

[Why Texas' new Chapter 313 tax break is even worse than before \(houstonchronicle.com\)](https://www.houstonchronicle.com)

OPINION//EDITORIALS

# Why Texas' new Chapter 313 tax break is even worse than before (Editorial)

The Editorial Board  
April 17, 2023



Lone Star NGL facility in Mont Belvieu, where many facilities have received property tax breaks under the Chapter 313 program.

Mark Mulligan, Houston Chronicle / Staff photographer

On the day after Easter, a holiday celebrated for a notable resurrection, a bill to bring back an expired corporate tax incentive program was quietly given new life.

Indeed, Texas economic development evangelists speak of this program – once known as Chapter 313 but now House Bill 5 – with almost biblical reverence. It may not turn water into wine, but they argue it will at least turn our school property tax dollars into new jobs for years to come.

We truly wish that were true. Tax incentives done smartly can be a good deal for Texans but not when there are few protections against abuse and waste. That, after all, is why lawmakers killed Chapter 313 last session.

Sadly, the current, revised version of the bill, sponsored by state Rep. Todd Hunter, R-Corpus Christi, simply repeats the sins of the past and, in some ways, commits new ones.

Whereas Chapter 313 gave manufacturing and energy companies a decade of steep discounts on their school property taxes, House Bill 5 would provide even more lucrative incentives for a broader range of projects, albeit with fewer job-creation requirements and even less accountability and transparency. And unlike Chapter 313, which the Legislature let expire at the end of December, this version of the program has no sunset provision, meaning, in theory, it would live on for eternity with no requirement for lawmakers to reassess its effectiveness.

The core problem with Chapter 313 was that it lacked the safeguards to ensure that tax incentives were needed or that companies actually created the jobs and economic benefits they promised. House Bill 5 makes some subtle improvements on that front, but with poor trade-offs that could lead to lower-quality jobs overall.

The new bill requires applicants to provide a more detailed economic impact statement – which includes an analysis detailing the project's total impact on the community and local tax base – and gets rid of a 313 provision that allowed job requirements to be waived for certain targets. Projects that receive a tax break in the state's most populous counties – where only 4 percent of active 313 projects are located – are required to create a minimum of 50 jobs. Everywhere else, the minimum job requirement is reduced from 25 to 20, and with far weaker wage and benefits requirements. Whereas 313 required jobs to pay 110 percent of a county's manufacturing wage and required health insurance, the new wage standard is 100 percent of the local average wage for all jobs with no benefits required. Additionally, projects that qualify under the "grid reliability" category –

such as new natural gas plants – are exempt from any requirements related to jobs, investment or the possibility that the project could go elsewhere.

Another key difference between 313 and HB 5: the types of industries and projects eligible for incentives. Lawmakers have decided that the need to remain "competitive" through taxpayer-funded incentive programs no longer applies to renewable energy projects involving wind and solar. For reasons that remain baffling, both Gov. Greg Abbott and Lt. Gov. Dan Patrick have said publicly that any new tax incentive program should exclude these projects, despite the fact that one of the saving graces of Chapter 313 was its role in helping Texas become the nation's leader in combined wind and solar generation.

The program attracted more than \$60 billion worth of new renewable energy investments, and was a boon for rural communities which have the land mass to accommodate turbines and solar panels. The goal for any economic development program should be that it works for counties of all sizes. By excluding an entire sector under dubious pretenses, rural Texas will have fewer options for attracting jobs.

One of the chief criticisms of 313 was that it effectively acted as a corporate welfare program and exacerbated inequities in school funding. Only a small portion of school districts attracted projects in their areas that qualified for the tax breaks. And many of those went to companies that were either already in Texas or were never a threat to locate elsewhere. Meanwhile, larger urban districts, including Houston ISD, lost tens of millions of dollars in much-needed revenue. The Chronicle's own investigation found that the program subsidized a number of projects that were expansions of facilities that already had a geographic footprint in Texas. HB 5, too, would make upgrades to existing power plants and natural gas storage eligible for the program. During last week's hearing, state Rep. Morgan Meyer, a Dallas Republican, questioned why companies would need such incentives from a program designed to vie for out-of-state businesses.

We agree that the program should be more narrowly tailored to companies which can prove they are legitimately contemplating a different location outside of Texas. It's one thing to want our state to be in the mix for major corporate relocations such as Intel and Micron — companies that recently chose to move to Ohio and New York, respectively, and got generous tax breaks for doing so — but

building a new water storage facility for an existing, immobile natural gas plant is not a worthwhile investment of our tax dollars.

How did we get back to this place that lawmakers worked so hard last session to get out of?

How did we end up with a proposal that's supposed to give Texas a leg up in attracting new businesses but has lower job requirements, lower wages, pays companies that aren't at risk of leaving the state, excludes renewable energy sources and, oh yes, is far more costly to taxpayers? Under 313, projects in most Texas counties could still be taxed up to \$30 million. In the proposed bill, projects can only be taxed up to \$14 million and companies would be allowed to begin receiving the tax break during the construction period.

Texans support business incentives that truly boost the economy. Texas can't afford to throw away critical revenue for the public school system, which already ranks 44th in the nation in spending per pupil and 39th in funding. If there's one thing businesses need even more than generous tax incentives, it's an educated, skilled workforce.

We urge lawmakers, especially those who fought against the wasteful Chapter 313 program, to reject the current version of HB 5 for the same reasons. Texans support tax breaks as long as they're fiscally responsible. A program with few safeguards or assurances that we'll get a return on our investment doesn't fit the bill.