Chapter 61. School Districts

Subchapter AA. Commissioner's Rules on School Finance

§61.1011. Public Education Grant Supplemental Payments.

(a) Definitions. The following phrases, when used in the implementation of Texas Education Code, §29.203(b), or in this section, shall have the following meaning, unless the context clearly indicates otherwise.

(1) Cost to the district of providing services - The Foundation School Program cost per student, including the equalized state and local share of the guaranteed yield allotment at the district's tax effort for the applicable school year, as limited by Texas Education Code, §42.253(e).

(2) Net additional students - The number of students accepted by a district under the public education grant program minus the number of that district's resident students who are educated in other districts under the public education grant program. For purposes of this section, the number of net additional students cannot be less than zero.

(b) Computation methodology. A school district with property wealth per student greater than the guaranteed wealth level but less than the equalized wealth level is entitled to a supplemental payment for the number of net additional students educated under the public education grant program. The amount of the supplemental payment shall be computed as the guaranteed level multiplied by the district enrichment and facilities tax rate as specified in Texas Education Code, §42.302(a), as limited by Texas Education Code, §42.253(e), multiplied by the number of net additional students.

(c) Payment method. The supplemental payment shall be made to the district in a lump sum in the subsequent school year.

Statutory Authority: The provisions of this §61.1011 issued under the Texas Education Code, §29.203(b), as added by House Bill 318, 75th Texas Legislature, 1997.

Source: The provisions of this §61.1011 adopted to be effective September 1, 1998, 24 TexReg 7779.

§61.1012. Contracts and Tuition for Education Outside District.

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Home district--District of residence of a transferring student.

(2) Receiving district--District to which a student is transferring for the purpose of obtaining an education.

(3) Tuition--Amount charged to the home district by the receiving district to educate the transfer student.

(b) Tuition charge for transfer students. For the purposes of adjusting the property value of the home district as authorized by Texas Education Code (TEC), §42.106, the amount of tuition that may be attributed to a home district for a transfer student in payment for that student's education may not exceed an amount per enrollee calculated for each receiving district. The calculated limit applies only to tuition paid to a receiving district for the education of a student at a grade level not offered in the home district. Tuition may be set at a rate higher than the calculated limit if both districts enter a written agreement, but the calculated tuition limit will be used in the calculation of adjusted property value for the home district. The calculation will use the most currently available data in an ongoing school year to determine the limit that applies to the subsequent school year. For purposes of this section, the number of students enrolled in a district will be appropriately adjusted to account for students ineligible for the Foundation School Program funding and those eligible for half-day attendance.

(1) Excess maintenance and operations (M&O) revenue per enrollee. A district's excess M&O revenue per enrollee is defined as the sum of state aid in accordance with TEC, Chapter 42, Subchapters B, C, and F, plus the state aid generated in accordance with TEC, §42.2516(b), and any reductions to state aid made in accordance with TEC, §42.2516(g) and §42.2516(h). These state aid amounts are added to M&O tax collections, and the sum is divided by enrollment to determine the amount of total state and local revenue per enrolled student. The amount of state aid gained by the addition of one transfer student is subtracted from the total amount of state and local revenue per student to determine the revenue shortfall created by the addition of one student. M&O taxes exclude the local share of any lease purchases funded in the Instructional Facilities Allotment (IFA) as referenced in TEC, Chapter 46, Subchapter A.

(A) The data for this calculation are derived from the Public Education Information Management System (PEIMS) fall data submission (budgeted M&O tax collections and student enrollment) and the Legislative Payment Estimate (LPE) data (Foundation School Program (FSP) student counts and property value).

(B) The state aid gained by the receiving district from the addition of one transfer student is computed by the commissioner of education. The calculation assumes that the transfer student participates in the special programs at the average rate of other students in the receiving district.

(2) Excess debt revenue per enrollee. A district's excess debt revenue per enrollee is defined as interest and sinking fund (I&S) taxes budgeted to be collected that surpass the taxes equalized by the IFA pursuant to TEC, Chapter 46, Subchapter A, and the Existing Debt Allotment (EDA) pursuant to TEC, Chapter 46, Subchapter B, divided by enrollment.

