



# Critics say state tax break helps petrochemical companies and hurts public schools

In December, legislators killed a controversial tax abatement program known as Chapter 313, but its effects will last decades.

BY ELLIOTT WOODS, [CAPITAL & MAIN](#) FEB. 2, 2023 5 AM CENTRAL

CORPUS CHRISTI — Gliding through the shallow channel on the north side of Corpus Christi Bay, you will see stubborn remnants of a barrier island estuary that was once home to vast oyster beds, seagrass meadows, teeming fish nurseries and abundant alligators. You will see dolphins, terns, maybe even a roseate spoonbill.

“You still see glimpses of the natural beauty,” said Jennifer Hilliard, 56, over the growl of dredgers that were deepening the channel to accommodate larger tankers. Hilliard, a former architect, is treasurer of the Ingleside on the Bay Coastal Watch Association. She and her partner, Tom Daley, 67, took me on a boat tour of the waters they have both fished since childhood. “I’m just hoping it won’t all be destroyed,” Hilliard said.

In less than a decade, the northern coastline of Corpus Christi Bay in San Patricio County has been developed from a greenspace of wetlands and dunes into a mileslong corridor of petrochemical and industrial facilities, their cracking towers rising hundreds of feet into the air. Dominating that cyborg skyline is the tower flare at the [Corpus Christi Liquefaction facility](#), owned by gas giant Cheniere Energy, Inc. The plant’s three operational “trains,” which came online in 2019, produce 16.5 million tons of liquefied natural gas (LNG) per year for export to

hungry markets in Europe, Asia and other international destinations. There are plans to add seven smaller trains at the facility, equivalent to another 11 million tons of capacity.

Within sight of Cheniere, there is a hot briquetted iron plant now majority owned by Luxembourg-based [ArcelorMittal](#) that began operations in 2016; there is the Enbridge [Ingleside Energy Center](#), built in 2018, the largest crude oil export terminal in North America; there are growing chemical plants owned by [Chemours](#), [Air Liquide](#) and [Occidental](#); a few miles inland is the world's largest ethane cracker, a joint project of Exxon and Saudi Basic Industries Corporation (SABIC), switched on [for the first time](#) in 2022.

With the exception of the Enbridge terminal, all of these projects — and hundreds more across Texas — have benefited from Chapter 313, a two-decade-old tax abatement program that critics have described as “[free money for big business](#).” The enabling legislation expired on Dec. 31, but a flurry of last-minute proposals approved before the deadline may have irreversible effects for decades into the future. Crafted to lure businesses to Texas, Chapter 313 allowed companies to lock in a minimal property valuation for a proposed industrial project for 10 years in exchange for economic growth commitments and kickbacks to local school districts. Advocates for retaining the tax break liked to point out that renewable energy companies have made up the majority of Chapter 313 applicants in recent years.

In simple dollar terms, however, the petrochemical industry has been the program's largest beneficiary — receiving abatements [worth \\$7.6 billion](#) in 2020 alone, compared to \$2.1 billion for wind farm companies. A [study](#) by the nonprofit Central Texas Interfaith reveals that the top 10 beneficiaries of existing Chapter 313 agreements are all linked to the petrochemical industry like the companies expanding along the shore in San Patricio County, receiving annualized tax breaks from school districts worth more than \$250 million. Opposition to the program, described by one group as a “[colossal giveaway](#)” to industry, grew so loud that, in a rare show of bipartisanship, Republican and Democrat legislators combined forces to block the law's reauthorization in the 2021 session.

The program may not be that easy to get rid of. House Speaker [Dade Phelan](#), R-Beaumont, has [vowed to pursue](#) revival of Chapter 313 in the 2023 session. But for now, Chapter 313 is dead. Proposals that remained in process as of Jan. 1 have been nullified.

During the lifespan of the program, the Texas comptroller was charged with reviewing and certifying Chapter 313 proposals, but in a weird twist of design, terms of these abatements were negotiated directly with local school boards, which also had final approval authority.

“There’s no accountability at the statewide level; nobody administers it,” said Bob Fleming, an organizer with the Metropolitan Organization of Houston who campaigned against Chapter 313 reauthorization back in 2021. “A bunch of local school districts make singular decisions based on what they think is in their interest. Nobody is looking out for the statewide interest. Local school districts are overmatched when the \$2,000 suits walk into the room.”

The comptroller’s office did not respond to an interview request from Capital & Main.

“It’s a perverse incentive,” said Doug Greco, lead organizer at Central Texas Interfaith, one of the organizations that helped shut down reauthorization of Chapter 313 in the 2021 legislative session.

