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# State Senate to revamp tax break program

*By Mike Morris STAFF WRITER*

A bill to revive Texas' largest corporate tax break program that passed the House earlier this month has been greatly narrowed since arriving in the Senate.

The new draft of House Bill 5 would make far fewer projects eligible, and in many cases would require companies to invest more and create more jobs than the House version or the program it seeks to replace, known as Chapter 313.

The old program, which expired at the end of last year after lawmakers failed to renew it during their last session, gave manufacturing and energy companies a decade of discounts on their school property taxes in order to lure them to Texas over other states.

Sen. Charles Schwertner, who unveiled the new draft Thursday in the business committee he chairs, said he took "the opposite approach" from the House's "expansive" vision, calling for one that "narrows and tailors" the subsidies.

"I believe there is a role for a temporary school abatement program that incents new industries and grows the economic vitality of Texas," he said, "but it needs to be right."

Both versions of HB 5 still broadly mirror the controversial incentives lawmakers refused to extend two years ago.

Both drafts resurrect the central criteria Chapter 313 used to decide whether a firm deserves the subsidies, which a 2021 Chronicle investigation found did not prevent incentives from going to companies that would have come to Texas regardless.

Both also contain generous benefits that Chapter 313 – which will cost taxpayers a projected \$31 billion in the coming decades – did not.

Companies could seek subsidies for facility expansions, not just new projects. Tax breaks would be given for 10 years after the project is built, and for up to 10 years during construction. The 10-year abatements themselves would also offer deeper discounts than those provided under Chapter 313, according to a Chronicle analysis of state data.

Wage targets for workers also would be lower than what Chapter 313 required, and Schwertner's bill does not require companies to provide workers health insurance, as Chapter 313 and the final House version of HB 5 did.

Still, the Senate draft reduces the scope of the proposal.

Only petrochemical manufacturing, semiconductor fabrication, water desalination, natural gas export terminals, hydrogen fuel plants, carbon capture facilities and "dispatchable" power plants – thermal sources, not wind or solar – could apply.

Perhaps Schwertner's riskiest edit politically would block recipient companies from sharing their tax savings with the school districts approving the deals.

Ending this practice, long criticized as a perverse incentive for school trustees to never turn down a deal – particularly since the state uses the taxes all Texans pay to ensure districts lose no revenue in granting the tax breaks – could upend months of delicate talks among stakeholders.

In testimony Thursday morning, superintendents listed benefits that extra payments from Chapter 313 recipients have provided their students. Several of Schwertner's colleagues embraced the change, however.

GOP Sen. Lois Kolkhorst, too, marveled that the state had not been sued years ago for letting some districts collect extra cash to which those without incentive deals had no access: "It's not the way the system was supposed to be designed."

School and business leaders told the senators they were still digesting the new draft Thursday, but both camps expressed concerns.

"Let's focus this effort on the projects that we need to incentivize," said Glenn Hamer, president of the Texas Association of Business. "But I'll respectfully say an area where I'd immediately encourage expansion is in the manufacturing sector."

Critics of the subsidies, too, came prepared to testify against the version the House had passed, not Schwertner's draft.

But Ofelia Zapata, an Austin ISD school board trustee and a longtime advocate with Austin Interfaith – a nonprofit coalition that has opposed the program – said her position was unchanged.

"I ask you to help us improve the lives of students, staff and families," she said, "not to facilitate corporate giveaways."

## Renewables still excluded

The bill, a top priority of Republican House Speaker Dade Phelan, faced scant opposition in the House, but Schwertner's edits suggest a cooler reception in the Senate, the chamber that let a bill to extend Chapter 313 die two years ago.

Neither version of HB 5 now circulating includes renewable energy projects, the source of most applications under the old program. Both Gov. Greg Abbott and Lt. Gov. Dan Patrick want renewables excluded from the new program.

About 75 percent of projected Chapter 313 incentives, however, go to manufacturers, including some of the world's largest oil and gas companies.

Michael Lee, director of the Texas Association of Rural Schools, testified Thursday that removing wind and solar farms would deny good jobs to rural Texans and sorely needed cash to school districts with few other prospects for investment.

Some of Schwertner's committee colleagues raised concerns about parts of his draft, and senators from both parties worried about enacting too generous an incentive program.

GOP Sen. Mayes Middleton suggested it might be better to put state funds toward reducing school district tax rates, providing tax relief to all taxpayers – industry included.

Johnson and Democratic Sen. Jose Menendez worried about abating tax dollars too readily.

Under both versions of HB 5, Comptroller staff would decide – as they did under Chapter 313 – whether the tax breaks would be “a determining factor” in the company's decision to build in Texas.

This verbiage has weeded out almost no applicants, the Chronicle found; Comptroller staff have said it is “impossible” to apply, and an expert from that office reiterated to senators Thursday that it is “a difficult analysis to complete.”

“How do we verify it was a determining factor?” Johnson said. “Somebody can say, ‘Oh yes, this is a determining factor.’ Is it good enough that they said it?”

“I'd like to see a pretty serious vetting process,” he added.

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