

[Texas House bill proposes Chapter 313 replacement, excludes renewables \(statesman.com\)](https://statesman.com)

STATE

House proposal to replace Chapter 313 economic incentive program excludes clean energy



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Austin American-Statesman | April 11, 2023



A Texas House proposal to replace Chapter 313, a recently expired economic development incentive program, would provide school district property tax breaks for certain eligible infrastructure and investment development projects, but exclude renewable energy projects from qualifying, which Gov.

Greg Abbott and some Senate Republicans have said is a requirement for them to support the bill.

On Monday the House Committee on Ways and Means heard hours of testimony on House Bill 5, which is authored by Rep. Todd Hunter, R-Corpus Christi, and has bipartisan support from an additional 54 state representatives. The proposal is a priority for House Speaker Dade Phelan.

HB 5 seeks to incentivize companies to locate high-value investment projects in Texas by providing a 10-year school district property tax break for certain proposals in order to create more jobs, encourage economic growth, improve and expand infrastructure, and make Texas a leader in “new and innovative technologies.”

“Texas has a \$2 trillion economy, making us the ninth-largest economy in the world, and this year Texas won the Site Selection Magazine's Governor's Cup for the 11th year in a row, so Texas is doing a great job economically,” Hunter said. “I'm laying out this bill ... called the Texas Jobs and Security Act, and this is going to give Texas a tool to continue to attract new business in the state of Texas.”

Projects that would be eligible for the tax program include national or state security facilities; supply chain infrastructure; oil and gas supply and industry; water infrastructure or flood mitigation; and manufacturing, as well as facilities that contribute to the power grid's reliability, except for renewable energy proposals. Projects that would invest more than \$1 billion within a school district would also be eligible.

Under the 44-page bill, to be eligible for tax breaks, applicants would be required to prove the project would create a certain number of jobs and invest a minimum amount of money within the school district where the project would be located. The minimum number of jobs and financial investment would be dependent on the population of the county the project would be located in, based on a three-tier system, with different requirements for

counties with fewer than 25,000 people, counties with 25,000-750,000 people, and counties with more than 750,000 people. However, the job creation and financial investment requirement would not apply to grid reliability projects.

George Christian, an Austin attorney who assisted in crafting the legislation, testified Monday that the tier system is meant to not only promote transparency, but to help rural counties remain competitive in attracting such projects.

The bill also includes a formula to standardize how much of the tax savings that companies receive must be shared with the school district the project is located in during the 10-year tax break period. Those payments are not subject to the state's recapture program — which is meant to support school districts with less property wealth per student — a major draw for school districts.

Companies interested in participating in the program would have to apply and provide required information, including the estimated economic benefit to the area. The state comptroller's office would then review the applications and make a recommendation to the school district the project would be located in on whether to approve or reject the proposal. While the ultimate decision on whether to approve a project lies in school districts' hands, they can only approve projects if the comptroller has reviewed the application and recommends approval.

Applicants may pay a fee to amend the application and request a hearing if they wish to appeal the comptroller's ruling on an application.

The bill would also require the comptroller's office to provide periodic reports on projects that participate in the program, and make certain information available related to applicants and participants, with the aim of greater transparency and oversight of the program, an issue critics had with the expired Chapter 313 program.

“The bottom line is we're trying to really promote the economy for the future,” Hunter said. “We always hear the word 313 – That's gone. This is not 313. You can compare it to 313, but this is a statutorily new document that basically creates new law in the state of Texas.”

Christian, the attorney who helped craft HB 5, said: “This bill is really quite distinct from the old law. It is not the old law. We set out to try to write a better one, frankly, and to make it more responsive to what we believe to be the economic needs of the state. And certainly when we look around the country and see what other states are doing, we felt the need to write something (to keep Texas) competitive, and I think we've done that.”

Of the 50 people who testified on the bill, 48% testified in support, 40% in opposition, and 12% were neutral on the legislation.

Supporters: HB 5 would keep Texas competitive

Of the 24 people who testified in support of the bill, many were superintendents or representatives of local school districts, economic development organizations or chambers of commerce from across Texas. They argued HB 5 would keep Texas competitive in comparison with other states and countries in attracting valuable economic projects and investment that would improve the economy and local communities and provide additional money to school districts.

Devin Padavil, the Taylor school district superintendent, spoke about how his district benefited from the Chapter 313 program.

“Our mission is to inspire, equip and empower every student to achieve their unique potential, and a little less than two years ago, our ability to accomplish that mission was accelerated by the decision of Samsung to land Taylor, Texas, as their site,” Padavil said. “It was a global competition with eight different sites, and if not for economic incentives, I don't know that Samsung would

have chosen Taylor, Texas, and this is an economic development that has the opportunity to transform the community.”

Padavil testified that since Samsung located a project in Taylor, the school district has increased its bond capacity to \$240 million, was recently able to pass an \$82.4 million bond with no tax rate increase, increase teacher salaries and hourly pay, and been able to afford to offer more career and technical education pathways.

Bob Harvey, president and CEO of the Greater Houston Partnership, testified that HB 5 is necessary to keep Texas’ economy strong.

“The economic engine of Texas is running strong in no small measure thanks to the work of this Legislature over the last years to create an environment for business to thrive, but other states like Florida, North Carolina, Georgia, Ohio, in particular, have taken notice of our success and become much more aggressive in the incentive packages that they craft to attract new companies to the state,” Harvey said.

