

OPINION//EDITORIALS

Texas' zombie tax break is baaa-aaack. But is Chapter 313 any better? (Editorial)

The Editorial Board

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Industry in Mont Belvieu where the local school district, Barbers Hill, has granted more Chapter 313 tax breaks than any other district in Texas.

Mark Mulligan, Houston Chronicle / Staff photographer

You know a corporate tax break is a bad deal for Texas when taxpayers will still be on the hook for \$31 billion three decades after it expired.

Such is the zombie-esque resiliency of Chapter 313, a program whose brand became so toxic that by the time it came up for renewal during the 2021 legislative session, members of both political parties let the clock run out and thereby killed it. The program gave manufacturing and energy companies deep

discounts on their school property taxes for 10 years once a project begins operating, an incentive intended to keep Texas economically competitive.

Instead, Chapter 313 proved to be a ripoff; a poorly regulated corporate welfare program rife with abuse.

Chapter 313's price tag had ballooned in recent years, costing the state more than \$1.1 million in tax breaks per new job, according to the state's own metrics. Dozens of companies failed to fulfill their job-creation promises yet faced no repercussions. It created a system of winners and losers among Texas school districts, where only a small portion attracted the investments, while larger urban districts, such as Houston ISD, lost tens of millions of dollars in much-needed revenue, due to the state's redistribution of education funding commonly known "Robin Hood."

In a perfect world, such a roundly acknowledged boondoggle would remain buried; a tax break monster story fiscal conservatives would cite as a cautionary tale for lawmakers. Although the zombie tax breaks will be walking around for decades, at least no new ones would be created.

Also in this perfect world, other states would stop their corporate giveaways, but that isn't the case so there's a case to be made for a new and properly regulated version so Texas can keep winning in the competition for new jobs.

Alas, like a bad horror movie sequel, Chapter 313 is back this session, and at least theoretically worse than ever because it lacks any brains and could spawn a whole new generation of bad zombie tax breaks. This version of the program, outlined in House Bill 5, a shell legislation introduced by state Rep. Todd Hunter, R-Corpus Christi, with several Democratic co-sponsors, is notable for its stark lack of detail. It doesn't limit the length or amount of the tax breaks, doesn't mandate that the projects create jobs and doesn't specify that companies must be considering sites outside of Texas in order to qualify. There are also no penalties for companies that violate their agreements.

If this is what House Speaker Dade Phelan had in mind when he told reporters in January he wanted to enact a new tax break program with more "oversight and transparency and accountability," then the bill is already off to a bad start. Simply re-upping a "Walking Dead" version of Chapter 313 while lawmakers negotiate

the finer points behind closed doors does not foster confidence or quiet skepticism.

A recent study of a similar tax credit program in California found that each job it incentivized led to more than two additional people working in that location, and increased employment in both high- and low-income communities. It's secret? A rigorous review process, something that the original Chapter 313 lacked. A Chronicle investigation found less than 2.5 percent of 313 applications were rejected by the state comptroller — even if companies had no intention of locating anywhere else. At minimum, every project receiving a tax break should have a thorough economic analysis of the entirety of the project and its impact on the community and the state.

There is still time for the Legislature to shape HB 5 into something more than a fill-in-the-blank tax incentive program. Complicating matters is Gov. Greg Abbott's demand that any new iteration of the tax incentive won't include renewable energy since "there's already federal incentives" for such projects. Lawmakers should focus on accountability, , not picking energy winners and losers.

Tax incentive programs can work. Despite having no personal income tax, Texas' high property taxes are seen by many as a barrier to capital investment. There is value to having a program unique to our state that will attract businesses and create jobs for years to come. What it shouldn't do is rob Texans blind and deprive public school children of sorely needed funds for their classrooms. As currently written, House Bill 5 falls well short of that standard.