

[New incentives in Texas: 'Shell' bill filed that could bring back elements of Chapter 313 - Austin Business Journal \(bizjournals.com\)](#)

Why momentum is building behind a 'shell' incentives bill at Texas Capitol

Elements of controversial Ch. 313 program could resurface



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An interior view of the Texas State Capitol in Austin.

ARNOLD WELLS / ABJ



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Members of the Texas business community are standing firmly behind proposed legislation that could bring back elements of a controversial economic development tool that legislators previously allowed to sunset.

In a rare bipartisan decision, lawmakers in 2021 did not renew what was known as Chapter 313 of the tax code, leading the incentives program to expire at the end of 2022.

But now that state lawmakers have returned to Austin for their biennial session, a "shell bill" has been filed that could reinstate portions of the Chapter 313 program as part of a wider effort to incentivize large economic development projects in the Lone Star State.

The Texas Jobs and Security Act, or [House Bill 5](#), would establish a new statewide incentives program. The exact particulars of how it would do that remain to be seen but the effort is already attracting supporters and detractors. Supporters say that leaves room for negotiations while critics argue the effort is being rushed through the legislature.

The primary author of HB 5 is Rep. [Todd Hunter](#), a Corpus Christi Republican. The bill attracted the attention of Texas House Speaker [Dade Phelan](#), who named it a session priority, a powerful momentum boost.

"As Texas continues to grow and attract even more business that creates jobs and spurs local economies, our state must ensure that we have the kinds of tools to keep us competitive with others on a national and global scale," stated Phelan, a Republican from Beaumont.

HB 5, designated as Chapter 403 of the state's tax code and drafted by 20 state lawmakers, was filed Feb. 28 and referred March 1 to the House's Ways and Means Committee.

What was Chapter 313?

[Chapter 313](#) allowed Texas school districts to cap the taxable value of real property for up to 10 years, saving companies tens or even hundreds of millions of dollars in taxes over a decade. It was used in Central Texas by companies such as [Tesla for its electric car factory](#) east of Austin and Samsung for [multiple semiconductor manufacturing plants](#).

The loss of Chapter 313 has been a point of [deep concern](#) for the state's business associations and economic development organizations, even as incentives granted through the program will have tax ramifications for years to come.



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View of the Tesla factory east of Austin in January. (Photo by Brandon Bell/Getty Images)

As of June 2022, there were 598 active projects with Chapter 313 agreements in the state. The majority were renewable energy projects, with 210 for wind power and 178 for non-wind renewable energy, according to the latest biennial report from the [state comptroller](#).

A total of 209 were manufacturing projects and one was described as a research and development project.

Chapter 313 was said to have brought more than \$261 billion in new investments to the state, while providing an estimated \$12.3 billion in total gross tax benefits to companies.

What's in HB 5?

One of the authors of HB 5 is Rep. [J.M. Lozano](#), a Kingsville Republican, who previously submitted [a bill to reintroduce Chapter 313](#) this session.

Lozano said March 2 that he plans to end the promotion of his own bill and support HB 5, which he describes as a "shell bill" that will see changes during the legislative process.

"There is still a lot that is going to be added and removed before it gets a hearing," Lozano said. "I am ready to help on the sidelines as a team player. It is a new beginning for an economic incentive program in Texas. This one is taking in concerns that have been expressed by policymakers. Everyone in leadership is behind this one bill. It is relatively early in the process for so many people to be getting behind it. It is hard to tell how to compare it with the old Chapter 313."

Lozano said, unlike his own bill and Chapter 313, HB 5 does not offer incentives for wind, solar and other renewable energy projects, an exclusion he and others hope persists. Gov. [Greg Abbott](#) recently said that he did not support tax abatements for renewable projects, [the Texas Tribune reported](#).

The proposed bill has the support of a coalition of 200 chambers of commerce, economic development councils and business organizations from across the state.

