHORITIES

	<b>Page(s)</b>
<b>CASES</b>	
<i>A &amp; T Consultants, Inc. v. Sharp</i> , 904 S.W.2d 668 (Tex. 1995) .....	4
<i>Bird v. Rothstein</i> , 930 S.W.2d 586 (Tex. 1996) (orig. proceeding) .....	18
<i>In re Brown</i> , 614 S.W.3d 712 (Tex. 2020) (orig. proceeding) .....	4
<i>In re City of Galveston</i> , 622 S.W.3d 851 (Tex. 2021) (orig. proceeding) .....	13
<i>City of Westworth Village v. City of White Settlement</i> , 558 S.W.3d 232 (Tex. App.—Fort Worth 2018, pet denied.) .....	11
<i>Cobra Oil &amp; Gas Corp. v. Sadler</i> , 447 S.W.2d 887 (Tex. 1969) (orig. proceeding) .....	10
<i>Davis v. Taylor</i> , 930 S.W.2d 581 (Tex. 1996) (orig. proceeding) .....	17, 18
<i>In re Francis</i> , 186 S.W.3d 534 (Tex. 2006) (orig. proceeding) .....	17, 18
<i>Hines v. Hash</i> , 843 S.W.2d 464 (Tex. 1993) .....	17
<i>In re Jordan</i> , 249 S.W.3d 416 (Tex. 2008) (orig. proceeding) .....	13
<i>In re LCS SP, LLC</i> , 640 S.W.3d 848 (Tex. 2022) (orig. proceeding) .....	16
<i>Perryman v. Spartan Texas Six Capital Partners, Ltd.</i> , 546 S.W.3d 110 (Tex. 2018) .....	13
<i>In re Smith</i> , 333 S.W.3d 582 (Tex. 2011) (orig. proceeding) .....	10

**STATUTES AND RULES**

TEX. GOV'T CODE §22.002(c) .....3, 4

TEX. TAX. CODE §313.001, *et. seq.* (“Texas Economic Development Act”) ..... 1

TEX. TAX CODE §313.002 .....19

TEX. TAX CODE §313.003 .....5, 19

TEX. TAX CODE §313.004 .....5, 19

TEX. TAX CODE §313.007 .....2, 11, 14, 19

TEX. TAX CODE §313.024 .....5, 13

TEX. TAX CODE §313.025(a).....1, 11

TEX. TAX CODE §313.025(b).....1, 11, 12, 13, 15

TEX. TAX CODE §313.025(d).....12

TEX. TAX CODE §313.025(d-1) .....12

TEX. TAX CODE §313.025(i).....13

TEX. TAX CODE §313.026 .....12

TEX. TAX CODE §313.171 .....2

43 TEX. ADMIN. CODE §9.1055(a) .....6

43 TEX. ADMIN. CODE §9.1055(b) .....13

43 TEX. ADMIN. CODE §9.1055(d) .....12, 14

**OTHER AUTHORITIES**

Chapter 313 School Value Limitation Agreement Documents, Office of the  
Texas Comptroller,  
[tps://comptroller.texas.gov/economy/local/ch313/agreement-docs.php](https://comptroller.texas.gov/economy/local/ch313/agreement-docs.php) .....6

Frequently Asked Questions, Office of the Texas Comptroller,  
<https://comptroller.texas.gov/economy/local/ch313/faq.php> (last  
visited Dec. 9, 2022) .....15

H.B. 83rd Reg. Sess. (2013) .....11

David Sewell, *Tax Code Chapter 313—Value Limitation Agreements*,  
39th Annual Advanced Oil, Gas, & Energy Resources Law 23-III,  
State Bar of Texas (2021) .....12, 15

## INTRODUCTION

This is an original proceeding to compel Respondent Glen Hegar, Comptroller of Public Accounts of the State of Texas (the “Comptroller”) to comply with his statutory obligations under the Texas Economic Development Act, TEX. TAX. CODE §313.001, *et. seq.* (“Chapter 313”) to perform economic impact analyses and issue merits decisions on whether “certificates for limitations on appraised value” (“Certificates”) will issue to Relators. Comptroller oversight evaluation is a statutory prerequisite for local school districts to approve tax incentives that will benefit the school districts, local communities, and Relators Stetson Renewable Holdings, LLC (“Stetson”) and Ogallala Renewable Project LLC (“Ogallala”) (collectively, “Relators”). The Comptroller’s failure to perform his statutory obligations and issue Certificates is jeopardizing approximately \$773,550,000 in proposed capital investments in Texas, \$27,001,784 in projected incentives, and projected minimum tax and other payments of \$29,676,600<sup>1</sup> to the school districts relating to “Relators’ Projects” subject to this petition.

Chapter 313 incentives can only be granted if requested and approved by the local school districts. TEX. TAX CODE §§313.025(a) & (b). However, school

---

<sup>1</sup> This number materially understates the school taxes that Relators will pay if the projects proceed because it does not include (i) school district interest and sinking fund taxes, which at all times will be paid on the full project taxable value, and (ii) school district property taxes that will be paid on the full project taxable value for the entire project life remaining after the Chapter 313 agreement ends.



districts cannot grant these incentives unless the Comptroller reviews the applications and issues the requested Certificates. By law, the Comptroller has 90 days to make his decision. Relators are filing this petition because the Comptroller failed to comply with the statutory oversight obligations under Chapter 313 in the time periods set by statute. Even though the local school districts agree with Relators that their projects would be good for Texans, the Comptroller issued denial letters to Relators explaining that, because he did not meet his statutory deadline, he could not issue the requested Certificates for Relators' Projects. Relators seek an order compelling the Comptroller to immediately conduct and complete the statutorily-mandated reviews and issue Certificates as required by Chapter 313.

To compound the urgency of the situation, Chapter 313 expires on December 31, 2022, TEX. TAX CODE §313.007, which raises additional legal complications for projects that are not approved by that date. For projects that are timely approved, there is no question that the applicants and school districts will receive the benefit of Chapter 313's incentives in future years, which will result in added economic benefits for all associated with the projects. TEX. TAX CODE §313.171.

Urgent action by this Court is needed before additional complicating legal issues arise post-December 31, 2022. Relators are filing this petition within one week of learning the Comptroller does not intend to complete his statutorily-required evaluations for Relators' Projects. Relators will also be filing an emergency motion

for temporary relief consistent with this petition. However, to the extent that the Comptroller contends there is not enough time to finish his Chapter 313 oversight reviews, the proper remedy would be to extend the deadlines and not to punish Relators by denying relief.

### **STATEMENT OF THE CASE**

*Relators* are Stetson Renewable Holdings, LLC (“Stetson”) and Ogallala Renewable Project LLC (“Ogallala”). Relators applied for limitations on appraised value relating to their proposed renewable energy projects in Texas. For Relators’ Projects, the local school districts preliminarily approved each project and requested the Comptroller complete his oversight function under Chapter 313 to enable the project to be approved. The specific projects that Relators requested approval for are located in the following school districts: Bynum ISD, Hart ISD, Holliday ISD, Miller Grove ISD, and Sulphur Springs ISD.

The Texas Comptroller is the *Respondent*.

### **STATEMENT OF JURISDICTION**

This Court has jurisdiction to issue mandamus relief directed to the Comptroller under TEX. GOV’T CODE §22.002(c), which provides:

Only the supreme court has the authority to issue a writ of mandamus or injunction, or any other mandatory or compulsory writ or process, against any of the officers of the executive departments of the government of this state to order or compel the performance of a judicial, ministerial, or discretionary act or duty that, by state law, the officer or officers are authorized to perform.

TEX. GOV'T CODE §22.002(c). The Comptroller is an executive official who is subject to this Court's jurisdictional mandamus authority. *See In re Brown*, 614 S.W.3d 712 (Tex. 2020) (orig. proceeding); *A & T Consultants, Inc. v. Sharp*, 904 S.W.2d 668, 672-73 (Tex. 1995) (orig. proceeding).

### **ISSUES PRESENTED**

Should mandamus issue to compel the Comptroller to perform his statutorily-required duties under Chapter 313? This issue raises the following sub-issues:

- a. Does the Comptroller have discretion to decline to perform economic impact evaluations under Chapter 313 for applications that are complete, timely-filed, and eligible for Chapter 313 incentives?
- b. Should the Court compel the Comptroller to complete economic impact evaluations for Relators' Projects and issue decisions on the merits of whether to issue Certificates?
- c. May the Court extend the Chapter 313 deadlines to provide the Comptroller additional time to complete his statutorily-imposed duties?

## STATEMENT OF FACTS

### A. CHAPTER 313 IS INTENDED TO ENCOURAGE ECONOMIC DEVELOPMENT

Chapter 313 establishes an economic development tax incentive program “to encourage large-scale capital investments in this state” and “strengthen and improve the overall performance of the economy of this state.” TEX. TAX CODE §313.003. Chapter 313 encourages, among other projects, investments in clean and renewable energy projects. TEX. TAX CODE §§313.024(b)(4) & (5) (defining eligible projects). Chapter 313 explains the Legislature’s intent: “[i]t is the intent of the legislature in enacting this chapter that: (1) economic development decisions involving school district taxes should occur at the local level with oversight by the state ...” TEX. TAX CODE §313.004(1).

In his oversight role, the Comptroller “should,” at the culmination of his administrative review, issue Certificates for local school district maintenance and operations property taxes for proposed projects that “(i) create high-paying jobs; (ii) provide a net benefit to the state over the long term; and (iii) advance the economic development goals of the state.” TEX. TAX CODE §313.004(4)(B).

For many applicants, the Comptroller has completed his statutory duties and has issued Certificates to allow applicants to receive requested incentives, even if the application was filed *after* Relators’ applications. For example, the Comptroller approved a Certificate for a Tesla, Inc. project in Robstown ISD on November 11,

2022, even though the application was not filed until August 22, 2022. Ex. Q. The Comptroller approved a Certificate for a Certain Teed, Inc. project in Bryan ISD on November 28, 2022, based on an application filed on May 31, 2022. Ex. R. The Comptroller also approved a Certificate for a Hanwha Q Cells Americas Holdings, Inc. project in Dallas ISD on November 22, 2022, based on an application filed on July 21, 2022. Ex. S. The Comptroller's failure to timely issue Certificates to Relators on their earlier-filed projects leaves Relators with no choice but to file this mandamus petition.