“While we don't have to match those incentive packages point by point, we do need to have a robust program in place to keep us competitive, especially as the site selection process comes to the final stages when incentives absolutely matter to the final decision-makers.”

Marina Gonzales, president and CEO of the San Antonio Hispanic Chamber of Commerce, told the committee that HB 5 would ensure Texas remains a leader in key industries.

“I want to thank Chairman Hunter for leading the effort to ensure Texas can again be competitive for these types of large national security, manufacturing resiliency and energy development projects,” Gonzales said. “Texas doesn't need to provide the greatest amount of tax limitations, but we do need to be in the game. We don't need to dominate every leading-edge industry in this

country, but we do need to ensure that we have resiliency and remain self-sufficient.”

Opponents: HB 5 is 'corporate welfare'

Among the 20 people who testified against the bill, many representing themselves or environmental advocacy groups. The bill's opponents argued that HB 5 would be “corporate welfare” by providing tax breaks for highly profitable companies, or brought up concerns about the potential for a negative environmental impact, particularly with the bill’s exclusion of renewable energy projects.

Miles Brandon, pastor at St. Julian of Norwich Episcopal Church in Williamson County and a member of Central Texas Interfaith and Texas Industrial Areas Foundation, testified against the bill, claiming it would drain essential funding from public schools by providing giant corporations with tax breaks.

“HB 5 will continue to drain the lifeblood out of those good and godly things that we claim to hold most near and dear to our hearts, beginning with our children's education and future,” Brandon said. “HB 5, like 313 before it, seeks to irresponsibly give away billions of dollars that could and should be spent on education and other important public goods, and HB 5 as filed is even more permissive and less transparent than 313.”

"Thus, it would give away billions without protecting workers rights, watered down job requirements, less money going to schools, the removal of renewables and without any upward limit to dollars given away," Brandon said. "HB 5 will just continue and expand 313’s fiscal irresponsibility and massive corporate welfare – we know economic development matters to our state, but any new tax abatement program should be decoupled from school finance.”

Rosalie Tristan, representing Valley Interfaith and the Texas Industrial Areas Foundation, also testified against the bill, saying it puts smaller and more rural school districts at an even bigger disadvantage.

“House Bill five recreates a scheme where a small number of school districts grant tax breaks that cost billions in school property taxes that could go into our public education system to increase funding to low-income districts like those in the Rio Grande Valley and across the state,” Tristan said.

“A small group of well-connected and well-paid lawyers and consulting groups negotiate these deals between the corporations and the school districts. ... In return, the corporations pay hundreds of millions of dollars in supplemental payments directly to the district. The lawyers, the multinational corporations and a small number of school districts are winners here.”

Luke Metzger, the executive director of Environment Texas who opposes the bill, expressed concern about the environmental impact of HB 5, and opposed the exclusion of renewable energy projects from program eligibility.

“In 2021, Chapter 313 recipients dumped about 100 million tons of pollution into Texas skies. Now, at the same time, this bill is excluding an industry, wind and solar power, that are cleaning up our environment and reducing pollution. That is outrageous,” Metzger said.

“Governor Abbott has suggested that that's appropriate because of tax subsidies received from clean energy from the federal government, but to be clear, fossil fuels have long benefited from subsidies from both the federal and state government to the tune of hundreds of billions of dollars, including the high-cost gas tax exemption here in the state of Texas,” Metzger said. “So, if this program and this bill is to move forward, we think that the state shouldn't be subsidizing pollution. We should insist on the strongest-in-the-country standards for pollution control, we shouldn't exclude wind and solar and we should expect better from industry in Texas.”

Rural school districts want renewable energy projects included

Of the five people who testified as neutral on the bill, three told the committee they would have testified in support of the bill if it had allowed renewable energy projects to participate in the program.

Aaron Hood, superintendent for Robert Lee school district, said he was only testifying as neutral on the bill, instead of in support, because his rural district in West Texas has greatly benefited from three wind projects that received tax exemptions under Chapter 313.

“This bill does help some school districts but clearly omitted a huge part of Texas, which is rural Texas; I respectfully request that you seriously consider adding renewable energy projects into this bill,” Hood said. “Rural Texas deserves that economic development and renewable projects, and that has been the driving force for rural Texas.”

Teddy Clevenger, superintendent of Bartlett school district, a rural district in Bell County, also testified as neutral because the district has benefited from renewable energy projects, and he asked lawmakers to include wind and solar proposals as eligible projects.

Jeffrey Clark, president of the Advanced Power Alliance, testified as neutral on the bill and said it is a “false narrative” that renewable energy is “bad for Texas.”

“Someone said that this program doesn't benefit districts all over the state; I would submit to you that it does when you go to a low-wealth district and you put a major capital investment like a wind farm or a solar farm in that community and allow them to generate the tax revenue they need for their students — that frees up more money in the system for everyone,” Clark said.

“We would ask you to take a stand for rural Texas – If it's not the will of the entire Legislature that renewable energy is included, I would ask that the

House stand up for rural Texas and let's have a clean discussion on this, and if rural communities are not able to use this program going forward, I'd like them to know who stood with them and who did not," he said.

The bill was left pending in committee Monday, but it could still advance for a vote on the House floor in the coming weeks. If the House approves HB 5, it would move to the Senate for consideration.