

[Texas business incentives: New Chapter 403 tax breaks on cusp of legislative OK - Austin Business Journal \(bizjournals.com\)](#)

Texas lawmakers on cusp of reviving school property tax breaks for big, expanding businesses

Senate OKs Chapter 403 incentives, the replacement for Chapter 313



Image: Mike Christen / ABJ

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The sun sets on the Texas Capitol in Austin during the 88th Legislature on May 22.

MIKE CHRISTEN / ABJ

By [Mike Christen](#) and [Justin Sayers](#) — Austin Business Journal
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Texas lawmakers appear ready to revive a school property tax abatement program intended to lure major corporate projects to the state.

State senators on May 24 voted 27-4 in favor of the Texas Jobs and Security Act, designated as [House Bill 5](#), which would effectively bring back the core of the controversial Chapter 313 incentives program that came to an end in 2022.

The amended bill heads back to the House to iron out differences between the two chambers' versions. After that, it would head to the desk of Gov. [Greg Abbott](#).

HB 5 was previously [approved by the House on May 5](#).

"Importantly, the Texas Jobs and Security Act will provide additional resources for our schools and create greater opportunities for our children," said [Ali Khataw](#), CEO of Encotech Engineering Consultants and 2023 chairman of the Greater Austin Chamber of Commerce. "We only need to look to Taylor, Texas and the benefits that the Samsung project has brought to Taylor ISD."

Chapter 313 was used by companies such as Tesla Inc. and Samsung Electronics Co. Ltd. to subsidize large facilities in the Austin area.

The Senate approval, ahead of a midnight May 24 deadline, was a relief for many members of Central Texas' business community, who argue the program — [now called Chapter 403](#), for its place in state government code — will enable Texas to remain competitive when courting major economic development projects. Opponents see the proposal as corporate welfare that impacts students in economically depressed areas, who rely on funding from wealthier districts across the state.

"There were abuses of the prior 313 agreement," said Sen. [Charles Schwertner](#), R-Georgetown, noting that Chapter 313 enabled financial kickbacks to specific school districts as he led the bill's consideration on the Senate floor.

He added there "were also problems with oversight" and said HB 5 "bill addresses those concerns directly."

"The bottom line is we are putting a lot more teeth, enforcement and oversight in this new tax incentive program," Schwertner said.

Chapter 403 would allow for tax breaks for large, capital-intensive projects on the portion of school district property taxes that pay for maintenance and operations.

Like its predecessor, it would give school districts the ability to cap the taxable value of a property for up to 10 years, potentially saving companies millions or even billions of dollars over a decade.



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Samsung's semiconductor fabrication plant, still under construction in Taylor was one of the biggest projects in Texas to gain property tax breaks through the Chapter 313 incentives program.

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In a departure from Chapter 313, HB 5 calls for a percentage of the tax savings to be sent to the state comptroller, which could then be put into the state's general revenue fund.

The bill also calls for both the program applicant and the participating school district to conduct annual reports for review by the state comptroller to ensure the terms of each agreement are being met.

It has also been amended to increase the minimum number of new jobs created to qualify for incentives from 25 to 50, and each employee must be offered health benefits. Each application must also support the creation of a qualified workforce by providing and developing apprenticeship programs with the partnering school district.

Recent amendments to the bill have clarified the types of projects that could apply for the program. They include electric power generation facilities, petrochemical manufacturing facilities, semiconductor manufacturing facilities, desalination facilities, natural gas terminals or storage facilities, gas processing plants, carbon capture facilities, pharmaceutical manufacturing facilities, automotive manufacturing families as well as aerospace manufacturing facilities and corporate headquarters.

Renewable energy projects are not allowed to participate in the program, including non-dispatchable electric generation facilities and electric energy storage facilities including

wind, solar and battery projects from participating. The intention behind this decision is that these projects do not yield as many jobs as their traditional counterparts.

An oversight committee will also determine if emerging industries should be considered for the abatement, or if others should be removed.

Other key changes include a revised application process that would require a participating company to submit a 25-year outlook for each agreement in addition to a report from the Texas comptroller and an additional audit process.

Both the applicant and the participating school district must share reports to the comptroller as part of an effort to ensure that the requirements of the agreements are being met, including mandatory job requirements from the applicant.

In addition, the legislation also aims to foster investment in areas of the state that have previously been underserved by large capital investment projects.



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Rosalie Tristan, a member of Valley Interfaith in the Rio Grand Valley, speaks at a rally in opposition to House Bill 5 organized by the Industrial Areas Foundation on the steps of the Texas Capitol on March 21.

MIKE CHRISTEN / ABJ

Opponents of the incentives claim Chapter 313 has cost taxpayers \$31 billion in the form of missed tax revenue for Texas public schools, noting that many corporate investments in the state would come even without tax breaks, according to a [2017 study](#) by University of Texas government professor [Nate Jensen](#).

"We believe that a strong economic development strategy is the result of investments in education, workforce, and strong communities," stated [Edie Clark](#), a representative of Austin Interfaith, a nonpartisan organization of religious congregations, public schools and unions that advocates for families and [is critical of school property tax incentives](#). "They voted to continue to support subsidizing corporate welfare on the backs of schoolchildren and taxpayers."