**B. THE COMPTROLLER NOTIFIED RELATORS IN THE LAST WEEK THAT HE WILL NOT REVIEW SEVERAL OF RELATORS' PROJECTS EVEN THOUGH HE AGREES THEY WERE TIMELY FILED AND ARE ELIGIBLE FOR CHAPTER 313 INCENTIVES**

Relators have multiple projects at issue in this case, but the underlying factual situations are nearly identical for each project.<sup>2</sup> Relators have proposed renewable energy projects and requested limitations on appraised value for the property that would provide a tax incentive in the form of reduced local school district maintenance and operations property taxes. The local school districts negotiated with Relators and reached a preliminary agreement on a proposed tax incentive. The local school districts concluded that Relators' Projects would be beneficial to their

---

<sup>2</sup> As required by 43 TEX. ADMIN. CODE §9.1055(a), the Comptroller posts Chapter 313 applications at: <https://comptroller.texas.gov/economy/local/ch313/agreement-docs.php>. Relators' Projects are identifiable by locating (a) the school district requesting the approval, and (b) the identity of the Relator that submitted the application. Relators are including relevant excerpts from those files to show the timing issues created by the Comptroller's failure to act on Relators' Projects.

districts and, accordingly, timely submitted Relators' applications to the Comptroller for supervisory review under Chapter 313 of the Tax Code. The Comptroller determined that Relators' applications were complete and subsequently determined that the Projects were eligible to receive an incentive under Chapter 313. However, the Comptroller then failed to complete his review as required by statute, *i.e.*, failed to issue to the school districts either a Certificate or, alternatively, a written explanation of the basis for the Comptroller's decision not to issue a Certificate. The Comptroller first notified Relators of his "no action" decisions for some projects last week, but for others, Relators just received the news.

The Comptroller's letters set forth (a) the date when Relators' applications were formally submitted by the school districts to the Comptroller and (b) the date when they were confirmed as being complete. Exs. I, K, M, O. Relators initiated this process well in advance of published deadlines and guidance from the Comptroller. The Comptroller's letters also acknowledge that: "the Comptroller has determined that the property meets the requirements of Section 313.024 for eligibility for a limitation on appraised value under Chapter 313, Subchapter C." *See* Exs. I, K, M, O. But the letters continue:

Following the eligibility determination, the Comptroller would provide an economic impact evaluation in order to determine whether to issue a certificate for limitation on appraised value. Under Section 313.025(d), the certificate must be issued before the 90th day after the date the Comptroller receives a copy of a completed application. Due to the lapse of the 90-day period, the Comptroller has been unable to

provide an economic impact evaluation and therefore, we cannot issue a certificate.

See Exs. I, K, M, O. Thus, despite having an obligation that the Comptroller “must” take action within 90 days, the Comptroller has used the expiration of that 90 day period as the reason for not providing the economic impact evaluation at all and for not issuing a Certificate.

The following table summarizes the relevant dates for Relators’ Projects:<sup>3</sup>

<b>School District</b>	<b>Application Submitted to the District</b>	<b>Comptroller Notice It Is Complete</b>	<b>Statutory Completion Deadline</b>	<b>No Action Letter Issue Date</b>
Bynum ISD	May 26, 2022	Aug. 12, 2022	Nov. 10, 2022	Nov. 18, 2022
Hart ISD	May 25, 2022	Aug. 12, 2022	Nov. 10, 2022	Nov. 18, 2022
Holliday ISD	May 17, 2022	Aug. 12, 2022	Nov. 10, 2022	Nov. 18, 2022
Miller Grove ISD	May 25, 2022	Aug. 12, 2022	Nov. 10, 2022	Nov. 18, 2022
Sulphur Springs ISD	May 27, 2022	Aug. 12, 2022	Nov. 10, 2022	Not Received

See Exs H-P. Although the Comptroller notices were each dated as of November 18, 2022, Relators did not receive copies of those notices until December 2022, because they were sent via the mail service. Those letters still have not been posted publicly on the Comptroller website.

---

<sup>3</sup> Relators and/or their affiliates have submitted other applications that are currently pending before the Comptroller that have not yet been formally approved. However, the Comptroller has stated that his review of those projects is complete and he will issue the approval certificates for those projects. Relators reserve the right to amend this petition if it becomes necessary to add additional projects to this request if the situation changes.

## **SUMMARY OF THE ARGUMENT**

Relators seek mandamus relief to compel the Comptroller to perform his statutory duty to review pending Chapter 313 applications for limitations on appraised values so that Relators and Texas school districts will receive the benefits they anticipated and are legally entitled to under Chapter 313. The statute is mandatory. The Comptroller has no discretion but to perform his oversight review of Relators' timely-filed Chapter 313 applications. By law, he had 90 days to complete that review. His review should have been completed already. The Comptroller's failure to meet the deadline does not excuse the Comptroller from completing his statutory duty at all. Instead, if he needs more resources to complete this oversight task, Chapter 313 provides the appropriate mechanism—explicitly authorizing the Comptroller to retain third-party consultants to help complete the task.

As the Comptroller anticipated in guidance issued on his website, the pending expiration of Chapter 313 resulted in a large volume of applications filed with the Comptroller in 2022 for Chapter 313 incentives. While many of those applications have been fully processed, including issuance of Certificates, the Comptroller failed to use all the tools made available by the Legislature to process such applications, including Relators'. There is no legal excuse for the Comptroller's unilateral decision to stop reviewing applications while Relators and school districts are in



jeopardy of losing rights and benefits they are entitled to receive under Chapter 313. There is also no excuse, and the Comptroller has offered no rationale, for processing some applications while failing to process other substantively-similar and contemporaneously-filed applications, including Relators'. Review from this Court is urgently needed.

## ARGUMENT

### A. MANDAMUS STANDARD

Mandamus “may issue to enforce the performance of a nondiscretionary or ministerial act” by a government official. *In re Smith*, 333 S.W.3d 582, 585 (Tex. 2011) (orig. proceeding) (citing *Cobra Oil & Gas Corp. v. Sadler*, 447 S.W.2d 887, 896 (Tex. 1969) (orig. proceeding)). “In this regard, a public officer has no discretion or authority to misinterpret the law.” *Id.* (citing multiple cases). While mandamus may not be appropriate to compel a government official to reach a particular discretionary outcome, mandamus is appropriate to compel the Comptroller to complete his nondiscretionary oversight role under Chapter 313. Any alternative conclusion would thwart not only the legislative purpose of Chapter 313 to encourage economic development resulting from projects such as Relators' Projects, but also local school districts' support for granting Chapter 313 tax incentives to encourage economic development flowing directly from Relators' Projects.

**B. THE COMPTROLLER HAS A NON-DISCRETIONARY DUTY TO DETERMINE ON THE MERITS WHETHER RELATORS' PROJECTS SHOULD BE APPROVED**

Economic development programs, including tax incentive programs like Chapter 313, are well-recognized, constitutionally-authorized, and commonly-used governmental tools to promote growth in Texas. *See City of Westworth Village v. City of White Settlement*, 558 S.W.3d 232, 247 (Tex. App.—Fort Worth 2018, pet denied.) (listing many economic development programs). Chapter 313 was adopted in 2001, with an expiration date of December 31, 2014. TEX. TAX CODE §313.007. Chapter 313 was extended in 2013 until December 31, 2022 by H.B. 3390, 83rd Reg. Sess. (2013). TEX. TAX CODE §313.007 (historical notes).

Section 313.025 explains the process to seek Chapter 313 tax incentives from local school districts. First, a private party must “apply to the governing body of the school district in which the property is located for a limitation on the appraised value for school district maintenance and operations ad valorem tax purposes of the person's qualified property” using a form approved by the Comptroller’s Office. TEX. TAX CODE §313.025(a). The local school district “is not required to consider an application for a limitation on appraised value.” TEX. TAX CODE §313.025(b). “If the governing body of the school district elects to consider an application, the governing body shall deliver a copy of the application to the comptroller and request that the comptroller conduct an economic impact evaluation of the investment

proposed by the application.” TEX. TAX CODE §313.025(b).<sup>4</sup> The Comptroller’s economic impact evaluation has been described by commentators as being “mathematical in nature.” See David Sewell, *Tax Code Chapter 313—Value Limitation Agreements*, 39th Annual Advanced Oil, Gas, & Energy Resources Law 23-III, State Bar of Texas (2021). Here, the local school districts requested Comptroller evaluation of each of Relators’ Projects before June 1, 2022.<sup>5</sup>

Section 313.025(b) continues by providing that “[t]he comptroller *shall conduct or contract with a third person to conduct* the economic impact evaluation, which *shall be completed and provided to* the governing body of the school district, along with the comptroller's certificate or written explanation under Subsection (d), *as soon as practicable but not later than the 90th day after the date the comptroller receives the application.*” TEX. TAX CODE §313.025(b) (emphasis added).<sup>6</sup> That

---

<sup>4</sup> For an explanation of how the economic impact evaluation should be conducted, see TEX. TAX CODE §313.026 and 43 TEX. ADMIN. CODE §9.1055(d)(1), (2), & (3). Applicant could typically amend applications to meet the standard if the initial review fails to pass.

<sup>5</sup> See TEX. TAX CODE §313.025(d-1), providing that: “The governing body of a school district may not approve an application [under Section 313] unless the comptroller submits to the governing body a certificate for a limitation on appraised value of the property.”

<sup>6</sup> See also TEX. TAX CODE §313.025(d): “Not later than the 90th day after the date the comptroller receives the copy of the application, the comptroller shall issue a certificate for a limitation on appraised value of the property and provide the certificate to the governing body of the school district or provide the governing body a written explanation of the comptroller's decision not to issue a certificate.” Given that the Comptroller had a mandatory duty to provide the required economic study to the school districts under TEX. TAX CODE §313.025(b), Section 312.025(d) cannot be interpreted as allowing the Comptroller to make a decision not to conduct the analysis. The Comptroller’s regulations expressly require the Comptroller to make a decision on the merits. 43 TEX. ADMIN. CODE §9.1055(d)(3).

duty is mandatory. *In re City of Galveston*, 622 S.W.3d 851, 857 (Tex. 2021) (orig. proceeding) (“The use of the word ‘shall’ in a statute evidences the mandatory nature of the duty imposed.”) (quotations omitted); *Perryman v. Spartan Texas Six Capital Partners, Ltd.*, 546 S.W.3d 110, 131-32 (Tex. 2018). Chapter 313 provides only one exception under which the Comptroller may decline to conduct the economic impact evaluation—when a project is determined not to be eligible for the incentive program. TEX. TAX CODE §313.025(i).<sup>7</sup> When the Legislature creates an express exception to an obligation, courts should not read additional unwritten exceptions into the statute. *See In re Jorden*, 249 S.W.3d 416, 423 (Tex. 2008) (orig. proceeding). Here, the Comptroller determined that each of Relators’ Projects are eligible for Chapter 313 incentives; the exception does not apply. Exs. I, K, M, O.