“We approach it on a school funding basis,” said Greco, who is already gearing up to fight any Chapter 313 renewal efforts in 2023. “It’s corporate welfare and the people who pay over time are Texas school districts.”

In 2020 alone, school boards awarded Chapter 313 abatements worth more than [almost \\$11 billion](#) over 10 years — money that would have otherwise gone to support statewide school funding.

Jobs for Texas, a coalition of powerful lobbying groups — including the Texas Association of Manufacturers, the Texas Oil and Gas Association, the Texas Chemical Council and the Texas Taxpayers and Research Association — had been [consistently outspoken](#) about the need to renew the incentive program, claiming that it has made the Lone Star State attractive to businesses that might have chosen to invest elsewhere. In 2021, that argument failed to convince legislators, who cited [numerous examples](#) of companies that began construction in Texas before receiving an abatement or that went ahead with moves to Texas even after their Chapter 313 applications fell through. Legislators also expressed concern that corporations had often failed to deliver on job creation and economic growth promises. As of January 2023, Jobs for Texas has been disbanded.

Dick Lavine, a senior fiscal analyst with the progressive organization Every Texan, maintains a list of major industrial projects in the petrochemical, renewable energy and tech sectors that have been built without Chapter 313 abatements, including a \$600 million Koch Industries refinery in Corpus Christi and a \$500 million steam methane reformer in Texas City. Lavine said the argument for the state’s need for generous incentives to grow the petrochemical industrial sector is especially bizarre.

“It gives tax breaks to companies that probably would have located to Texas anyway,” he said. “Natural gas comes from Texas and goes to the Gulf Coast to be processed and put on ships, stored or turned into a product. It’s all right here, so where else are they going to go?”

News of the program’s death sentence unleashed a deluge of applications — nearly 500 between the end of the 2021 legislative session and August 2022, according to the [Texas comptroller’s online database](#). According to the same list, only 31 proposals failed to attain final approval. The comptroller will release a final official list of Chapter 313 agreements in February. The [Houston Chronicle](#) tallied the value of the more than 900 existing agreements at more than \$31 billion. Two companies made a last-ditch effort to get the [Texas Supreme Court](#) to extend the deadline, but the court refused.

Beaumont Independent School District, in Phelan’s district, received last-minute comptroller certification for a Chapter 313 agreement [worth \\$395 million in tax breaks](#) for a proposed Enterprise Products ethane cracker. According to the Enterprise application documents, the facility would provide 10 permanent jobs with a minimum average salary of \$63,000. Beaumont ISD school board members approved the agreement during a public hearing on [Dec. 13](#). Beaumont ISD school board members did not respond to an interview request from Capital & Main.

Project timelines for some Chapter 313 beneficiaries stretch decades into the future. A trio of agreements for Cheniere’s expansion of its Corpus Christi Liquefaction plant, in the Gregory-Portland Independent School District, are worth an estimated [\\$172 million](#) in tax breaks throughout their respective life cycles. In exchange, Cheniere has agreed to provide \$36 million in “revenue protection and supplemental payments” to the school district to compensate for lost property tax revenue. These payments in lieu of taxes are attractive to school districts because, unlike normal property tax revenue, they are relatively unrestricted and not subject to “[recapture](#)” by the state, a process by which education funds from property taxes are diverted from wealthier to less wealthy districts.

Like the Enterprise agreement with Beaumont ISD, the Cheniere agreements in Gregory-Portland ISD received last-minute comptroller certification and were approved by the school board in a special meeting on Dec. 13, 2022. They will [lock in tax relief](#) until 2052.

## **On the Coastal Bend, nearly \$2.5 billion in tax breaks**

To Errol Summerlin, 71, a retired Legal Aid attorney who has lived in Portland, Texas, for 38 years, the unchecked industrialization of San Patricio County has felt like an assault. Having

watched the Hillcrest neighborhood across the bay get walled in and eviscerated by the growth of what locals call “refinery row,” Summerlin felt compelled to fight to prevent San Patricio County from suffering the same fate. But so far, the explosive industrial growth has been unstoppable.

“I used to call this area paradise,” Summerlin, an avid birder, told me while we were driving down Highway 181, which runs northeast from Corpus Christi through Portland and Gregory. We could see industrial plants rising over the rooflines of residential neighborhoods and shopping strips in every direction. “Now I call it hell’s highway to paradise,” he said.

In Summerlin’s opinion, the supplemental payments promised to school districts in Chapter 313 agreements amount to little more than legal bribery.

“If Cheniere had come to these school board members individually and said, ‘I need a favor, here’s X amount of dollars for a favorable vote on this particular issue,’ that would be unlawful,” he said. “They would feel compelled to report Cheniere for having offered that bribe.”