"Texans are ready to see more manufacturing on U.S. soil," stated Paulette Guajardo, mayor of Corpus Christi. "The Texas Jobs and Security Act helps attract manufacturers looking to make major investments in our communities, which ultimately brings jobs and the day-to-day goods we rely on — back to Texas."

But critics describe HB 5 as a reintroduction of a flawed incentives tool. As currently written, it would maintain a controversial component of Chapter 313 that required applicants to apply to local school districts for approval of an agreement.

The school district would then forward the application to the state comptroller within 30 days and the office would determine if the project provides a net economic or financial

benefit to the state. If approved by the comptroller, the item would then go back to the local school board for approval.

As presented, the proposed bill does not include a defined term or value limit for participating projects. Chapter 313 allowed a 10-year term with an annual cap on taxable value of \$10 million to \$100 million.

"This is the same old program," said [Nate Jensen](#), a professor in the Department of Government at the University of Texas at Austin who specializes in [economic development strategy](#). "HB 5 seems to be a hastily written shell bill that is essentially Chapter 313 without any of the details. This new bill is the same structure but it strips out some of the reforms added over the years."

As drafted, Jensen emphasized that HB 5 has no job requirements nor any way to show a company would not invest in the project without incentives. He contrasted it with 2022's federal [CHIPS and Science Act](#), which offers incentives focused on total employment of new projects.

"There is also wiggle room on what exact industries are included," Jensen said. "To be frank, I am not sure of what to make of this bill. This is a throwback to the worst version of Chapter 313. None of the problems have been fixed. Chapter 313 had so much baggage that it is a dirty word around here. I'm honestly surprised there isn't a proposal for a program that addresses criticisms of Chapter 313. I'm not sure if special interests are sitting on a real bill and this is a placeholder for the real bill. I'm stunned there isn't a reform bill on the table. If this is a priority issue, where is the reform bill?"

Jensen also said the state could benefit from a program that caters directly to small and mid-sized businesses.

"The impulse of having to get something up quickly is not the right way to move forward," he said. "There is no way this is the final bill. It just does not make any sense. In terms of an economic development strategy for the state, the benefits are the tax revenues and we are forgoing that. When you step back, the whole structure is a bad strategy."

The Network of Texas IAF Organizations, a labor and faith coalition that has [staunchly opposed using school property tax breaks for incentives](#), also railed against the Texas Jobs and Security Act.

"It looks like it was written on the back of a napkin," stated [Jose Guerrero](#), a leader with Central Texas Interfaith from Saint Ignatius Catholic Church.

The organization believes the proposed bill would have even less regulation than Chapter 313, including the exclusion of minimum job requirements as a key factor in a project's eligibility for approval.

"It is hard to imagine that they would propose a program with even less accountability, fewer specifics (like no job requirements), and more leeway for companies to take taxpayer dollars from school children to line their pockets," Guerrero stated.

While the interfaith coalition opposes the HB 5, a group representing 700 school districts across the state has shared its support of the proposed bill.

The group — which includes the Texas Association of Rural Schools, Fast Growth School Coalition, Texas School Alliance, Texas Association of Midsize Schools, Texas Rural Education Association and Texas Association of Community Schools — issued a letter expressing support of the Texas Jobs and Security Act.

"School districts' success depends on the jobs and revenue that local business investments bring to the community and the state economy. We believe developing this program is an imperative step towards securing the economic future of our state," stated [H.B. Chambers](#), executive director of Texas School Alliance.

The coalition argues the proposed legislation would give public schools and their school boards the authority to negotiate economic terms and to have the final say on prospective projects.

"As the top state for new jobs, economic development, exports, and Fortune 500 headquarters, we must maintain a competitive business climate," stated [Greg Gibson](#), executive director of Texas Association of Midsize Schools. "We hope to work together alongside the Legislature and other stakeholders to implement a new, transparent, and accountable economic development program that benefits taxpayers, school districts and the students they serve, and the Texas economy."

While critics complain about a lack of details in the "shell bill," for those backing HB 5, that means opportunities to keep shaping it.

"I do believe it is going to be completely different," Lozano said.