The Comptroller’s regulations establish that the 90-day deadline runs from the date when the Comptroller issues notice that an application is complete and ready to be reviewed. 43 TEX. ADMIN. CODE §§9.1055(b)(3) & (c). Chapter 313 provides an option for the Comptroller to “contract with a third person” if necessary to conduct the evaluation on a timely basis. TEX. TAX CODE §313.025(b). There is no option under the statute for the Comptroller to refuse to conduct the evaluation at all for an

---

<sup>7</sup> Section 312.025(i) says that the Comptroller “is not required to provide an economic impact evaluation of the application” if a project is determined to be ineligible under TEX. TAX CODE §313.024. The clear implication of this provision is that the Comptroller is required to provide the evaluation on applications for eligible projects.

eligible application because, for whatever reason, he failed to do so within prescribed 90 day period. Similarly, the Texas Administrative Code requires the Comptroller to act on the merits of the applications. 43 TEX. ADMIN. CODE §9.1055(d)(4) (“the Comptroller shall .... not later than 90 days ...”).

**C. MANDAMUS RELIEF IS URGENTLY NEEDED**

Relators are seeking mandamus relief to compel the Comptroller to fulfill his nondiscretionary statutory duty and act on the pending Chapter 313 applications before the stated December 31, 2022 expiration date of the statute. *See* TEX. TAX CODE §313.007. The Comptroller is well aware of the Chapter 313 timing issues. Prior to Relators’ application filings, the Comptroller issued the following guidance on his website to potential applicants:

There is not a formal submission deadline; however to be safe, *we recommend that all applications be submitted to the Comptroller’s office by June 1, 2022 to ensure there is ample time for processing and approvals.* The application and approval process during an average year can take as long as 6 months. However, with the program expiring we’re seeing an increase in the volume of applications coming in this year. It would be prudent to get the application in as soon as possible. *We cannot guarantee that an application submitted to the Comptroller’s office after June 1, 2022 will receive all approvals* and the Texas Economic Development Act Agreement will be signed and executed by the school district and the company before December 31, 2022. Applications that are incomplete or have deficiencies will be delayed, making final approval less likely.

<https://comptroller.texas.gov/economy/local/ch313/faq.php> (last visited Dec. 9, 2022) (emphasis added).<sup>8</sup> However, the Comptroller did not (and could not) change the 90-day statutory deadline to complete his economic evaluations following issuance of notice that the applications were complete. Here, Relators' Projects were each submitted to the Comptroller for evaluation *before* June 1, 2022, and each was certified as complete by the Comptroller (starting the 90-day clock) *before* September 1, 2022. The Relators justifiably relied on the Comptroller's published guidance and deadlines as providing assurance that their applications—all submitted to the Comptroller's office prior to June 1 and prior to many other applications that have been approved such as the Tesla and Certain Teed applications mentioned above—were timely and that the Comptroller had “ample time for processing and approvals.” *Id.*

The Comptroller could have (and should have) dedicated the necessary resources (including hiring third-party consultants if necessary) to complete his statutory task on time. TEX. TAX CODE §313.025(b). But instead, the Comptroller waited until the last minute to inform Relators that the Comptroller was not going to complete his statutory oversight responsibilities. The Texas Legislature did not give

---

<sup>8</sup> This notice was an acceleration of the previously-reported timelines for approval, which explained that applications should be received by August 1 and deemed complete by September 1 to receive approval before year end. *See* Sewell, *supra* (quoting the Comptroller's then-existing (2021) website commentary).

the Comptroller the unilateral authority to decide which projects to review on the merits, and which ones to ignore. Chapter 313 imposes a mandatory obligation on the Comptroller that should be enforced for the benefit of Relators, the local school districts that request approval of projects, and all Texans who will benefit from the proposed projects.

**D. THE COURT SHOULD EXTEND THE DEADLINES TO COMPLY WITH CHAPTER 313**

The Comptroller’s failure to perform his statutory duty implicates two statutory deadlines: the 90-day period in which the Comptroller must act on an application, and the December 31, 2022 deadline by which a school district must “approve” a Chapter 313 incentive in order for the incentives to be available after the expiration of Chapter 313. The Comptroller has asserted that he was unable to meet the now-passed 90-day deadlines for the Relators’ applications, with the potential consequence the Relators cannot obtain a school district approval that meets the December 31, 2022 deadline.<sup>9</sup> The proper and legally authorized remedy for the Comptroller’s inaction is to extend the relevant deadlines, and not to punish Relators or the school districts that support Relators’ Projects. *See In re LCS SP,*

---

<sup>9</sup> The Comptroller’s position is that a school district cannot approve a Chapter 313 application until after the Comptroller issues a Certificate. The Comptroller should already have issued Certificates to Relators (or declined to do so on authorized grounds), which would have provided enough time to obtain school district approvals in advance of the December 31, 2022 Chapter 313 expiration. If the Relators are unable to obtain final school district approvals by December 31, 2022, it will be a direct result of the Comptroller’s failure to perform his nondiscretionary statutory duty.

*LLC*, 640 S.W.3d 848, 855-56 (Tex. 2022) (orig. proceeding) (recognizing Court’s authority to extend statutory deadlines when necessary to allow for just relief).

The issue presented in this Petition regarding Chapter 313 may be new, but the problem presented is not. This Court has addressed many cases in which a statute sets a mandatory deadline to act, but does not explain the consequences for failing to act. *See In re Francis*, 186 S.W.3d 534, 540 (Tex. 2006) (orig. proceeding). This Court explains: “The consequences of noncompliance is not necessarily punishment.” *Id.* (quoting *Hines v. Hash*, 843 S.W.2d 464, 469 (Tex. 1993)). That observation is particularly appropriate here because it is the Comptroller’s failure to comply that is at issue; there is no fault from Relators or the school districts when seeking Comptroller approval of applications.

This Court has granted mandamus relief in an analogous circumstance involving the certification of candidates for elections. In *Davis v. Taylor*, 930 S.W.2d 581 (Tex. 1996) (orig. proceeding), the Court granted mandamus relief to compel the Republican Party Chair in McLennan County to certify an eligible candidate for election to run for the position of Chief Justice of the Tenth Court of Appeals. *Id.* at 582-84. The Court explained that: “[i]n the past, when a candidate has been denied a place on the ballot solely through the fault of responsible officials, we have generally granted mandamus relief.” *Id.* at 583. The Court recognized it had authority to grant relief even though “both the statutory deadline for the party



official to certify the candidate and the later deadline for the Secretary of State to act on the certification have passed.” *Id.* at 582. The Court rejected the Secretary of State’s concerns that granting mandamus relief “would effectively nullify the deadlines created by the Election Code.” *Id.* at 583. A contrary conclusion would have changed the statute’s mandatory duties into non-mandatory ones. *Id.* Whatever burdens mandamus relief placed on the Secretary were outweighed by the “public interest” served by compelling completion of the Comptroller’s mandatory statutory duties. *Id.* at 584.

The Court reached the same conclusion in *Bird v. Rothstein*, 930 S.W.2d 586 (Tex. 1996) (orig. proceeding), where the Court directed the Secretary of State to certify a candidate for election to the Texas House of Representatives. More recently, the Court granted mandamus relief to vacate a temporary injunction that would have excluded a candidate from the ballot because, even though the candidate had technical errors in his submissions, those errors were easily curable, which the candidate should have been given an opportunity to cure. *In re Francis*, 186 S.W.3d at 541-42.

Here, the Court should not allow the statutory deadlines placed on the Comptroller under Chapter 313 to defeat the Comptroller’s affirmative duties to act. Excusing the Comptroller from performing his duties because of timing would nullify the mandatory language chosen by the Legislature in Chapter 313. Moreover,

the public interest is best served by giving effect to the Legislature's stated intent in TEX. TAX CODE §§313.002, 313.003 & 313.004, as well the intent of the local school districts that have asked the Comptroller to approve economic development projects under Chapter 313. As a corollary, if the Comptroller's failure to issue Certificates quickly precludes final school board approval of the applications by the December 31, 2022 approval date specified in Section 313.007, that deadline should be extended to include school district approvals occurring after the Comptroller's completion of his approval processes.

**PRAYER FOR RELIEF**

Relators pray this petition is granted and the Court issues a writ of mandamus ordering the Comptroller to conduct and complete his reviews and compliance with Chapter 313 on an expedited basis. To the extent the Comptroller needs additional resources to complete his statutory requirements, Relators request the Court instruct the Comptroller to use the authorization under Chapter 313 to hire third-party consultants, as needed, to conduct and complete his statutory compliance. Relators further request that the Court extend Chapter 313's deadlines to remedy the Comptroller's failure to comply with his statutory deadlines. Relators pray for such other and further relief to which they may be entitled.

Respectfully submitted,

/s/ W. Scott Hastings

---

W. Scott Hastings

Texas Bar No. 24002241

*shastings@lockelord.com*

Geoffrey R. Polma

Texas Bar No. 16105280

*gpolma@lockelord.com*

LOCKE LORD LLP

2200 Ross Avenue, Suite 2800

Dallas, Texas 75201-6776

Telephone: (214) 740-8000

Facsimile: (214) 740-8800

**ATTORNEYS FOR RELATORS  
STETSON RENEWABLES HOLDINGS,  
LLC AND OGALLALA RENEWABLE  
PROJECT, LLC**

## **CERTIFICATION**

I certify that I have reviewed the foregoing petition for writ of mandamus and concluded that every factual statement in the petition is supported by competent evidence included in the appendix or record of the proceedings before the Comptroller. The documents attached in the Appendix as Exhibits A-G are true and correct copies of provisions or excerpts of provisions from the Texas Tax Code and the Texas Administrative Code. The documents attached as Exhibit H-N are true and correct copies of correspondence with the Comptroller's Office.

