Chapter 313 Value Limitation Agreement Discussion

Crockett County CCSD & Spinning Star Energy LLC

Cummings Westlake LLC

Overview

- HB 1200 passed by 77th Texas Legislature codified as Chapter 313 of the Tax Code
- Effective January 1, 2002
- Allows school districts to offer property tax incentives to qualifying projects
- State aid offsets school district incentives
- Approximately 200 Chapter 313 agreements have been approved by Texas school districts

Chapter 313 Benefits

- Crockett County CCSD
  - Increased tax base for I&S
  - In-lieu payments vs. recaptured M&O revenue
  - Protection from state aid losses
- Spinning Star Energy
  - M&O tax savings help potential project economics

Eligibility

- Limited to companies that pay Texas franchise taxes
- \$1 million - \$100 million minimum investment depending upon district taxable value
- Minimum of 10 full-time, permanent jobs created; may be waived by school board if this requirement exceeds industry standard for project operations
- 80% of jobs created must pay 110% of average regional wage rate (currently ≈\$36K) and offer certain health insurance benefits

How It Works

- Ten year agreement
- Taxable value is limited or capped for eight years after 2+ year "qualifying period"
  - Qualifying period for application filed in 2012 would be remainder of 2012 and all of 2013 and 2014
- Value limitation or cap applies to M&O taxes only (current rate is 1.04%)
- Value limitation for Crockett Co. CCSD is $20 million
- Property value above $20 million cap is abated for eight years after qualifying period

How It Works

- Difference between full market value and limited value creates M&O tax savings
- Tax savings shared with district by payments in-lieu of tax that are not subject to recapture; typically the lesser of
  - Percentage of M&O tax savings achieved by the company
  - $100 per student
- Taxpayer eligible for state-funded credits of M&O tax paid during two-year qualifying period

Incentive Process

- Taxpayer files application with school district
- District consideration is discretionary
- If district wishes to consider application
  - District delivers copy of application to the Comptroller
  - District may retain outside school finance and legal advisors
  - Comptroller will conduct an economic impact evaluation of project
  - District may ask Comptroller, Texas Department of Economic Development, etc. for assistance
- District may charge application fee to cover its costs

Incentive Process

- Comptroller must review application and submit a positive recommendation to district
- Comptroller must approve the proposed agreement
- District has 150 days to approve or reject application, unless the economic impact study has not been received (in which case the district can approve an extension)
- If approved, taxpayer and district execute agreement