Austin Interfaith claimed its two-year campaign in opposition to the program helped eliminate direct payments to school districts and increased job creation requirements for Chapter 403

"These reforms were all meant to respond to our criticisms of the program," Clark said. "We commend the senators who had the courage to vote against this failed program. We look forward to seeing what the speaker and House think of this version of the bill."

The legislation's Senate passage was celebrated by representatives of the business community.

"This bill sends a clear message that Texas means business when it comes to competing for multibillion-dollar manufacturing projects," said [Glenn Hamer](#), CEO of the Texas Association of Businesses.

In Austin, the bill's advance comes as a relief to Khataw, who is also president and CEO of Encotech Engineering Consultants. Last year, he urged Austin Independent School District trustees [to support a Chapter 313 request](#) from semiconductor manufacturer NXP Semiconductors NV. Ultimately, the request was [not accepted by the school district](#).

"It is imperative that Texas remains competitive with other states who are seeking large, capital-intensive economic development projects," he said. "The absence of a property tax abatement program puts our state at a competitive disadvantage, which will lead to fewer jobs, less economic growth and a weakened posture to compete for projects at the global level."

Khataw said that under Chapter 313, more than \$105 billion in capital investment created more than 12,000 direct jobs in the state and resulted in more than \$1 billion in wages being paid during 2021, which translates into an average annual wage of over \$91,000.

[Stacy Schmitt](#), vice president of economic development at Opportunity Austin, called HB5 an "important step toward ensuring that Texas remains a global leader for economic development."

"An incredible amount of work was done with senators to create a thorough bill that will keep Texas competitive, while providing more opportunities and additional resources across the region and state," she said. "We are confident members will work quickly and

collaboratively to get this new, modern and transparent economic development program through the finish line and onto the governor's desk."

Should the bill advance at the Legislature and receive the governor's signature, business leaders and government officials said it would continue to fuel growth in the Austin area, especially along the urban periphery where development is rapidly proliferating.

Caldwell County Judge [Hoppy Haden](#) said having a replacement for Chapter 313 would be "huge" for the largely rural region he represents south of Austin. The county has large swaths of available land ready for development, including an 1,800-acre "megasite" on FM 2720 near Lockhart.

"We have a couple of big projects that are interested in the megasite but they're kind of on pause, waiting to see what happens with this legislation. It would be enormously helpful for us," he said, adding that he's satisfied with changes like establishing a minimum capital investment.

"I'm fine with that," he said. "The projects that we have interest in are well in excess of that."

Williamson County Judge [Bill Gravell](#), who represents a fast-growing area north of Austin, said with the passing, "The Texas dream is going to continue." He said more than two dozen companies looking at his county, some of which are considering multibillion-dollar investments, have been waiting to see what happens with this legislation.

He said Texas stands to benefit the most in sectors such as manufacturing and national security, with the future of the state's economy intertwined with trends like on-shoring, which refers to bringing jobs back to the United States. That could be in industries like semiconductor production or electric vehicles.

Cameron Goodman, economic development director for the fast-growing city of Georgetown in Williamson County, also tied the need for such property tax incentives to on-shoring, as well as the push to produce more computer chips in the United States.

The Austin area is already a desirable one for companies because of a talented workforce, helpful education partners and established clusters for sectors such as life sciences and semiconductors, Schmitt said. But at the end of the day, incentives are "at the top of the list" for companies, she added.

"They want to look at what incentives are available and those are incentives at the state level, at the city and county level, to see what that package may look like," she said.

While Texas has historically been a leader in winning large economic development projects, others states have caught up, such as New York, Tennessee and Ohio, said Jordan Robinson, president and CEO of the Round Rock Chamber.

"Without this critical economic development tool, Texas is less competitive and stands to lose more significant economic development projects, especially during a time in which other states are creating even more tools for their economic development toolbox," she said.

In Taylor, Samsung is building a next-generation chipmaking facility that it initially labeled as a \$17 billion project, although outlets [such as Reuters](#) have reported since then that the investment could easily eclipse that total because of rising construction costs. Taylor Independent School District Superintendent [Devin Padavil](#) said the project would not have happened in his district without Chapter 313.

He said the way the incentives are structured will actually allow Taylor ISD to lower its tax rate over time, while providing opportunities for students and community members.

"The economic development incentives really helped lure Samsung to Taylor, Texas," he said. "The funding that we would have received from just appraisal values going up would have gone directly back to the state and not into the school district. And because of direct payments — also known as revenue-protection payments from an economic development incentive plan — we are able to maximize the dollars used to improve compensation for our staff and put resources in the hands of kids."

Padavil likes the Chapter 403 program as well because, he said, the new bill provides clarity regarding revenue-protection payments and sets in stone what contributions to communities and school districts look like over time.

"Economic opportunity for families that are below the middle class are life changing," Padavil said. "In the community of Taylor, when 70% of our community is on free and reduced lunch in our schools, the opportunities provided to us by a huge corporation like Samsung are going to change the trajectory of so many kids' lives."