*/s/ W. Scott Hastings*

\_\_\_\_\_  
W. Scott Hastings

## **CERTIFICATE OF COMPLIANCE**

Pursuant to Texas Rule of Appellate Procedure 9.4(i)(3), the undersigned certifies that this document complies with the length limitations of Rule 9.4(i) and the typeface requirements of Rule 9.4(e).

1. Exclusive of the contents excluded by Rule 9.4(i)(1), this document (including textboxes, footnotes, and endnotes) contains 4,297 words as counted by the Word Count function of Microsoft Word 2010.

2. This document has been prepared in proportionally spaced typeface using:

Software: Microsoft Word 2010

Typeface: Times New Roman

Font Size: 14 point

*/s/ W. Scott Hastings*

\_\_\_\_\_  
W. Scott Hastings

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served upon all counsel of record via email and/or e-File Texas on this 12th day of December, 2021. True and correct copies were also provided by email to the contacts that the Comptroller requested Relators to serve.

*/s/ W. Scott Hastings*

\_\_\_\_\_  
W. Scott Hastings

# EXHIBIT A

Vernon's Texas Statutes and Codes Annotated

Tax Code (Refs & Annos)

Title 3. Local Taxation

Subtitle B. Special Property Tax Provisions

Chapter 313. Texas Economic Development Act (Refs & Annos)

Subchapter A. General Provisions

V.T.C.A., Tax Code § 313.002

§ 313.002. Findings

Effective: January 1, 2014

Currentness

The legislature finds that:

- (1) many states have enacted aggressive economic development laws designed to attract large employers, create jobs, and strengthen their economies;
- (2) given Texas' relatively high ad valorem taxes, it is difficult for the state to compete for new capital projects without temporarily limiting ad valorem taxes imposed on new capital investments;
- (3) a significant portion of the Texas economy continues to be based in manufacturing and other capital-intensive industries, and their continued growth and overall health serve the Texas economy well;
- (4) without a vibrant, strong manufacturing sector, other sectors of the economy, especially the state's service sector, will also suffer adverse consequences; and
- (5) the current ad valorem tax system of this state does not favor capital-intensive businesses such as manufacturers.

**Credits**

Added by Acts 2001, 77th Leg., ch. 1505, § 1, eff. Jan. 1, 2002. Amended by Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 1, eff. Jan. 1, 2014.

V. T. C. A., Tax Code § 313.002, TX TAX § 313.002

Current through the end of the 2021 Regular and Called Sessions of the 87th Legislature.

End of Document

© 2022 Thomson Reuters. No claim to original U.S. Government Works.

# EXHIBIT B



Vernon's Texas Statutes and Codes Annotated

Tax Code (Refs & Annos)

Title 3. Local Taxation

Subtitle B. Special Property Tax Provisions

Chapter 313. Texas Economic Development Act (Refs & Annos)

Subchapter A. General Provisions

V.T.C.A., Tax Code § 313.003

§ 313.003. Purposes

Effective: January 1, 2014

Currentness

The purposes of this chapter are to:

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

**Credits**

Added by Acts 2001, 77th Leg., ch. 1505, § 1, eff. Jan. 1, 2002. Amended by Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 1, eff. Jan. 1, 2014.

V. T. C. A., Tax Code § 313.003, TX TAX § 313.003

Current through the end of the 2021 Regular and Called Sessions of the 87th Legislature.

---

End of Document

© 2022 Thomson Reuters. No claim to original U.S. Government Works.

# EXHIBIT C

Vernon's Texas Statutes and Codes Annotated

Tax Code (Refs & Annos)

Title 3. Local Taxation

Subtitle B. Special Property Tax Provisions

Chapter 313. Texas Economic Development Act (Refs & Annos)

Subchapter A. General Provisions

V.T.C.A., Tax Code § 313.004

§ 313.004. Legislative Intent

Effective: January 1, 2014

Currentness

It is the intent of the legislature in enacting this chapter that:

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

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

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

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

(C) an entity not subject to the tax imposed by Chapter 171 to receive an ad valorem tax benefit provided by this chapter;

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

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

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

(i) enhance the local community;

(ii) improve the local public education system;

(iii) create high-paying jobs; and

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

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

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

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

(i) create high-paying jobs;

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

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

**Credits**

Added by Acts 2001, 77th Leg., ch. 1505, § 1, eff. Jan. 1, 2002. Amended by Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 1, eff. Jan. 1, 2014.

V. T. C. A., Tax Code § 313.004, TX TAX § 313.004

Current through the end of the 2021 Regular and Called Sessions of the 87th Legislature.

---

End of Document

© 2022 Thomson Reuters. No claim to original U.S. Government Works.

# EXHIBIT D

Vernon's Texas Statutes and Codes Annotated

Tax Code (Refs & Annos)

Title 3. Local Taxation

Subtitle B. Special Property Tax Provisions

Chapter 313. Texas Economic Development Act (Refs & Annos)

Subchapter B. Limitation on Appraised Value of Certain Property Used to Create Jobs (Refs & Annos)

V.T.C.A., Tax Code § 313.024

§ 313.024. Eligible Property

Effective: September 1, 2017

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

(a-1) Expired.

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

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

\*\*\*\*\*

**Credits**

Added by Acts 2001, 77th Leg., ch. 1505, § 1, eff. Jan. 1, 2002. Amended by Acts 2005, 79th Leg., ch. 1097, § 5, eff. June 18, 2005; Acts 2006, 79th Leg., 3rd C.S., ch. 1, § 16(b), (c), eff. Jan. 1, 2008; Acts 2007, 80th Leg., ch. 1262, §§ 3, 5, eff. June 15, 2007; Acts 2007, 80th Leg., ch. 1262, § 4, eff. Jan. 1, 2008; Acts 2007, 80th Leg., ch. 1277, § 10, eff. Jan. 1, 2008; Acts 2009, 81st Leg., ch. 1186, §§ 3, 4, eff. June 19, 2009; Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), §§ 4, 5, eff. Jan. 1, 2014; Acts 2017, 85th Leg., ch. 444 (S.B. 277), §§ 3, 4, eff. Sept. 1, 2017.

V. T. C. A., Tax Code § 313.024, TX TAX § 313.024

Current through the end of the 2021 Regular and Called Sessions of the 87th Legislature.

---

End of Document

© 2022 Thomson Reuters. No claim to original U.S. Government Works.

# EXHIBIT E

Vernon's Texas Statutes and Codes Annotated

Tax Code (Refs & Annos)

Title 3. Local Taxation

Subtitle B. Special Property Tax Provisions

Chapter 313. Texas Economic Development Act (Refs & Annos)

Subchapter B. Limitation on Appraised Value of Certain Property Used to Create Jobs (Refs & Annos)

V.T.C.A., Tax Code § 313.025

§ 313.025. Application; Action on Application

Effective: January 1, 2014

Currentness

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

- (1) the application fee established by the governing body of the school district;
- (2) information sufficient to show that the real and personal property identified in the application as qualified property meets the applicable criteria established by [Section 313.021\(2\)](#); and
- (3) any information required by the comptroller for the purposes of [Section 313.026](#).

(a-1) Within seven days of the receipt of each document, the school district shall submit to the comptroller a copy of the application and the proposed agreement between the applicant and the school district. If the applicant submits an economic analysis of the proposed project to the school district, the district shall submit a copy of the analysis to the comptroller. In addition, the school district shall submit to the comptroller any subsequent revision of or amendment to any of those documents within seven days of its receipt. The comptroller shall publish each document received from the school district under this subsection on the comptroller's Internet website. If the school district maintains a generally accessible Internet website, the district shall provide on its website a link to the location of those documents posted on the comptroller's website in compliance with this subsection. This subsection does not require the comptroller to post information that is confidential under [Section 313.028](#).

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



agreed to by the governing body and the applicant.

(b-1) The comptroller shall promptly deliver a copy of the application to the Texas Education Agency. The Texas Education Agency shall determine the effect that the applicant's proposal will have on the number or size of the school district's instructional facilities and submit a written report containing the agency's determination to the school district. The governing body of the school district shall provide any requested information to the Texas Education Agency. Not later than the 45th day after the date the Texas Education Agency receives the application, the Texas Education Agency shall make the required determination and submit the agency's written report to the governing body of the school district.

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

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

(d) Not later than the 90th day after the date the comptroller receives the copy of the application, the comptroller shall issue a certificate for a limitation on appraised value of the property and provide the certificate to the governing body of the school district or provide the governing body a written explanation of the comptroller's decision not to issue a certificate.

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

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

(f) The governing body may approve an application only if the governing body finds that the information in the application is true and correct, finds that the applicant is eligible for the limitation on the appraised value of the person's qualified property, and determines that granting the application is in the best interest of the school district and this state.

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

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

(h) After receiving a copy of the application, the comptroller shall determine whether the property meets the requirements of [Section 313.024](#) for eligibility for a limitation on appraised value under this subchapter. The comptroller shall notify the governing body of the school district of the comptroller's determination and provide the applicant an opportunity for a hearing before the determination becomes final. A hearing under this subsection is a contested case hearing and shall be conducted by the State Office of Administrative Hearings in the manner provided by [Section 2003.101, Government Code](#). The applicant has the burden of proof on each issue in the hearing. The applicant may seek judicial review of the comptroller's determination in a Travis County district court under the substantial evidence rule as provided by Subchapter G, Chapter 2001, Government Code.<sup>1</sup>

(i) If the comptroller's determination under Subsection (h) that the property does not meet the requirements of

313.024 for eligibility for a limitation on appraised value under this subchapter becomes final, the comptroller is not required to provide an economic impact evaluation of the application or to submit a certificate for a limitation on appraised value of the property or a written explanation of the decision not to issue a certificate, and the governing body of the school district may not grant the application.

**Credits**

Added by Acts 2001, 77th Leg., ch. 1505, § 1, eff. Jan. 1, 2002. Amended by Acts 2003, 78th Leg., ch. 818, § 6.11, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 978, § 7, eff. Sept. 1, 2003; Acts 2007, 80th Leg., ch. 864, § 2, eff. Dec. 31, 2007; Acts 2007, 80th Leg., ch. 864, § 3, eff. June 15, 2007; Acts 2009, 81st Leg., ch. 1186, § 5, eff. June 19, 2009; Acts 2009, 81st Leg., ch. 1186, § 5, eff. Jan. 1, 2010; Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 6, eff. Jan. 1, 2014.