(A) The local share of the IFA for bonds is subtracted from debt taxes budgeted to be collected as reported through PEIMS. The local share of the EDA is subtracted from debt taxes budgeted to be collected as reported through PEIMS only if the district receives a payment for the state share of EDA.

(B) The estimate of enrollment includes transfer students.

(3) Base tuition limit. The base tuition limit per transfer student for the receiving district is a percentage of its state and local entitlement per enrollee from both tiers of the FSP. The entitlement includes the Texas Education Agency's estimate for the current year for the total of allotments in accordance with TEC, Chapter 42, Subchapters B and C, plus the state and local shares of the guaranteed yield allotment (GYA) in accordance with TEC, Subchapter F, which includes additional state aid for tax reduction in accordance with TEC, §42.2516(b).

(A) For this purpose, the GYA is calculated as the product of the guaranteed level (GL) multiplied by weighted average daily attendance (WADA), then multiplied by district tax rate (DTR), and finally multiplied by 100 for tax effort that is described in TEC, §42.302(a-1) and (a-3), as applicable.

(B) Beginning with the 2008-2009 school year, the GL paid in accordance with TEC, §42.302(a-1)(2), is applicable to the first $.06 by which the district's M&O tax rate exceeds the rate equal to the district's 2005 adopted tax rate and the state compression rate, as determined under TEC, §42.2516(a).

(C) For the 2006-2007 and 2007-2008 school years, the GL paid in accordance with TEC, §42.302(a-1)(2), is applicable to the first $.04 by which the district's M&O tax rate exceeds the rate equal to the district's 2005 adopted tax rate and the state compression rate, as determined under TEC, §42.2516(a). This subparagraph expires September 1, 2008.

(4) Calculated tuition limit. The calculated tuition limit is the sum of the excess M&O revenue per enrollee, the excess debt revenue per enrollee, and the base tuition limit, as calculated in subsections (b)(1), (b)(2), and (b)(3) of this section, respectively.

(5) Notification and appeal process. In the spring of each school year, the commissioner will provide each district with its calculated tuition limit and a worksheet with a description of the derivation process. A district may appeal to the commissioner if it can provide evidence that the use of projected student counts from the LPE in making the calculation is so inaccurate as to result in an inappropriately low authorized tuition charge and undue financial hardship. A district that used significant nontax sources to make any of its debt service payments during the base year for the computation may appeal to the commissioner to use projections of its tax collections for the year for which the tuition limit will apply. The commissioner's decision regarding an appeal is final.

(c) Maximum tuition amount in property value adjustment. The maximum tuition amount to be used in the adjustment to property value is limited to the amount per student computed in subsection (b)(4) of this section.

(1) The adjusted property values will be applied to the calculation of state aid as described in the following subparagraphs.

(A) Beginning with the 2008-2009 school year and subsequent school years, this adjustment to property values will be made in the calculation of state aid in accordance with TEC, §42.302(a-1)(1). Unadjusted property values will be used to calculate state aid in accordance with TEC, §42.302(a-1)(2) and (a-1)(3).

(B) For the 2006-2007 and the 2007-2008 school years, this adjustment to property values will be made in the calculation of state aid in accordance with TEC, §42.302(a-3)(1). Unadjusted property values will be used to calculate state aid in accordance with TEC, §42.302(a-3)(2) and (a-1)(3). This subparagraph expires September 1, 2008.

(C) The tax rate used to calculate the adjustment to property values will be adjusted to ensure that the property value adjustment provides sufficient state aid to cover the cost of the maximum tuition amount or the actual tuition amount, whichever is lesser.

(2) The adjustment to property values of the home district may not result in an increase of revenue to the home school district that exceeds 10% of the total tuition paid to the receiving district to educate the transfer student(s).

Statutory Authority: The provisions of this §61.1012 issued under the Texas Education Code, §25.039 and §42.106.

Source: The provisions of this §61.1012 adopted to be effective September 7, 2000, 25 TexReg 8641; amended to be effective March 28, 2004, 29 TexReg 2881; amended to be effective May 4, 2008, 33 TexReg 3410.

§61.1013. Gap Funding.

(a) Gap funding is supplemental state assistance to school districts that do not achieve the same revenue benefit per weighted student as districts eligible for tier II funding due to formula changes enacted by the 77th Texas Legislature, 2001.

