

Texas Industrial Areas Foundation Network Analysis of Chapter 313

Stacking and granting agreements for different phases of same project—May 22, 2023

First twenty years of Chapter 313 compared to 2022: Between 2002 and June 30, 2021, when it was clear that the Legislature had let Chapter 313 sunset, Texas school districts granted a total of 212 tax limitation agreements for the kind of “manufacturing projects” that both the House and Senate version of HB 5 will favor with additional tax breaks in the future. In most cases, those limitation agreements were for projects that would become operational and have a “first full tax year” within 3-4 years of the year of the application. But 16 of the 212, or 8%, of the “manufacturing projects” specified a “first full tax year” that was **six years after the year of the application**.

During 2022, Texas school districts granted 91 limitation agreements to “manufacturing projects” or more than 5 times the average number of 17 “manufacturing projects” approved each year from 2010 to 2020. Also, 66 of those projects or 72% would not become operational for six years or more after the application year. **Therefore, Texas IAF believes that there is no need to enact a replacement incentive this year for Chapter 313 since school districts approved five times the normal number of limitation agreements in 2022 and almost three fourths of those approved projects will not be operational for 6 or more years. The State can wait to develop a more comprehensive and targeted approach to granting incentives for corporations to relocate to Texas.**

Stacking Multiple Agreements for the Same facilities: The first time that a school district granted multiple agreements in the same year to the same corporation for separate projects to be built in the future was in 2011 when Brazosport ISD granted Dow Chemical 3 limitation agreements for projects to be built in 2013, 2016 and 2018. Realizing that this strategy of “stacking” Chapter 313 agreements was acceptable to school districts and the Comptroller, Freeport LNG obtained three limitation agreements from Brazosport ISD for projects to be operational in 2017 and 2018. In 2013, Gregory Portland ISD granted three agreements and Corpus Christi ISD one agreement to Corpus Christi Liquefaction for long-term LNG projects that would become operational in 2019 and 2021. So it also became clear that multinational companies could obtain separate limitation agreements for building out different phases of building the same facility.

Stacking and Separate agreements for different phases of same facility explodes in 2021 and 2022 with “Hogs to the Trough”

Stacking multiple limitations agreements re-emerged in September, 2021 when Sherman ISD granted Texas Instruments limitation agreements for projects becoming operational in 2027, 2032 and 2040. In 2022, Sherman ISD granted Globi Tech another four limitation agreements for projects becoming operational in 2027, 2034, 2039 and 2040. Gregory Portland ISD granted Corpus Christi Liquefaction another three agreements for projects becoming operational between 2038 and 2042. Taylor ISD obligated the State of Texas to make them whole for 9 agreements granted to Samsung for projects that might become operational between 2035 and 2043.

Multiple Agreements for different phases: Ector County ISD granted six agreements to an LLC affiliated with Occidental Petroleum for six projects labeled “1PointFiveP1 (Build 1 of 6)” to “1PointFiveP1 (Build 6 of 6).” Riviera ISD obligated Texas taxpayers to make them whole when they granted another 7 projects to the same LLC for another seven projects labeled Build 1 of 7 to Build 7 of 7 to become operational from 2027 to 2038.

Texas Industrial Areas Foundation Network Analysis of Chapter 313

Stacking and granting agreements for different phases of same project—May 22, 2023

Who is protecting the interests of Taxpayers: At some point, taxpayers have to question whether the limitation agreements were actually even a “determining factor” in whether the corporations were going to continue to build their project in Texas. Taxpayers could certainly question whether the Comptroller and School Boards are able to determine whether state and local school property tax dollars should be granted to corporations who already have a major presence and investment in the state.

Below is a summary of the “manufacturing projects” approved in recent years by Texas School Districts for projects that would become operational 6 years or more from the year of the application.

<p>In 2018, 24 “manufacturing projects” were approved for limitation agreements.</p> <ul style="list-style-type: none"> 1 of the projects or were for projects becoming operational in 2024 or later—6 years after the application year 	Exxon Mobile
<p>In 2019, 12 “manufacturing projects” were approved for tax limitation agreements</p> <ul style="list-style-type: none"> None of them were for projects becoming operational in 2025 or later-- years or more after the application year 	<p>Chevron Phillips Chemical Company LP</p> <p>Gulf Coast Ammonia</p>
<p>In 2020, 12 “manufacturing projects” were approved for tax limitation agreements</p> <ul style="list-style-type: none"> None of them were for projects starting in 2025 or later--5 years or more after the application year 	
<p>During the first half of 2021 (Jan-June), 10 “manufacturing projects” were approved for tax limitation agreements.</p> <ul style="list-style-type: none"> 1 or 10% had a start dates in 2026 or later--5 years or more after the application year 	Covestro LLC
<p>From July 1 to December 31 2021—after Chapter 313 had been Sunset</p> <ul style="list-style-type: none"> 15 projects were approved and 3 or 20%, had start dates in 2027 or later--6 years or more after the year of application 	<p>Texas Instruments 3 projects for 2032,2037, 2040</p>
<p>During 2022, school districts approved 91 “manufacturing projects”</p> <ul style="list-style-type: none"> 66 or 72% of them were to become operational in 2028 or later--6 years or more after the year of application. 	<p>See Comptroller website for a list of the 91 “manufacturing projects” approved during 2022 and the 66 with a “first tax full tax year” 6 years or more after the application year</p>