Notes of Decisions (1)

**Footnotes**

1

V.T.C.A., Government Code § 2001.171 et seq.

V. T. C. A., Tax Code § 313.025, TX TAX § 313.025

Current through the end of the 2021 Regular and Called Sessions of the 87th Legislature.

---

End of Document

© 2022 Thomson Reuters. No claim to original U.S. Government Works.

# EXHIBIT F

Vernon's Texas Statutes and Codes Annotated

Tax Code (Refs & Annos)

Title 3. Local Taxation

Subtitle B. Special Property Tax Provisions

Chapter 313. Texas Economic Development Act (Refs & Annos)

Subchapter B. Limitation on Appraised Value of Certain Property Used to Create Jobs (Refs & Annos)

V.T.C.A., Tax Code § 313.026

§ 313.026. Economic Impact Evaluation

Effective: January 1, 2014

Currentness

(a) The economic impact evaluation of the application must include any information the comptroller determines is necessary or helpful to:

- (1) the governing body of the school district in determining whether to approve the application under [Section 313.025](#); or
- (2) the comptroller in determining whether to issue a certificate for a limitation on appraised value of the property under [Section 313.025](#).

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

(c) The comptroller may not issue a certificate for a limitation on appraised value under this chapter for property described in an application unless the comptroller determines that:

- (1) the project proposed by the applicant is reasonably likely to generate, before the 25th anniversary of the beginning of the limitation period, tax revenue, including state tax revenue, school district maintenance and operations ad valorem tax revenue attributable to the project, and any other tax revenue attributable to the effect of the project on the economy of the state, in an amount sufficient to offset the school district maintenance and operations ad valorem tax revenue lost as a result of the agreement; and
- (2) the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in this state.

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

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

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

**Credits**

Added by Acts 2001, 77th Leg., ch. 1505, § 1, eff. Jan. 1, 2002. Amended by Acts 2007, 80th Leg., ch. 864, § 4, eff. June 15, 2007; Acts 2009, 81st Leg., ch. 1186, § 6, eff. June 19, 2009; Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 7, eff. Jan. 1, 2014.

V. T. C. A., Tax Code § 313.026, TX TAX § 313.026


Current through the end of the 2021 Regular and Called Sessions of the 87th Legislature.

---

End of Document

© 2022 Thomson Reuters. No claim to original U.S. Government Works.

# EXHIBIT G

 KeyCite Yellow Flag - Negative Treatment  
Proposed Regulation

Texas Administrative Code

Title 34. Public Finance

Part 1. Comptroller of Public Accounts

Chapter 9. Property Tax Administration

Subchapter F. Limitation on Appraised Value on Certain Qualified Properties

### 34 TAC § 9.1055

#### § 9.1055. Comptroller Application Review and Agreement to Limit Appraised Value

##### Currentness

(a) Documents submitted to comptroller. Within 15 days of receiving or creating a substantive document, the comptroller shall post such document on the comptroller's Internet website, provided however, the comptroller shall not post any documents determined to be confidential in accordance with [Tax Code, §313.028](#) and this section.

\* \* \*

(b) Application review. Upon receiving an application and accompanying documentation, the comptroller shall review the application to determine if it is complete.

\* \* \*

(2) Until the comptroller receives such information as is required and necessary to be submitted by applicant, the comptroller may discontinue further action on the application. The comptroller shall discontinue consideration of an application that remains incomplete for more than 180 days after the date the comptroller first received the application plus the number of days of any extension, notice of which has been provided to the comptroller pursuant to §9.1054(d) of this title (relating to School District Application Review and Agreement to Limit Appraised Value).

(3) When the comptroller determines that the documentation submitted in support of an application meets the requirements for an application pursuant to §9.1053(a) and if applicable (b), of this title, and the comptroller has received from the school district a request to provide an economic impact evaluation and all necessary documents for an appropriate evaluation of the requested appraised value limitation from the applicant and the school district, the comptroller shall notify the school district, the Texas Education Agency, and the applicant in writing that the applicant has submitted a completed application.

\* \* \*

(d) Action on an eligible completed application. After determining that property identified in an application is eligible for limitation for appraised value and upon receiving a request from the school district to prepare an economic impact analysis, **the comptroller shall:**

(1) **review any information available to the comptroller** including:

(A) the application;

(B) public documents or statements by the applicant concerning business operations or site location issues or in which the applicant is a subject;

(C) statements by officials of the applicant, public documents or statements by governmental or industry officials concerning business operations or site location issues;

- (D) existing investment and operations at or near the site or in the state that may impact the proposed project;
  - (E) announced real estate transactions, utility records, permit requests, industry publications or other sources that may provide information helpful in making the determination; and
  - (F) market information, raw materials or other production inputs, availability, existing facility locations, committed incentives, infrastructure issues, utility issues, location of buyers, nature of market, supply chains, other known sites under consideration, or any other information;
- (2) prepare an economic impact analysis on the investment proposed by the application as required by Tax Code, §313.025 which may include:
- (A) estimates of the maintenance and operations taxes for the 25 year period after the beginning of the limitation period;
  - (B) estimated tax revenue to the state generated by expenditures by the project, including wages, construction and operational expenditures, or other expenditures; and
  - (C) tax impacts, positive or negative, to the state based on indirect effects of the project, as estimated by the agency and using publicly available economic modeling systems;
- (3) make the following determinations whether:
- (A) it is reasonable to conclude from all the information available that the application is true and correct;
  - (B) the applicant is eligible for the limitation on the appraised value of the applicant's qualified property;
  - (C) the project proposed by the applicant is reasonably likely to generate tax revenue in an amount sufficient to offset the school district maintenance and operations ad valorem tax revenue lost as a result of the agreement before the 25th anniversary of the beginning of the limitation period; and
  - (D) the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in this state;
- (4) not later than 90 days after written notice that the school district and the comptroller have determined that applicant has submitted a completed application that is eligible for a limitation of appraised value under Tax Code, §313.025(b), provide to the school district:
- (A) an economic impact evaluation as required pursuant to Tax Code, §313.025(b);
  - (B) the comptroller's conclusion for each made pursuant to paragraph (3) of this subsection; and
  - (C) one of the three following:
    - (i) a comptroller certificate for a limitation;
    - (ii) a comptroller certificate for a limitation, subject to:
      - (I) conditions identified in the comptroller certificate for a limitation being completed prior to execution of the agreement; or
      - (II) the agreement including additional provisions as identified in the comptroller certificate for a limitation; or
    - (iii) a written explanation of the comptroller's decision not to issue a certificate.

\*\*\*\*\*



**Credits**

**Source:** The provisions of this §9.1055 adopted to be effective June 22, 2010, [35 TexReg 5367](#); amended to be effective June 2, 2014, [39 TexReg 4259](#); amended to be effective September 11, 2017, [42 TexReg 4652](#); amended to be effective February 6, 2020, [45 TexReg 764](#); amended to be effective October 20, 2020, [45 TexReg 7433](#).

Current through 47 Tex.Reg. No. 7376, dated October 28, 2022, as effective on or before November 4, 2022. Some sections may be more current. See credits for details.

34 TAC § 9.1055, 34 TX ADC § 9.1055

---

End of Document

© 2022 Thomson Reuters. No claim to original U.S. Government Works.

# EXHIBIT H



Austin  
Houston  
Dallas  
Waco  
Tyler  
Corpus Christi

May 27, 2022

Via Electronic Mail: [Ch313.apps@cpa.texas.gov](mailto:Ch313.apps@cpa.texas.gov)  
Local Government Assistance & Economic Analysis  
Texas Comptroller of Public Accounts  
Lyndon B. Johnson State Office Building  
111 E. 17<sup>th</sup> Street  
Austin, Texas 78774

Re: Application for Appraised Value Limitation on Qualified Property from Stetson Renewables Holdings, LLC to Bynum Independent School District

*Qualifying Time Period Start Date:* 01/01/2026  
*Value Limitation Period Start Date:* 01/01/2028

Dear Local Government Assistance and Economic Analysis Division:

The Board of Trustees of the Bynum Independent School District (the “District”) accepted an Application for Appraised Value Limitation on Qualified Property (the “Application”) from Stetson Renewables Holdings, LLC (the “Applicant”) at a duly called meeting held on May 26, 2022. The Applicant is proposing to construct a wind electric generating facility in Hill County, Texas.

The Application was determined to be complete by the District on May 27, 2022. The Board of Trustees believes this project will be beneficial to the District and submits the enclosed Application for your formal review. The Board of Trustees looks forward to your review and certification of this Application.

An electronic copy of the Application is being provided to the Hill County Appraisal District by copy of this correspondence.

Thank you so much for your kind consideration to the foregoing.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Rick L. Lambert', is written over a faint, circular stamp or watermark.

Rick L. Lambert

RLL:sl

cc: Via Electronic Mail: [mikem@hillcad.org](mailto:mikem@hillcad.org)  
Mr. Mike McKibben, Chief Appraiser, Hill County Appraisal District

*Via Electronic Mail:* [lmynarcik@bynumisd.net](mailto:lmynarcik@bynumisd.net)

Mr. Larry Mynarcik, Superintendent of Schools, Bynum ISD

*Via Electronic Mail:* [tyler.wilhelm@nexteraenergy.com](mailto:tyler.wilhelm@nexteraenergy.com)

Mr. Tyler Wilhelm, Project Director, NextEra Energy Resources

*Via Electronic Mail:* [mfry@keatax.com](mailto:mfry@keatax.com)

Mr. Mike Fry, Director of Energy Services, KE Andrews

# EXHIBIT I



**GLENN HEGAR** TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

---

P.O. Box 13528 • Austin, TX 78711-3528

November 18, 2022

Larry Mynarcik  
Superintendent  
Bynum Independent School District  
704 Toliver  
Bynum, Texas 76631

Re: Application for Limitation on Appraised Value of Property for School District Maintenance and Operations taxes by and between Bynum Independent School District and Stetson Renewables Holdings, LLC, Application 2019

Dear Superintendent Carroll:

On August 12, 2022, the Comptroller issued written notice that Stetson Renewables Holdings, LLC (applicant) submitted a completed application (Application 2019) for a limitation on appraised value under the provisions of Tax Code Chapter 313.<sup>1</sup> This application was originally submitted on May 26, 2022, to the Bynum Independent School District (school district) by the applicant. The Comptroller's review of the application assumes the accuracy and completeness of the statements in the application.