(b) Districts eligible for gap funding are:

(1) those with wealth above the tier II guarantee level that applied in the 2000-2001 school year and below the equalized wealth level per weighted pupil; and

(2) those subject to wealth equalization with a revenue gain from the increase to the equalized wealth level enacted by the 77th Texas Legislature, 2001, that is less than the revenue gain from the gap funding formula.

(c) The district tax rate (DTR) in the gap funding formula is the district's DTR determined in accordance with Texas Education Code (TEC), §42.302 and §42.303.

(d) Gap funds shall be distributed to eligible districts along with other state aid payments in accordance with their Foundation School Program payment class. For eligible districts that are subject to recapture, gap funds shall be used first to reduce any recapture amounts owed.

(e) This section, issued under TEC, §42.2513, expires September 1, 2003.

Statutory Authority: The provisions of this §61.1013 issued under the Texas Education Code, §42.2513(f).

Source: The provisions of this §61.1013 adopted to be effective December 2, 2001, 26 TexReg 9618.

§61.1014. Additional State Aid for School Employee Benefits.

(a) In accordance with Texas Education Code (TEC), §42.2514, a school district or an open-enrollment charter school may be eligible to receive additional state aid for school employee benefits. These funds are to be used only to pay contributions under a group health insurance plan for school district or open-enrollment charter school employees.

(b) Eligibility for additional state aid for school employee benefits is determined by the extent to which 75% of the gains in the Foundation School Program (FSP) formulas resulting from the passage of House Bill (HB) 3343, 77th Texas Legislature, 2001, exceed the required contribution of school districts and open-enrollment charter schools for group health insurance coverage. The method described in paragraphs (1)-(4) of this subsection is used to determine whether a school district or an open-enrollment charter school is eligible to receive additional state aid for school employee benefits.

(1) The commissioner of education shall determine for each school district and open-enrollment charter school the amount of FSP funds gained by districts as a result of increases to the following school finance formula elements resulting from the passage of HB 3343, 77th Texas Legislature, 2001:

(A) the increase in equalized wealth level defined by TEC, §41.002, from $295,000 per student in weighted average daily attendance (WADA) to $305,000 per WADA; and

(B) the increase in guarantee level defined by TEC, §42.302, from $24.70 per WADA to $27.14 per WADA.

(2) The gain calculated in paragraph (1) of this subsection is multiplied by $.75.

(3) The required contribution to group health insurance is equal to the product of $900 multiplied by the number of school district or open-enrollment charter school employees that are participating in a group health insurance plan offered by the school district or open-enrollment charter school.

(4) The school district or open-enrollment charter school is entitled to receive additional state aid for school employee benefits if the required contribution calculated in paragraph (3) of this subsection exceeds the amount calculated in paragraph (2) of this subsection. The additional state aid for school employee benefits is equal to the amount by which the amount calculated in paragraph (3) of this subsection exceeds the amount calculated in paragraph (2) of this subsection.

(c) The commissioner shall provide reports for school districts and open-enrollment charter schools that illustrate the computation of the estimates of formula gain.

(d) The commissioner shall make a preliminary determination of gain in late August of the year preceding each applicable school year and shall certify the final gain in March of the year following each applicable school year.

Statutory Authority: The provisions of this §61.1014 issued under the Texas Education Code, §42.2514 and §42.260.

Source: The provisions of this §61.1014 adopted to be effective May 4, 2008, 33 TexReg 3413.

§61.1015. Property Value Adjustments Due to Taxpayer Protests.

(a) A school district is eligible for a property value adjustment if a major taxpayer fails to pay all or a portion of its ad valorem taxes because of a protest regarding the valuation of its property.

(1) A taxpayer is considered "major" if the amount protested contributes 5.0% or more to the tax collections of the school district.

(2) To be eligible for the adjustment, the district must have a Maintenance and Operations (M&O) tax rate that equals or exceeds the M&O tax rate in the prior year.

(b) The commissioner of education shall grant the adjustment at his or her discretion. If granted, the tax base of the eligible district shall be reduced by 100% of the protested value for the purpose of temporarily increasing the state aid payment to the district.

(c) When the protest has been resolved, the district must submit the results of the settlement to the commissioner within 30 days. An appropriate form shall be supplied by the commissioner to be completed by the district documenting the results of the protest and verified by the signature of the chief appraiser.

