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Texas House passes plan to bring back corporate property tax breaks for major projects

Backers of House Bill 5 hope the new program will lure more companies like Tesla, Toyota, Samsung to the state.

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The Texas House is bringing back corporate property tax breaks credited with providing billions of dollars in incentives for major job creation projects by companies such as Tesla, Toyota, Samsung and Texas Instruments.

House Bill 5, approved Friday with a 120-24 vote, would incentivize investments for certain types of manufacturing and infrastructure projects through school district property tax breaks. It effectively would replace a similar, recently expired program known as Chapter 313.

It now heads to the Senate.

Created in 2001, Chapter 313 allowed certain industries to avoid the biggest portion of school taxes for 10 years when building big projects in the state. Those incentives helped hundreds of billions in private investment, including auto plants, semiconductor factories, chemical refineries, natural gas processors and scores of wind and solar energy projects.

In 2021, state lawmakers failed to reauthorize the program, letting it expire at the end of last year.

The new bill, authored by Rep. Todd Hunter, R-Corpus Christi, similarly aims to create new, high-paying jobs in the state and recruit projects that would otherwise go elsewhere. Although the bill has many of the same components as Chapter 313, Hunter said House Bill 5 excludes renewable energy projects and improves on the earlier version with built-in audit and transparency provisions.

“You’ve been hearing about a word called 313,” Hunter said on the House floor Thursday. “313 does not exist anymore, it is out of the code.”

Eligible projects under the new program include national or state security facilities; projects meant to boost the reliability of the power grid; supply chain infrastructure; manufacturing plants; and projects investing more than $1 billion in a local school district.

The program proposed under House Bill 5 would expire in 2033. A previous draft of the bill had it expire in 2036.

The new program could be even more attractive to businesses. About two-thirds of projects with active agreements under the expired Chapter 313 program would see bigger discounts using HB 5′s model, according to a *Houston Chronicle* analysis. It also waives all school taxes while a project is under construction.

Beneficiaries of the previous program included Texas Instruments' chip-making plants in North Texas, Tesla's gigafactory near Austin and Toyota's truck plant in San Antonio. In 2021, the comptroller reportedthat the Chapter 313 program at the time had saved businesses more than $10.8 billion in school taxes while attracting $217 billion in renewable energy and manufacturing projects.

The new bill excludes renewable energy projects, which represented the majority of approved projects under Chapter 313. Rep. John Smithee, R-Amarillo, proposed an amendment that would allow renewable energy projects to be included, but it was withdrawn after opposition by Hunter, citing agreements with "other groups."

"I have no problems with the renewable industries, and I work with them, but in this bill, they are not," Hunter said. "And it is not a negative message, it is basically a program so that we can get various groups on board."

The Texas Oil and Gas Association, the state's largest trade group representing the influential energy industry, applauded the House vote.

"There is no reason Texas — the 9th largest economy in the world — should be reliant on other nations for the products we need," said association president Todd Staples in a statement. "HB 5 will help onshore the supplies our citizens rely upon and provide our school districts and local communities with the same tools used by other states in order to keep Texas competitive, attract jobs, generate tax revenue, and help fund education."

Hunter said the new legislation also addresses transparency concerns. "One of the things you've heard is ... there's nobody looking at the money," he said.

Hundreds of companies dashed to submit applications for the Chapter 313 program before it ended. Tax breaks for about 900 active projects have been approved through the program.

State Rep. Todd Hunter, R-Corpus Christi, authored House Bill 5.(Bob Daemmrich/CapitolPressPhoto)
Business recruitment organizations from throughout the state support the legislation. More than 255 organizations backed it, including 100 chambers of commerce, according to the Texas Association of Business.

State incentives for manufacturing projects generated $13.3 billion in economic activity in 2021, supporting more than 52,000 jobs, according to a study by economic analysis firm TXP and commissioned by the Texas Association of Business. The study does not include tax benefits to local governments such as higher sales and property taxes tied to increased community income, so the economic impact is likely larger than TXP reported.

“The positive economic impact of these incentives is undeniable, and underscores the need to pass HB 5,” Texas Association of Business CEO Glenn Hamer said in a statement. “The Texas Jobs and Security Act gives communities the competitive edge they need to attract major manufacturing projects that create jobs and generate long-term revenue for public services.”

Matt Garcia, senior vice president of public policy for the Dallas Regional Chamber, said House Bill 5 is a key priority for the organization.

“When we’re competing for projects with major competitors like Arizona, Florida and North Carolina, we have to have a tool that makes the playing field as competitive as possible,” Garcia said. “Currently, Texas is operating without a real tool to compete and attract these major projects, and you know, what we’re seeing in the marketplace is these projects are getting bigger and bigger. They’re a lot more capital-expenditure intensive.”

Garcia said the bill brings more transparency and accountability to incentive deals, requiring companies to project the full economic benefit and tax and revenue consequences on the school district over 25 years. It also would require a biennial report to the legislature from the comptroller detailing the impact of all projects throughout the state.

“That was one of the big issues with the old 313,” Garcia said. “There wasn’t a lot of oversight.”

Other improvements from Chapter 313, he said, include job minimums based on project investment size and school district property values and no waivers for companies that don’t meet hiring requirements.

A coalition of more than a dozen organizations such as the Network of Texas IAF Organizations, the Texas Campaign for the Environment, the Texas State Teachers Association and the Texas AFL-CIO wrote a letter to lawmakers Thursdayopposing the bill and any efforts to revive Chapter 313.

“We urge you to support alternative policies that promote fair and transparent economic development, adequately fund our public education and ensure a level playing field for all businesses in Texas,” they wrote.

The organizations said Chapter 313 diverted resources to a small number of school districts. They said corporate tax breaks have “exceptionally limited effectiveness” in incentivizing corporate relocation, citing a 2017 University of Texas study that estimated 85% to 90% of projects supported by Chapter 313 from 2002 to 2014 would have located in Texas without the program.

As for House Bill 5, the organizations wrote that it would increase costs to taxpayers, expand inequity among school districts and tilt the playing field against businesses that don’t receive subsidies.

Nathan Jensen, a government professor at the University of Texas at Austin who authored the 2017 study on Chapter 313, said House Bill 5 could incentivize even more projects that would have been built in Texas regardless.

“Corporate headquarters aren’t included in this,” Jensen said. “This is mostly energy companies. Many times, it’s an expansion, they already own the land and they’re building another LNG train, or they’re reinvesting capital.

“I think if you wiped out this program, you would not notice almost at all any economic impact, but you’d have just a whole lot more tax revenue.”

Jensen said both programs incentivize school districts to agree to deals through additional payments of up to $100 from companies through Chapter 313 or deals allowed under House Bill 5 where school districts can share in companies’ tax savings.

“The original criticism was it’s a tax break for large companies from school districts, but school districts are basically encouraged to always say yes,” Jensen said. “That structural problem has never changed.”