The Comptroller's review of the application is based on:

- 1) Section 313.025(h)- determine if the property meets the requirements of Section 313.024 for eligibility for a limitation on appraised value under Chapter 313, Subchapter C; and
- 2) Section 313.025(d)- issue a certificate for a limitation on appraised value of the property and provide the certificate to the governing body of the school district or provide the governing body a written explanation of the Comptroller's decision not to issue a certificate, using the criteria set out in Section 313.026.

**Determination required by 313.025(h)**

Sec. 313.024(a)      Applicant is subject to tax imposed by Chapter 171.  
Sec. 313.024(b)      Applicant is proposing to use the property for an eligible project.

---

<sup>1</sup> All Statutory references are to the Texas Tax Code, unless otherwise noted.

- Sec. 313.024(d) Applicant has requested a waiver to create the required number of new qualifying jobs and pay all jobs created that are not qualifying jobs a wage that exceeds the county average weekly wage for all jobs in the county where the jobs are located.
- Sec. 313.024(d-2) Not applicable to Application 2019.

Based on the information provided by the applicant, the Comptroller has determined that the property meets the requirements of Section 313.024 for eligibility for a limitation on appraised value under Chapter 313, Subchapter C.

**Certificate decision required by 313.025(d)**

Following the eligibility determination, the Comptroller would provide an economic impact evaluation in order to determine whether to issue a certificate for a limitation on appraised value. Under Section 313.025(d), the certificate must be issued before the 90th day after the date the Comptroller receives a copy of a completed application. Due to the lapse of the 90-day period, the Comptroller has been unable to provide an economic impact evaluation and therefore, we cannot issue a certificate.

If you have any questions, please contact John Villarreal by email at [john.villarreal@cpa.texas.gov](mailto:john.villarreal@cpa.texas.gov) or by phone toll-free at 1-800-531-5441, ext. 3-5241, or at 512-463-5241.

Sincerely,



Will Counihan  
Director, Data Analysis & Transparency

# EXHIBIT J



# UNDERWOOD

FRED STORMER  
Phone: 806.379.0306  
Fax: 806.379.0316  
www.uwlaw.com  
Fred.Stormer@uwlaw.com

ADDRESS:  
500 S. Taylor Street  
Suite 1200, LB 233  
Amarillo, TX 79101-2446  
MAILING ADDRESS:  
P.O. Box 9158  
Amarillo, TX 79105-9158

May 27, 2022

John Villarreal  
Stephanie Jones  
Chapter 313 Team  
Data Analysis and Transparency Division  
Texas Comptroller of Public Accounts  
P.O. Box 13528 Capitol Station  
Austin TX 78711-3528

*Via Email*

Re: 313 Application from Ogallala Renewable Project LLC to Hart ISD

Dear John and Stephanie:

Enclosed please find an application for appraised value limitation on qualified property submitted to Hart ISD by Ogallala Renewable Project LLC on May 25, 2022, along with the schedules in Excel format.

The Hart ISD Board acted to accept for consideration the application on May 25, 2022. The application was determined to be complete by the District on May 27, 2022. We ask that the Comptroller's Office prepare the economic impact report for this application.

A copy of the application will also be submitted to the Castro County Appraisal District in accordance with 34 Tex. Admin. Code §9.1054. Please feel free to contact me if you have any questions or concerns.

Sincerely,



Fred A. Stormer

FAS/ph  
Encl.

cc: Chief Appraiser, Carson CAD  
Nicholas Hiza, Vice President  
Alicia Smith, Project Development Manager  
Tammy Bialek, Sr. Manager, Altus Group  
Krista Lara, Superintendent, Hart ISD

*via email: castrocad@valornet.com*  
*via email: nhiza@orionrenewables.com*  
*via email: asmith@orionrenewables.com*  
*via email: tammy.bialek@altusgroup.com*

# EXHIBIT K



**GLENN HEGAR** TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

---

P.O. Box 13528 • Austin, TX 78711-3528

November 18, 2022

Krista Solis  
Superintendent  
Hart Independent School District  
710 2nd Street  
Hart, TX 79043

Re: Application for Limitation on Appraised Value of Property for School District Maintenance and Operations taxes by and between Hart Independent School District and Ogallala Renewable Project, LLC, Application 2026

Dear Superintendent Solis:

On August 12, 2022, the Comptroller issued written notice that Ogallala Renewable Project, LLC (applicant) submitted a completed application (Application 2026) for a limitation on appraised value under the provisions of Tax Code Chapter 313.<sup>1</sup> This application was originally submitted on May 25, 2022, to the Hart Independent School District (school district) by the applicant. The Comptroller's review of the application assumes the accuracy and completeness of the statements in the application.

The Comptroller's review of the application is based on:

- 1) Section 313.025(h)- determine if the property meets the requirements of Section 313.024 for eligibility for a limitation on appraised value under Chapter 313, Subchapter C; and
- 2) Section 313.025(d)- issue a certificate for a limitation on appraised value of the property and provide the certificate to the governing body of the school district or provide the governing body a written explanation of the Comptroller's decision not to issue a certificate, using the criteria set out in Section 313.026.

**Determination required by 313.025(h)**

Sec. 313.024(a)	Applicant is subject to tax imposed by Chapter 171.
Sec. 313.024(b)	Applicant is proposing to use the property for an eligible project.

---

<sup>1</sup> All Statutory references are to the Texas Tax Code, unless otherwise noted.

- Sec. 313.024(d) Applicant has requested a waiver to create the required number of new qualifying jobs and pay all jobs created that are not qualifying jobs a wage that exceeds the county average weekly wage for all jobs in the county where the jobs are located.
- Sec. 313.024(d-2) Not applicable to Application 2026.

Based on the information provided by the applicant, the Comptroller has determined that the property meets the requirements of Section 313.024 for eligibility for a limitation on appraised value under Chapter 313, Subchapter C.

**Certificate decision required by 313.025(d)**

Following the eligibility determination, the Comptroller would provide an economic impact evaluation in order to determine whether to issue a certificate for a limitation on appraised value. Under Section 313.025(d), the certificate must be issued before the 90th day after the date the Comptroller receives a copy of a completed application. Due to the lapse of the 90-day period, the Comptroller has been unable to provide an economic impact evaluation and therefore, we cannot issue a certificate.

If you have any questions, please contact John Villarreal by email at [john.villarreal@cpa.texas.gov](mailto:john.villarreal@cpa.texas.gov) or by phone toll-free at 1-800-531-5441, ext. 3-5241, or at 512-463-5241.

Sincerely,



Will Counihan  
Director, Data Analysis & Transparency

# EXHIBIT L



Austin  
Houston  
Dallas  
Waco  
Tyler  
Corpus Christi

May 27, 2022

Via Electronic Mail: [Ch313.apps@cpa.texas.gov](mailto:Ch313.apps@cpa.texas.gov)  
Local Government Assistance & Economic Analysis  
Texas Comptroller of Public Accounts  
Lyndon B. Johnson State Office Building  
111 E. 17<sup>th</sup> Street  
Austin, Texas 78774

Re: Application for Appraised Value Limitation on Qualified Property from Stetson Renewables Holdings, LLC to Miller Grove Independent School District

*Qualifying Time Period Start Date:* 01/01/2026  
*Value Limitation Period Start Date:* 01/01/2028

Dear Local Government Assistance and Economic Analysis Division:

The Board of Trustees of the Miller Grove Independent School District (the “District”) accepted an Application for Appraised Value Limitation on Qualified Property (the “Application”) from Stetson Renewables Holdings, LLC (the “Applicant”) at a duly called meeting held on May 25, 2022. The Applicant is proposing to construct a solar electric generating facility in Hopkins County, Texas.

The Application was determined to be complete by the District on May 27, 2022. The Board of Trustees believes this project will be beneficial to the District and submits the enclosed Application for your formal review. The Board of Trustees looks forward to your review and certification of this Application.

An electronic copy of the Application is being provided to the Hopkins County Appraisal District by copy of this correspondence.

Thank you so much for your kind consideration to the foregoing.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Rick L. Lambert', is written over a faint, circular blue stamp or watermark.

Rick L. Lambert

RLL:sl

cc: Via Electronic Mail: [chief@hopkinscad.com](mailto:chief@hopkinscad.com)  
Ms. Cathy Singleton, Chief Appraiser, Hopkins County Appraisal District

*Via Electronic Mail:* [sjohnson@mgisd.net](mailto:sjohnson@mgisd.net)

Mr. Steve Johnson, Superintendent of Schools, Miller Grove ISD

*Via Electronic Mail:* [aaron.edwards@nexteraenergy.com](mailto:aaron.edwards@nexteraenergy.com)

Mr. Aaron Edwards, Lead Project Manager, NextEra Energy Resources

*Via Electronic Mail:* [mfry@keatax.com](mailto:mfry@keatax.com)

Mr. Mike Fry, Director of Energy Services, KE Andrews

# EXHIBIT M





**GLENN HEGAR** TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

---

P.O. Box 13528 • Austin, TX 78711-3528

November 18, 2022

Steve Johnson  
Superintendent  
Miller Grove Independent School District  
7819 FM 275 South  
Cumby, Texas 75433

Re: Application for Limitation on Appraised Value of Property for School District Maintenance and Operations taxes by and between Miller Grove Independent School District and Stetson Renewables Holdings, LLC, Application 2018

Dear Superintendent Carroll:

On August 12, 2022, the Comptroller issued written notice that Stetson Renewables Holdings, LLC (applicant) submitted a completed application (Application 2018) for a limitation on appraised value under the provisions of Tax Code Chapter 313.<sup>1</sup> This application was originally submitted on May 25, 2022, to the Miller Grove Independent School District (school district) by the applicant. The Comptroller's review of the application assumes the accuracy and completeness of the statements in the application.

The Comptroller's review of the application is based on:

- 1) Section 313.025(h)- determine if the property meets the requirements of Section 313.024 for eligibility for a limitation on appraised value under Chapter 313, Subchapter C; and
- 2) Section 313.025(d)- issue a certificate for a limitation on appraised value of the property and provide the certificate to the governing body of the school district or provide the governing body a written explanation of the Comptroller's decision not to issue a certificate, using the criteria set out in Section 313.026.