(d) Recovery of state aid overpayment or collection of insufficient recapture amounts due from the district as a result of the settlement shall be made by means of offsetting adjustments to current or subsequent year state aid or recapture amounts. These amounts must be repaid no later than two years after the year in which the adjustment was initially made.

Statutory Authority: The provisions of this §61.1015 issued under the Texas Education Code, §42.2531.

Source: The provisions of this §61.1015 adopted to be effective December 2, 2001, 26 TexReg 9619.

§61.1016. Delivery of Funds per House Bill 1, Rider 82, 2003.

(a) General provisions. For the 2003-2004 and 2004-2005 school years, each school district and open-enrollment charter school is entitled to an additional $110 per student in weighted average daily attendance as authorized by the General Appropriations Act, House Bill 1, Rider 82, 78th Texas Legislature, 2003. Only those school districts that are authorized to participate in the full range of Tier 1 allotments under Texas Education Code (TEC), Chapter 42, and open-enrollment charter schools established under TEC, Chapter 12, are eligible to receive this funding. A school district required to take an action under TEC, Chapter 41, is eligible to receive the $110 per student in weighted average daily attendance, subject to the adjustment in subsection (d) of this section.

(b) Calculation. The amount to which each eligible school district or open-enrollment charter school is entitled shall be based on the final weighted average daily attendance of those students actually educated by the entity for the respective school years. An estimate of the weighted average daily attendance shall be used for purposes of the initial calculation.

(c) Payment and reconciliation. Payment of the estimated amount shall be made in conjunction with other regularly scheduled state aid payments from the Foundation School Fund solely as an administrative convenience, and is not considered part of the general state aid calculation under the formulas for state aid in TEC, Chapters 42 or 46. Upon final determination of the amount earned for the 2003-2004 school year, the 2004-2005 amount shall be increased or reduced for any underpayment or overpayment from the preceding school year. Upon final determination of the amount earned for the 2004-2005 school year, and pending any future legislative action that would affect it, the 2005-2006 Foundation School Program entitlement for the school district or open-enrollment charter school shall be increased or reduced for the amount overpaid or underpaid for the 2004-2005 school year.

(d) Adjustment. For districts that are not entitled to state aid from the Foundation School Fund in Tier 1 as computed according to TEC, §42.253(c), the total amount of funding provided under Rider 82 is subject to reduction for the increase in the amount of funding received from the Available School Fund caused by the adoption of amendments to the Texas Constitution, Article VII, §5, at the election held September 13, 2003. The Texas Education Agency shall provide a computation of the additional revenue derived from the constitutional amendment to each affected district. The amount of the reduction shall be equal to the difference between the payment from the Available School Fund before and after the effects of the constitutional amendment, less any increase in recapture payment under TEC, §41.002(e), that may arise as a result of the increase in revenue from the Available School Fund. In no case shall the adjustment result in a payment for Rider 82 purposes higher than $110 per student in weighted average daily attendance.

Statutory Authority: The provisions of this §61.1016 issued under the General Appropriations Act, House Bill 1, Rider 82, 78th Texas Legislature 2003.

Source: The provisions of this §61.1016 adopted to be effective February 22, 2004, 29 TexReg 1361.

§61.1018. Payment of Health Care Supplementation.

(a) Purpose. In accordance with the Texas Education Code (TEC), Chapter 22, Subchapter D, each year the Texas Education Agency (TEA) shall distribute staff salary allotment funds to eligible entities for the purpose of making payments of health care supplementation to eligible employees, as specified by the provisions delineated in this section.

(b) Definitions. The following words and terms, when used in this section, shall have the following meaning, unless the context clearly indicates otherwise.

(1) Eligible entity--An eligible entity is defined as:

(A) a school district or other educational district whose employees are members of the Teacher Retirement System of Texas (TRS);

(B) a participating open-enrollment charter school; or

(C) a regional education service center.

(2) Full-time employee--An individual is employed as a full-time employee if the individual:

(A) is a participating member of the TRS;

(B) is employed by an eligible entity;

(C) is not a retiree covered under the Texas Public School Retired Employees Group Benefits Act established under the Texas Insurance Code, Chapter 1575;

(D) is not a minimum-salary-schedule employee; and

(E) works for an eligible entity or any combination of eligible entities for 30 or more hours each week.

