

[Tax breaks in Texas: New state incentives program takes shape at legislature - Austin Business Journal \(bizjournals.com\)](#)

Government & Regulations

Pros, cons of replacement for Chapter 313 incentives vigorously debated at Texas Capitol



[Enlarge](#)

Construction continues at Samsung's \$17 billion semiconductor fabrication site in Taylor. It was one of the many projects that received Chapter 313 property tax breaks before that program expired at the end of 2022.

REALPHOTO INC.



By [Mike Christen](#) — Staff Writer, Austin Business Journal
Apr 13, 2023

With less than two months remaining in the 88th Texas Legislature, one of the session's policy priorities for economic development leaders is taking shape: an effort to replace the state's property tax-based corporate incentives program that expired at the end of 2022.

[House Bill 5](#), also known as the Texas Jobs and Security Act, was considered April 10 by the House Committee on Ways and Means. It is a proposed successor to Chapter 313, a program that provided breaks on school property taxes and over roughly two decades secured major projects for the state like Tesla's [\\$1 billion gigafactory](#) east of Austin, Samsung's \$17 billion [semiconductor manufacturing plant](#) in Taylor and Toyota's car plant in San Antonio.

Chapter 313 gave Texas school districts the ability to cap the taxable value of a property for a portion of school taxes for up to 10 years.

The new act would generally continue that process, though it also 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.

In another departure from Chapter 313, HB 5 would also exclude renewable energy projects from the tax breaks.

Critics say HB 5 is an attempt to revive a program that was defeated by bipartisan opposition during the last Texas legislature. They also have shared concerns that the bill currently does not include a cap on tax savings.

This week's committee hearing marked the first time the proposed bill was discussed in a public meeting since Chapter 313 [expired at the end of 2022](#). Following more than four hours of deliberation and public hearings April 10, the bill was left pending in committee as the proposal undergoes another draft.

"Texas has a \$2 trillion economy, making us the ninth largest economy in the world," San Antonio-area Rep. [Todd Hunter](#) said as he introduced the bill. "This is going to give Texas a tool to attract new business in the state of Texas."

Hunter said changes being made to the bill aim to increase transparency by requiring each applicant to the program to submit an economic impact statement that would project finances out 25 years, among other changes.

"The bottom line is that we are trying to really promote the economy for the future," Hunter said. "We always hear the word 313. That's gone. This is not 313, this is a statutorily new document that basically creates new law in the state of Texas. It does have the accountability and it does have the transparency."



[Enlarge](#)

State Rep. Todd Hunter

How it works

[George Christian](#), an Austin attorney who is helping draft the bill, said at the hearing that the act represents a significant departure from Chapter 313.

Christian said HB 5 narrows what kind of projects can qualify for the incentives, focusing on manufacturing and power grid reliability projects. It also includes basic chemical and oil refining facilities, along with projects that represent an investment of \$1 billion or larger.

"It is still a little bit of a work in progress but it is still pretty close to where I think everybody would like it to be," Christian said.

The new incentives program would be divided into three tiers based on the population of the county where a project is located. The tiers range from a \$100 million investment creating 50 new jobs down to a \$28 million minimum investment creating at least 20 jobs.

There are exceptions for smaller, rural areas.

HB 5 would create a similar regulatory process to Chapter 313, beginning with an application fee to the school district. Proposals would then go to the comptroller's office for review, ahead of a final vote from the district on whether to approve a 10-year incentives period.

The agreement would be terminated if the project does not meet the investment requirements set by the program.

HB 5 also introduces a tax-sharing formula that limits how payments pass from the incentivized company to the participating school district.

Christian said details are still being tweaked but the bill currently indicates roughly 30% of the first \$2 million in payments will be shared with the district, 20% between \$2 million and \$5 million and 10% for \$5 million and above.

"The idea is that at the lower levels of savings, the district gets more," Christian said. "We have set it up to be more responsive to what we believe to be the economic needs of the state."

Committee member Rep. Sergio Muñoz Jr. questioned elements of the bill, including the exclusion of renewables projects and the payments made to school districts by applicants.

"How can you be an effective advocate when you are getting paid by the person you are supposed to be negotiating with?" Muñoz asked. "It certainly presents a conflict to me. I think it is something you need to take a look at and you must address."

Proponents, opponents weigh in

More than 50 people made comments on the proposed bill during the April 10 meeting, an indication of the heightened business and public interest in this legislative item.

Support for the bill came from groups such as the Greater Houston Partnership and the Texas Hispanic Chamber of Commerce Coalition, as well as representatives from Williamson County.

[Gary Farmer](#), president of Heritage Title Company of Austin Inc. and chairman of Opportunity Austin, said HB 5 would ensure that the emerging San Antonio-Austin "mega-region" remains a competitive place to do business.

"There is no doubt that we can recite a list of wins that we have had in Texas, but we also have a list of losses," said Farmer, who was involved in the negotiations with Tesla and Samsung, as well as Central Texas' losing bid to land a semiconductor fabrication facility from Micron Technology Inc.

Micron ended up picking Central New York for [the \\$100 billion project](#). Another notable recent loss for Texas was when carmaker Rivian decided to build its [\\$5 billion plant in Georgia](#) after considering Fort Worth.

"We have got to have competitive tools in the toolbox," Farmer said. "HB 5 will allow us that opportunity and we urge your passage of the bill."

[Glenn Hamer](#), president and CEO of the Texas Association of Business, said that each new job in manufacturing also brings three new jobs in the service, supply and construction industries.

"It is an incredibly competitive world," he said. "We absolutely need HB 5 to continue the Texas miracle and would urge its swift passage."

Opponents of the program include the Lone Star Chapter of the Sierra Club and the Industrial Areas Foundation network of faith and community-based organizations that includes [Austin Interfaith](#), which pushed for more public input on the agreements and opposed the program's use of tax dollars that would otherwise go toward public education.

Rev. [Miles Brandon](#), vicar at St. Julian of Norwich Episcopal Church in Round Rock, argued that the more than \$31 billion in tax savings already granted to companies through Chapter 313 "pad the bottom lines of often multinational corporations" and "drain the lifeblood" of the state's education system.



Image: Austin Business Journal

[Enlarge](#)

Rev. Miles Brandon leads a rally in opposition to House Bill 5 organized by the Industrial Areas Foundation on the steps of the Texas State Capitol in Austin on March 21.

MIKE CHRISTEN / ABJ

A key concern about the program from Austin Interfaith is that the deals only benefit the school district where a project is located, creating further inequity within the state's public education system.

"HB 5, like Chapter 313 before it, seeks to irresponsibly give away billions of dollars that could and should be spent on education and other important public goods," Brandon

said, arguing that the new bill is even more permissive and less transparent than the policy that preceded it.

Brandon added that "any new tax abatement program should be decoupled from school finance and school board decision-making and instead be a debated and budgeted line item, every two years in the state budget. That is the only way we could ever guarantee to the people of Texas an incentive program with true transparency and accountability."

Melany Meyer, a health care worker from Brazoria County along the Gulf Coast, lamented that the tax abatements have supported the construction of chemical plants from Dow Chemical and Freeport LNG, noting a recent explosion at the latter's natural gas terminal.

"The past 313 agreements and other tax abatements have been abused by the companies in our county," said Meyer, who is also the founder of Better Brazoria: Clean Air & Water. "They make massive profits while polluting our communities."

The 88th Texas Legislature is set to end May 29.