**Determination required by 313.025(h)**

Sec. 313.024(a)      Applicant is subject to tax imposed by Chapter 171.  
Sec. 313.024(b)      Applicant is proposing to use the property for an eligible project.

---

<sup>1</sup> All Statutory references are to the Texas Tax Code, unless otherwise noted.

- Sec. 313.024(d) Applicant has requested a waiver to create the required number of new qualifying jobs and pay all jobs created that are not qualifying jobs a wage that exceeds the county average weekly wage for all jobs in the county where the jobs are located.
- Sec. 313.024(d-2) Not applicable to Application 2018.

Based on the information provided by the applicant, the Comptroller has determined that the property meets the requirements of Section 313.024 for eligibility for a limitation on appraised value under Chapter 313, Subchapter C.

**Certificate decision required by 313.025(d)**

Following the eligibility determination, the Comptroller would provide an economic impact evaluation in order to determine whether to issue a certificate for a limitation on appraised value. Under Section 313.025(d), the certificate must be issued before the 90th day after the date the Comptroller receives a copy of a completed application. Due to the lapse of the 90-day period, the Comptroller has been unable to provide an economic impact evaluation and therefore, we cannot issue a certificate.

If you have any questions, please contact John Villarreal by email at [john.villarreal@cpa.texas.gov](mailto:john.villarreal@cpa.texas.gov) or by phone toll-free at 1-800-531-5441, ext. 3-5241, or at 512-463-5241.

Sincerely,



Will Coughlin  
Director, Data Analysis & Transparency

# EXHIBIT N



Austin  
Houston  
Dallas  
Waco  
Tyler  
Corpus Christi

May 27, 2022

Via Electronic Mail: [Ch313.apps@cpa.texas.gov](mailto:Ch313.apps@cpa.texas.gov)  
Local Government Assistance & Economic Analysis  
Texas Comptroller of Public Accounts  
Lyndon B. Johnson State Office Building  
111 E. 17<sup>th</sup> Street  
Austin, Texas 78774

Re: Application for Appraised Value Limitation on Qualified Property from Stetson Renewables Holdings, LLC to Holliday Independent School District

*Qualifying Time Period Start Date:* 01/01/2026  
*Value Limitation Period Start Date:* 01/01/2028

Dear Local Government Assistance and Economic Analysis Division:

The Board of Trustees of the Holliday Independent School District (the “District”) accepted an Application for Appraised Value Limitation on Qualified Property (the “Application”) from Stetson Renewables Holdings, LLC (the “Applicant”) at a duly called meeting held on May 17, 2022. The Applicant is proposing to construct a solar electric generating facility in Archer County, Texas.

The Application was determined to be complete by the District on May 27, 2022. The Board of Trustees believes this project will be beneficial to the District and submits the enclosed Application for your formal review. The Board of Trustees looks forward to your review and certification of this Application.

An electronic copy of the Application is being provided to the Archer County Appraisal District by copy of this correspondence.

Thank you so much for your kind consideration to the foregoing.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Rick L. Lambert', is written over a blue circular scribble.

Rick L. Lambert

RLL:sl

cc: Via Electronic Mail: [archcad@brazosnet.com](mailto:archcad@brazosnet.com)  
Ms. Kimbra York, Chief Appraiser, Archer County Appraisal District

*Via Electronic Mail:* [cody.carroll@hollidayisd.net](mailto:cody.carroll@hollidayisd.net)

Mr. Cody Carroll, Superintendent of Schools, Holliday ISD

*Via Electronic Mail:* [aaron.edwards@nexteraenergy.com](mailto:aaron.edwards@nexteraenergy.com)

Mr. Aaron Edwards, Lead Project Manager, NextEra Energy Resources

*Via Electronic Mail:* [mfry@keatax.com](mailto:mfry@keatax.com)

Mr. Mike Fry, Director of Energy Services, KE Andrews

# EXHIBIT O



**GLENN HEGAR** TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

---

P.O.Box 13528 • Austin, TX 78711-3528

November 18, 2022

Cody Carroll  
Superintendent  
Holliday Independent School District  
751 College Ave.  
Holliday, Texas 76366

Re: Application for Limitation on Appraised Value of Property for School District Maintenance and Operations taxes by and between Holliday Independent School District and Stetson Renewables Holdings, LLC, Application 2017

Dear Superintendent Carroll:

On August 12, 2022, the Comptroller issued written notice that Stetson Renewables Holdings, LLC (applicant) submitted a completed application (Application 2017) for a limitation on appraised value under the provisions of Tax Code Chapter 313.<sup>1</sup> This application was originally submitted on May 17, 2022, to the Holliday Independent School District (school district) by the applicant. The Comptroller's review of the application assumes the accuracy and completeness of the statements in the application.

The Comptroller's review of the application is based on:

- 1) Section 313.025(h)- determine if the property meets the requirements of Section 313.024 for eligibility for a limitation on appraised value under Chapter 313, Subchapter C; and
- 2) Section 313.025(d)- issue a certificate for a limitation on appraised value of the property and provide the certificate to the governing body of the school district or provide the governing body a written explanation of the Comptroller's decision not to issue a certificate, using the criteria set out in Section 313.026.

**Determination required by 313.025(h)**

Sec. 313.024(a) Applicant is subject to tax imposed by Chapter 171.  
Sec. 313.024(b) Applicant is proposing to use the property for an eligible project.

---

<sup>1</sup> All Statutory references are to the Texas Tax Code, unless otherwise noted.

- Sec. 313.024(d) Applicant has requested a waiver to create the required number of new qualifying jobs and pay all jobs created that are not qualifying jobs a wage that exceeds the county average weekly wage for all jobs in the county where the jobs are located.
- Sec. 313.024(d-2) Not applicable to Application 2017.

Based on the information provided by the applicant, the Comptroller has determined that the property meets the requirements of Section 313.024 for eligibility for a limitation on appraised value under Chapter 313, Subchapter C.

**Certificate decision required by 313.025(d)**

Following the eligibility determination, the Comptroller would provide an economic impact evaluation in order to determine whether to issue a certificate for a limitation on appraised value. Under Section 313.025(d), the certificate must be issued before the 90th day after the date the Comptroller receives a copy of a completed application. Due to the lapse of the 90-day period, the Comptroller has been unable to provide an economic impact evaluation and therefore, we cannot issue a certificate.

If you have any questions, please contact John Villarreal by email at [john.villarreal@cpa.texas.gov](mailto:john.villarreal@cpa.texas.gov) or by phone toll-free at 1-800-531-5441, ext. 3-5241, or at 512-463-5241.

Sincerely,



Will Counihan  
Director, Data Analysis & Transparency



# EXHIBIT P



Austin  
Houston  
Dallas  
Waco  
Tyler  
Corpus Christi

May 27, 2022

Via Electronic Mail: [Ch313.apps@cpa.texas.gov](mailto:Ch313.apps@cpa.texas.gov)  
Local Government Assistance & Economic Analysis  
Texas Comptroller of Public Accounts  
Lyndon B. Johnson State Office Building  
111 E. 17<sup>th</sup> Street  
Austin, Texas 78774

Re: Application for Appraised Value Limitation on Qualified Property from Stetson Renewables Holdings, LLC to Sulphur Springs Independent School District

*Qualifying Time Period Start Date:* 01/01/2026  
*Value Limitation Period Start Date:* 01/01/2028

Dear Local Government Assistance and Economic Analysis Division:

The Board of Trustees of the Sulphur Springs Independent School District (the “District”) accepted an Application for Appraised Value Limitation on Qualified Property (the “Application”) from Stetson Renewables Holdings, LLC (the “Applicant”) at a duly called meeting held on May 9, 2022. The Applicant is proposing to construct a solar electric generating facility in Hopkins County, Texas.

The Application was determined to be complete by the District on May 27, 2022. The Board of Trustees believes this project will be beneficial to the District and submits the enclosed Application for your formal review. The Board of Trustees looks forward to your review and certification of this Application.

An electronic copy of the Application is being provided to the Hopkins County Appraisal District by copy of this correspondence.

Thank you so much for your kind consideration to the foregoing.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Rick L. Lambert', is written over a blue circular scribble.

Rick L. Lambert

RLL:sl

cc: Via Electronic Mail: [chief@hopkinscad.com](mailto:chief@hopkinscad.com)  
Ms. Cathy Singleton, Chief Appraiser, Hopkins County Appraisal District

*Via Electronic Mail: [mlamb@ssisd.net](mailto:mlamb@ssisd.net)*

Mr. Mike Lamb, Superintendent of Schools, Sulphur Springs ISD

*Via Electronic Mail: [aaron.edwards@nexteraenergy.com](mailto:aaron.edwards@nexteraenergy.com)*

Mr. Aaron Edwards, Lead Project Manager, NextEra Energy Resources

*Via Electronic Mail: [mfry@keatax.com](mailto:mfry@keatax.com)*

Mr. Mike Fry, Director of Energy Services, KE Andrews

# EXHIBIT Q

**GLENN HEGAR** TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

---

P.O. Box 13528 • Austin, TX 78711-3528

November 11, 2022

Dr. Jose Moreno  
Superintendent  
Robstown Independent School District  
801 North First Street  
Robstown, TX 78380

Re: Certificate for Limitation on Appraised Value of Property for School District  
Maintenance and Operations taxes by and between Robstown Independent School  
District and Tesla, Inc., Application 2100

Dear Superintendent Moreno:

On October 4, 2022, the Comptroller issued written notice that Tesla, Inc. (applicant) submitted a completed application (Application 2100) for a limitation on appraised value under the provisions of Tax Code Chapter 313.<sup>1</sup> This application was originally submitted on August 22, 2022, to the Robstown Independent School District (school district) by the applicant.

This presents the results of the Comptroller's review of the application and determinations required:

- 1) under Section 313.025(h) to determine if the property meets the requirements of Section 313.024 for eligibility for a limitation on appraised value under Chapter 313, Subchapter C; and
- 2) under Section 313.025(d), to issue a certificate for a limitation on appraised value of the property and provide the certificate to the governing body of the school district or provide the governing body a written explanation of the Comptroller's decision not to issue a certificate, using the criteria set out in Section 313.026.