(3) Minimum-salary-schedule employee--A classroom teacher, full-time librarian, full-time counselor, or full-time nurse subject to the minimum salary schedule under the TEC, §21.402.

(4) Part-time employee--An individual is employed as a part-time employee if the individual:

(A) is a participating member of the TRS;

(B) is employed by an eligible entity;

(C) is not a retiree covered under the Texas Public School Retired Employees Group Benefits Act established under the Texas Insurance Code, Chapter 1575;

(D) is not a minimum-salary-schedule employee; and

(E) works for an eligible entity or any combination of eligible entities for fewer than 30 hours each week.

(5) Staff salary allotment--An allotment made up of the health care supplementation funding an eligible entity is due under the TEC, Chapter 22, Subchapter D, based on the entity's number of full-time and part-time employees.

(c) Reporting. For each designated report month, each eligible entity must report to the TEA the number of full-time and part-time employees eligible to receive health care supplementation, as determined by the eligible entity in accordance with requirements established by the TEA in this section. The TEA may dispute, seek verification of, or conduct an investigation regarding the reported number of employees and staff at any time after receiving the report.

(d) Eligibility. For the purposes of this section, an individual is eligible to receive health care supplementation if the individual:

(1) is employed by an eligible entity;

(2) is a full-time employee, as defined in subsection (b)(2) of this section, or a part-time employee, as defined in subsection (b)(4) of this section;

(3) is not a minimum-salary-schedule employee, as defined in subsection (b)(3) of this section; and

(4) has provided written election of whether to designate a portion of the individual's compensation to be used as health care supplementation, in accordance with the TEC, §22.105.

(e) Funding formula. The funds for health care supplementation will comprise the staff salary allotment. Funding for the staff salary allotment is based on the number of employees who are eligible and the full- or part-time status of those employees. The staff salary allotment will be paid to the eligible entity as part of its regularly scheduled payments from the Foundation School Program (FSP). If the eligible entity is not scheduled or eligible to receive FSP payments, the staff salary allotment will be paid to the entity in a separate payment.

(1) During the school year, the staff salary allotment will be based on the sum of:

(A) an amount equal to the estimated number of full-time employees multiplied by $500; and

(B) an amount equal to the estimated number of part-time employees multiplied by $250.

(2) The final staff salary allotment due to an eligible entity for a school year will be determined by the reports of eligible employees submitted to the division responsible for state funding during the settle-up processes as described in subsection (f) of this section.

(3) The formula for determining the final staff salary allotment is as follows.

(A) The data submitted by an eligible entity to the division responsible for state funding is used to calculate the entity's staff salary allotment.

(B) Each month, the count of full-time employees is multiplied by $500/12.

(C) Each month, the count of part-time employees is multiplied by $250/12.

(D) The final staff salary allotment is determined by summing the monthly amounts for the full-time and part-time staff for the state fiscal year beginning September 1 and ending August 31.

(f) Settle-up. The TEA may make adjustments to previously reported numbers and may make a corresponding increase or decrease in funds that would otherwise be remitted to an eligible entity at any time after receipt of a report. A final determination of the staff salary allotment due to an eligible entity will be based on the reports of eligible employees submitted to the TEA division responsible for state funding.

(1) Near-final settle-up. Eligible entities must submit proposed adjustments to reports of eligible employees for a school year by August 31 of that school year for those adjustments to be reflected in the near-final settle-up reconciliation. Additional amounts owed to an eligible entity for health care supplementation will be added to the staff salary allotment due to the eligible entity in the subsequent school year. Any reductions in payments will be subtracted from the staff salary allotment due to the eligible entity in the subsequent school year until the overpayment has been recovered.

(2) Final settle-up. Eligible entities must submit proposed adjustments to reports of eligible employees for a school year by March 31 of the following school year for those adjustments to be reflected in the final settle-up reconciliation. Additional amounts owed to an eligible entity for health care supplementation will be added to the staff salary allotment due to the eligible entity in April and subsequent months of the current school year. Any overpayments from a prior year that exceed the amount owed to an eligible entity for health care supplementation by March 31 of the following school year will be subtracted from other FSP payments owed to that eligible entity in

April and subsequent months until the full amount of overpayment has been recovered. Any overpayments that cannot be subtracted from the current staff salary allotment or other FSP payments will be due and payable on request from the TEA.