A spokesperson for the Gregory-Portland ISD declined to make district leadership or school board members available for an interview.

We drove north of Portland to see the hulking Exxon-SABIC plant, which manufactures nurdles, tiny plastic beads which [The Guardian](#) calls “the worst toxic waste you’ve probably never heard of.” In 2016, the Exxon-SABIC plant received three Chapter 313 abatements worth a combined \$531.4 million from the Gregory-Portland ISD. For now, the plant sits by itself in an expanse of pancake-flat agricultural fields, juxtaposed against dozens of wind turbines. But Summerlin worries the surrounding fields will sprout massive industrial facilities in the coming years, too, and at the expense of taxpayers, students and the environment.

Coastal Alliance to Protect our Environment, the group Summerlin helped found, commissioned a [review](#) of existing Chapter 313 agreements in the Coastal Bend counties of Nueces (in which the city of Corpus Christi lies) and San Patricio. The resulting study found that total forgone tax revenues amounted to roughly \$2.47 billion. Cheniere’s current agreements in those three counties amount to an estimated \$1.2 billion in tax savings, after supplemental payments to school districts. Gregory-Portland ISD’s current Chapter 313 agreements with numerous corporations amount to more than \$1.3 billion in corporate tax relief, according to the CAPE analysis.

While school districts like Gregory-Portland ISD may benefit from a short-term injection of surplus payments, critics of the program say it starves statewide education funding and harms

the overwhelming majority of Texas students. An analysis of operative Chapter 313 agreements by Central Texas Interfaith found that only 5% of Texas students — the program’s “winners” — benefit from corporate payouts. Gregory-Portland ISD, the proposed site of the three pending Cheniere projects, is the second from the top on the winner’s list, with annual revenue from current agreements totaling nearly \$20 million. According to [the Gregory-Portland ISD](#), existing Chapter 313 agreements have brought in \$77.5 million to the district since 2016.

All told, the program costs the remaining 95% of Texas students — the Chapter 313 “losers” — an estimated \$678 million every year, according to Central Texas Interfaith’s numbers.

“The district my granddaughter goes to is losing \$4 million to \$5 million every year,” said Rosalie Tristan, referring to Edinburg Consolidated Independent School District. Tristan is an organizer with the community organization [Valley Interfaith](#) who lives north of McAllen in the Rio Grande Valley.

“They could be using that money to get more teachers for these students,” she said. “For a parent, or for a grandparent raising her granddaughter, it’s a hit in the gut.”

## **Critics say school boards “selling our students out”**

Chapter 313 opponents did successfully block several high-profile proposals around the state. Last July, the school board of the Point Isabel Independent School District, on the far southern Gulf Coast, just north of Matamoros, Mexico, [voted down](#) a Chapter 313 proposal from Texas LNG to build a liquified natural gas export plant in the Port of Brownsville. It was the third time the Point Isabel ISD school board rejected a Chapter 313 proposal for an LNG facility since 2015. Opponents of the program are hopeful that the awareness-raising they did over the last year will work against any efforts to renew Chapter 313 in 2023.

Summerlin, who spoke against the Cheniere proposals at the Dec. 13 Gregory-Portland ISD school board meeting, said environmental concerns did not seem to be a factor in the decision-making process.

“I think they feel compelled to grant these abatements because it benefits their school district, to hell with the rest of the state,” he said. “They’re not concerned about greenhouse gases, not concerned about emissions, noise, dust, all of the other impacts.”

A section titled “What About Environmental Concerns?” on Gregory-Portland ISD’s website seems to confirm Summerlin’s assessment: “Chapter 313 agreements are intended and written into law as financial agreements,” it reads, “not environmental agreements.”

“These abatements serve one purpose: to make these international companies more profitable,” Jennifer Hilliard told me toward the end of our boat tour. “And most of that money doesn’t even stay in Texas. The school boards are just selling our communities out, selling our students out.”

On the La Quinta Channel, Hilliard talked about how the fishing has declined in recent years as the waters have become choked with silt from dredging and ship traffic, which she said has killed off seagrasses, depleting critical nursery habitat. She showed me the spot where the Port of Corpus Christi has proposed to build a massive desalination plant to meet growing demand from industry for water. The brine, she said, would be discharged back into the bay, with potentially destructive consequences for the estuary. Behind her, the Cheniere tower flare roared like a second sun. A chemical fog hung heavy in the humid air. The black hull of an LNG tanker sat motionless in its berth. Perched on a pylon, a pelican sunned its wings. Here and there, mullet skipped and splashed.

“They’re granting these abatements without any concern for the environmental and health impacts,” Hilliard said of the school districts. “They’re signing their own death warrants.”

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