**Determination required by 313.025(h)**

Sec. 313.024(a) Applicant is subject to tax imposed by Chapter 171.  
Sec. 313.024(b) Applicant is proposing to use the property for an eligible project.

---

<sup>1</sup> All Statutory references are to the Texas Tax Code, unless otherwise noted.

Sec. 313.024(d) Applicant has committed to create the required number of new qualifying jobs and pay all jobs created that are not qualifying jobs a wage that exceeds the county average weekly wage for all jobs in the county where the jobs are located.

Sec. 313.024(d-2) Not applicable to Application 2100.

Based on the information provided by the applicant, the Comptroller has determined that the property meets the requirements of Section 313.024 for eligibility for a limitation on appraised value under Chapter 313, Subchapter C.

### **Certificate decision required by 313.025(d)**

Determination required by 313.026(c)(1)

The Comptroller has determined that the project proposed by the applicant is reasonably likely to generate tax revenue in an amount sufficient to offset the school district's maintenance and operations *ad valorem tax* revenue lost as a result of the agreement before the 25th anniversary of the beginning of the limitation period, see Attachment B.

Determination required by 313.026(c)(2)

The Comptroller has determined that the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in this state, see Attachment C.

Based on these determinations, the Comptroller issues a certificate for a limitation on appraised value. This certificate is contingent on the school district's receipt and acceptance of the Texas Education Agency's determination per 313.025(b-1).

The Comptroller's review of the application assumes the accuracy and completeness of the statements in the application. If the application is approved by the school district, the applicant shall perform according to the provisions of the Texas Economic Development Act Agreement (Form 50-826) executed with the school district. The school district shall comply with and enforce the stipulations, provisions, terms, and conditions of the agreement, applicable Texas Administrative Code and Chapter 313, per TAC 9.1054(i)(3).

This certificate is no longer valid if the application is modified, the information presented in the application changes, or the limitation agreement does not conform to the application. Additionally, this certificate is contingent on the school district approving and executing the agreement **by December 31, 2022.**

Note that any building or improvement existing as of the application review start date of October 4, 2022, or any tangible personal property placed in service prior to that date may not become "Qualified Property" as defined by 313.021(2) and the Texas Administrative Code.

Should you have any questions, please contact Will Counihan, Director, Data Analysis & Transparency, by email at [will.counihan@cpa.texas.gov](mailto:will.counihan@cpa.texas.gov) or by phone toll-free at 1-800-531-5441, ext. 6-0758, or at 512-936-0758.

Sincerely,

DocuSigned by:  
  
11EA6DEF0EC441E...

Lisa Craven  
Deputy Comptroller

Enclosure

cc: Will Counihan

# EXHIBIT R





**GLENN HEGAR** TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

---

P.O. Box 13528 • Austin, TX 78711-3528

November 28, 2022

Ginger Carrabine  
Superintendent  
Bryan Independent School District  
801 S. Ennis St.  
Bryan, TX 77803

Re: Certificate for Limitation on Appraised Value of Property for School District Maintenance and Operations taxes by and between Bryan Independent School District and Certainteed Holding Corporation, Application 2042

Dear Superintendent Carrabine:

On August 30, 2022, the Comptroller issued written notice that Certainteed Holding Corporation (applicant) submitted a completed application (Application 2042) for a limitation on appraised value under the provisions of Tax Code Chapter 313.<sup>1</sup> This application was originally submitted on May 19, 2022, to the Bryan Independent School District (school district) by the applicant.

This presents the results of the Comptroller's review of the application and determinations required:

- 1) under Section 313.025(h) to determine if the property meets the requirements of Section 313.024 for eligibility for a limitation on appraised value under Chapter 313, Subchapter C; and
- 2) under Section 313.025(d), to issue a certificate for a limitation on appraised value of the property and provide the certificate to the governing body of the school district or provide the governing body a written explanation of the Comptroller's decision not to issue a certificate, using the criteria set out in Section 313.026.

**Determination required by 313.025(h)**

Sec. 313.024(a)      Applicant is subject to tax imposed by Chapter 171.  
Sec. 313.024(b)      Applicant is proposing to use the property for an eligible project.

---

<sup>1</sup> All Statutory references are to the Texas Tax Code, unless otherwise noted.

Sec. 313.024(d) Applicant has committed to create the required number of new qualifying jobs and pay all jobs created that are not qualifying jobs a wage that exceeds the county average weekly wage for all jobs in the county where the jobs are located.

Sec. 313.024(d-2) Not applicable to Application 2042.

Based on the information provided by the applicant, the Comptroller has determined that the property meets the requirements of Section 313.024 for eligibility for a limitation on appraised value under Chapter 313, Subchapter C.

### **Certificate decision required by 313.025(d)**

Determination required by 313.026(c)(1)

The Comptroller has determined that the project proposed by the applicant is reasonably likely to generate tax revenue in an amount sufficient to offset the school district's maintenance and operations *ad valorem tax* revenue lost as a result of the agreement before the 25th anniversary of the beginning of the limitation period, see Attachment B.

Determination required by 313.026(c)(2)

The Comptroller has determined that the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in this state, see Attachment C.

Based on these determinations, the Comptroller issues a certificate for a limitation on appraised value. This certificate is contingent on the school district's receipt and acceptance of the Texas Education Agency's determination per 313.025(b-1).

The Comptroller's review of the application assumes the accuracy and completeness of the statements in the application. If the application is approved by the school district, the applicant shall perform according to the provisions of the Texas Economic Development Act Agreement (Form 50-826) executed with the school district. The school district shall comply with and enforce the stipulations, provisions, terms, and conditions of the agreement, applicable Texas Administrative Code and Chapter 313, per TAC 9.1054(i)(3).

This certificate is no longer valid if the application is modified, the information presented in the application changes, or the limitation agreement does not conform to the application. Additionally, this certificate is contingent on the school district approving and executing the agreement **by December 31, 2022**.

Note that any building or improvement existing as of the application review start date of August 30, 2022, or any tangible personal property placed in service prior to that date may not become "Qualified Property" as defined by 313.021(2) and the Texas Administrative Code.

Should you have any questions, please contact Will Counihan, Director, Data Analysis & Transparency, by email at [will.counihan@cpa.texas.gov](mailto:will.counihan@cpa.texas.gov) or by phone toll-free at 1-800-531-5441, ext. 6-0758, or at 512-936-0758.

Sincerely,

DocuSigned by:  
  
11EA6DEF0EC441E...

Lisa Craven  
Deputy Comptroller

Enclosure

cc: Will Counihan

# EXHIBIT S



**GLENN HEGAR** TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

---

P.O. Box 13528 • Austin, TX 78711-3528

November 22, 2022

Stephanie Elizalde  
Superintendent  
Dallas Independent School District  
9400 N Central Expy  
Dallas, TX 75231

Re: Certificate for Limitation on Appraised Value of Property for School District Maintenance and Operations taxes by and between Dallas Independent School District and Hanwha Q Cells Americas Holdings Co, Application 2090

Dear Superintendent Elizalde:

On September 7, 2022, the Comptroller issued written notice that Hanwha Q Cells Americas Holdings Co (applicant) submitted a completed application (Application 2090) for a limitation on appraised value under the provisions of Tax Code Chapter 313.<sup>1</sup> This application was originally submitted on July 21, 2022, to the Dallas Independent School District (school district) by the applicant.

This presents the results of the Comptroller's review of the application and determinations required:

- 1) under Section 313.025(h) to determine if the property meets the requirements of Section 313.024 for eligibility for a limitation on appraised value under Chapter 313, Subchapter B; and
- 2) under Section 313.025(d), to issue a certificate for a limitation on appraised value of the property and provide the certificate to the governing body of the school district or provide the governing body a written explanation of the Comptroller's decision not to issue a certificate, using the criteria set out in Section 313.026.

**Determination required by 313.025(h)**

Sec. 313.024(a)      Applicant is subject to tax imposed by Chapter 171.  
Sec. 313.024(b)      Applicant is proposing to use the property for an eligible project.

---

<sup>1</sup> All Statutory references are to the Texas Tax Code, unless otherwise noted.

Sec. 313.024(d) Applicant has committed to create the required number of new qualifying jobs and pay all jobs created that are not qualifying jobs a wage that exceeds the county average weekly wage for all jobs in the county where the jobs are located.

Sec. 313.024(d-2) Not applicable to Application 2090.

Based on the information provided by the applicant, the Comptroller has determined that the property meets the requirements of Section 313.024 for eligibility for a limitation on appraised value under Chapter 313, Subchapter B.

### **Certificate decision required by 313.025(d)**

Determination required by 313.026(c)(1)

The Comptroller has determined that the project proposed by the applicant is reasonably likely to generate tax revenue in an amount sufficient to offset the school district's maintenance and operations *ad valorem tax* revenue lost as a result of the agreement before the 25th anniversary of the beginning of the limitation period, see Attachment B.

Determination required by 313.026(c)(2)

The Comptroller has determined that the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in this state, see Attachment C.

Based on these determinations, the Comptroller issues a certificate for a limitation on appraised value. This certificate is contingent on the school district's receipt and acceptance of the Texas Education Agency's determination per 313.025(b-1).


The Comptroller's review of the application assumes the accuracy and completeness of the statements in the application. If the application is approved by the school district, the applicant shall perform according to the provisions of the Texas Economic Development Act Agreement (Form 50-826) executed with the school district. The school district shall comply with and enforce the stipulations, provisions, terms, and conditions of the agreement, applicable Texas Administrative Code and Chapter 313, per TAC 9.1054(i)(3).

This certificate is no longer valid if the application is modified, the information presented in the application changes, or the limitation agreement does not conform to the application. Additionally, this certificate is contingent on the school district approving and executing the agreement **by December 31, 2022**.

Note that any building or improvement existing as of the application review start date of September 7, 2022, or any tangible personal property placed in service prior to that date may not become "Qualified Property" as defined by 313.021(2) and the Texas Administrative Code.

Should you have any questions, please contact Will Counihan, Director, Data Analysis & Transparency, by email at [will.counihan@cpa.texas.gov](mailto:will.counihan@cpa.texas.gov) or by phone toll-free at 1-800-531-5441, ext. 6-0758, or at 512-936-0758.

Sincerely,

DocuSigned by:  
  
11EA6DEF0EC441E...

Lisa Craven  
Deputy Comptroller

Enclosure

cc: Will Counihan