(3) Adjustments to allotment. For a period not to exceed five years after the close of a fiscal year, the TEA may adjust the amount of an eligible entity's staff salary allotment for that year as a result of review, investigation, or audit of the eligible entity's reports of eligible employees and other data related to the staff salary allotment.

Statutory Authority: The provisions of this §61.1018 issued under the Texas Education Code, §22.102.

Source: The provisions of this §61.1018 adopted to be effective January 31, 2006, 31 TexReg 490; amended to be effective March 5, 2009, 34 TexReg 1584.

§61.1019. Additional State Aid for Ad Valorem Tax Credits under the Texas Economic Development Act.

(a) General provisions. This section implements the Texas Education Code (TEC), §42.2515 (Additional State Aid for Ad Valorem Tax Credits Under Texas Economic Development Act). In accordance with the TEC, §42.2515, a school district, including a school district that is otherwise ineligible for state aid under the TEC, Chapter 42, is entitled to state aid in an amount equal to the amount of all tax credits applied against ad valorem taxes of the school district in each year that tax credits were applied pursuant to the Texas Tax Code, Chapter 313, also known as the Texas Economic Development Act. School districts eligible to receive additional state aid under the TEC, §42.2515, must apply to the commissioner of education in order to receive additional state aid equal to the qualifying ad valorem tax credits issued under the Texas Tax Code, Chapter 313, Subchapter D, subject to certain annual limitations.

(b) Definitions. The following phrases, words, and terms, when used in this section, will have the following meanings, unless the context clearly indicates otherwise.

(1) Eligible property--A term that has the meaning assigned in the Texas Tax Code, §313.024.

(2) Limitation on appraised value--A term that has the meaning assigned in the Texas Tax Code, Chapter 313. A school district may limit the appraised value on a qualified property for the purposes of ad valorem taxation for a period of eight tax years, beginning with the tax year that follows the applicable two-year qualifying time period. A limitation on appraised value applies only to the maintenance and operations portion of a school district's ad valorem tax rate. For each tax year in which the limitation on appraised value is in effect, the appraised value of the qualified property that is described in the written agreement between the school district and taxpayer for school district maintenance and operations ad valorem tax may not exceed the lesser of the market value of the property or the amount to which the school district has agreed, but the limited amount must be at least the minimum amount of limitation that is set for the applicable school district category in the Texas Tax Code, Chapter 313.

(3) Qualified property--A term that has the meaning assigned in the Texas Tax Code, §313.021(2).

(4) Tax credit--A credit that is made to a taxpayer who has applied for and received a limitation on appraised value under the Texas Tax Code, Chapter 313, from the school district that approved the limitation in an amount equal to the amount of ad valorem taxes paid to that school district that were imposed on the portion of the appraised value of the qualified property that exceeds the amount of the limitation agreed to by the governing body of the school district under the Texas Tax Code, §313.027(a)(2), in each year in the applicable qualifying time period.

(5) Tax year--The calendar year beginning January 1 in which the taxpayer incurred ad valorem taxes on the qualified property for which the taxpayer is entitled to a tax credit toward ad valorem taxes paid in that tax year.

(6) Texas Economic Development Act--The Texas Tax Code, Chapter 313.

(c) Eligibility for additional state aid.

(1) A school district may be eligible for additional state aid under the TEC, §42.2515, only pursuant to the provisions of the TEC, §42.2515, and the Texas Tax Code, Chapter 313.

(2) A school district must file an application on a form prescribed by the commissioner in accordance with the applicable timeline as described in subsection (i) of this section. A separate application must be made for each tax year for which additional state aid is being requested. An application, including the required supporting documentation described in subsections (d)(2) and (d)(3) of this section, as applicable, must be complete in order for the Texas Education Agency (TEA) to process it.

(3) A school district must be in compliance with the reporting requirements set forth in 34 Texas Administrative Code Chapter 9, Subchapter F (relating to Limitation on Appraised Value and Tax Credits on Certain Qualified Property), to be eligible for additional state aid under the TEC, §42.2515.

(d) Procedures for filing request for additional state aid for ad valorem tax credits.

(1) Method of filing. All requests for additional state aid under the TEC, §42.2515, must be filed by mail with the TEA, 1701 North Congress Avenue, Austin, Texas 78701, in accordance with instructions on the application.

(2) Information required for first year of tax credit. A school district's initial request for additional state aid under the TEC, §42.2515, must include:

(A) a completed Request for Additional State Aid for Ad Valorem Tax Credit application form, including the template that comprises a component of the application showing requested and projected additional state aid for each agreement under the Texas Tax Code, Chapter 313;

(B) a copy of the taxpayer's application to the school district for the tax credit, together with all required attachments to the application;

(C) a copy of the school board's resolution or other proof that the school district has approved the taxpayer's application for the tax credit;

(D) a copy of the tax bill sent to the taxpayer (showing the credit) or other proof that the school district has reimbursed the tax credit to the taxpayer; and

(E) confirmation that, as of the date of the tax credit approval, the taxpayer has not relocated its business outside of the school district.

(3) Information required for subsequent years of tax credit. For each year subsequent to the year in which the initial request for the tax credit was approved, the request for additional state aid under the TEC, §42.2515, must include:

(A) a completed Request for Additional State Aid for Ad Valorem Tax Credit application form, including the template that comprises a component of the application showing requested and projected additional state aid for each agreement under the Texas Tax Code, Chapter 313;

(B) a copy of the tax bill sent to the taxpayer (showing the credit) or other proof that the school district has reimbursed the tax credit to the taxpayer; and

(C) confirmation that, as of the date of the tax credit approval, the taxpayer has not relocated its business outside of the school district.

(e) Forms. The division of the TEA responsible for state funding will make available the application form, including the template, required under subsections (d)(2) and (d)(3) of this section.

(f) Limitation of tax credit. In the fourth through the tenth years in which the agreement described in subsection (b)(2) of this section is in effect, the tax credit is limited to 50% of the total maintenance and

operations and interest and sinking fund taxes imposed on the qualified property for the tax year for which the credit applies.

(g) Determination of additional state aid. For any tax year for which additional state aid authorized by the TEC, §42.2515, is approved, additional state aid will be limited to the amount of the tax credit due to the taxpayer for a qualified property that is receiving a limitation on appraised value for that year as determined in the Texas Tax Code, §313.104.

(h) Erroneous tax credits and recovery of state aid for erroneous tax credits. If the comptroller of public accounts or the governing body of the school district determines that an entity that received a tax credit was ineligible to have received it or received more credit than the entity should have received, the school district must provide a notification of the facts to the commissioner within 30 days of the official action. If the TEA determines that an entity that received a tax credit was ineligible to have received it or received more credit than the entity should have received, the commissioner will notify the school district within 30 days of the determination. Any overpayment of additional state aid provided to the school district based on issuance of an erroneous tax credit by the school district will be fully recovered by the TEA pursuant to the TEC, §42.258.

(i) Timeline for submission of application requests.

(1) For tax credits earned under the TEC, §42.2515, for taxes that became due and payable on January 31, 2009, or at any time before that date, the school district must submit its application for additional state aid for ad valorem tax credits on or before May 31, 2009.

(2) For tax credits earned under the TEC, §42.2515, for taxes that become due and payable on January 31, 2010, or at any time after that date, the school district must submit its application for additional state aid for ad valorem tax credits on or before May 31 each year for which the tax credit is due.

(j) Payment to the school district. On approval of a school district's application for additional state aid for ad valorem tax credits by the commissioner, the amount of the credit will be applied to the entitlement due to the school district under the Foundation School Program as follows.

(1) State aid payments for tax credits on taxes that become due and payable after January 31, 2009, will be applied to the school district entitlement as prescribed by the TEC, §42.2516(b-2)(1). Payments for this credit will be incorporated into the payments made under the schedule prescribed by the TEC, §42.259.

(2) State aid payments for tax credits on taxes that were due and payable on January 31, 2009, or at any time before that date will be paid on or before August 31, 2009. This paragraph expires on September 1, 2009.

Statutory Authority: The provisions of this §61.1019 issued under the Texas Education Code, §42.2515.

Source: The provisions of this §61.1019 adopted to be effective April 23, 2009, 34 TexReg 2532.