



How skeptical Texas lawmakers put an end to a controversial tax incentive program

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The first sign that Texas' biggest corporate tax break might be in trouble appeared May 10 on the state House floor.

State Rep. Jim Murphy, R-Houston, rose from his desk to explain a bill that would renew and expand the so-called Chapter 313 program, which gives manufacturing and energy companies deep discounts on their school property taxes.

The program enjoys wide support in the business community, and lawmakers had renewed it three times by wide margins since its initial passage in 2001.

This session, something was different.

Across the chamber, skeptical lawmakers from both parties lined up to ask Murphy about his legislation. They offered amendments that stripped away its new business-friendly provisions and even proposed letting voters approve each tax break — a move that was unheard of in the history of Chapter 313, which is named after its place in the state tax code.

After an hour of debate, Murphy finally made a motion to delay discussion until after the legislative session, killing his own bill before it could be amended beyond recognition.

Murphy wasn't the only lawmaker who tried to renew the program. But none of the bills made it to the governor's desk. For the first time since Chapter 313 was created, the Texas Legislature declined to extend the controversial program.

More Information

The Houston Chronicle spent months investigating Texas' largest corporate tax break. Read the "Unfair Burden" series at houstonchronicle.com/unfairburden

Key lawmakers said the program's exponential growth - it's now saving hundreds of companies more than \$10 billion on their taxes over the 10-year life of the agreements - helped raise its profile.

And many lawmakers who looked closely at Chapter 313 disliked what they saw.

State Sen. Juan "Chuy" Hinojosa, D-McAllen, was among those who pointed to a Houston Chronicle investigation published days after Murphy's proposal imploded, which found that firms announced dozens of projects — or even started construction — before applying for the incentives.

The newspaper's investigation revealed that lawmakers had repeatedly undercut the program's job and wage goals by weakening the requirements for companies. The program's gatekeepers — the Texas Comptroller's Office and local school boards — rarely deny applications. And only one company has ever had to repay a tax break for failing to meet its job-creation target, though dozens have fallen short of those targets.

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“It was being abused by the school districts and the corporations,” Hinojosa said. “We have known this for years, and every year a promise is made — a promise is not kept — that it will be reformed, that they will deliver the jobs. They have not. It was time to end it.”

Lawmakers and lobbyists who tracked the issue said Murphy's attempt to expand the program proved to be a strategic blunder because it drew even more attention to a tax break that was already one of the most expensive in Texas.

Murphy's proposal would have expanded Chapter 313 to grant incentives not just for new projects but also for repairs and renovations of existing facilities. Business groups loved it. But the state Comptroller's office estimated the bill would, through 2049, cost the state an additional \$45 billion.

“That was a huge fiscal note and got everybody's attention,” said state Sen. Paul Bettencourt, R-Houston. “That was a light-bulb moment. That bulb came on, and it cast a long shadow.”

‘Not a fair program’

After Murphy explained his proposal, calling Chapter 313 a “huge winner” for Texas, Rep. Tony Tinderholt, R-Arlington, offered an amendment to strip out the language allowing renovations and repairs to qualify for tax breaks.

“How long do we continue to give 313 money to organizations that are already here?” Tinderholt asked. “They've made their bed in Texas. They're

doing business in Texas. Let's reserve this money to bring more business to Texas.”

The lawmaker to most aggressively question Murphy in support of Tinderholt's amendment was not a fellow conservative, however, but San Antonio Democrat Rep. Trey Martinez Fischer.

Ultimately, dozens of members of both parties voted in favor of Tinderholt's amendment, and then, in similarly bipartisan fashion, tacked on three more revisions. Facing more amendments and finding himself pushing a proposal far different from his original plan, Murphy killed his own bill.

“It's a matter of political timing,” Martinez Fischer later said in an interview. “Maybe Jim thought the opportunity was ripe for him to move forward. He judged it wrong.”

Murphy didn't respond to messages for this story.

Lawmakers who hadn't known much about the obscure Chapter 313 program were paying attention to the debate on the House floor, Martinez Fischer said.

“The fact that we had a discussion about how expensive this program is and how very little we receive in return, I think folks recognized that this is not a fair program,” he said. “And I think that echo in the House chamber made its way into the Senate.”

The Billion Dollar Texas Tax Giveaway

Senators never weighed Murphy's proposal, as it died in the House. But the lower chamber had already passed a more benign bill by Rep. Morgan Meyer, R-Dallas, that would simply extend Chapter 313 for two years with no changes.

Critics from across the political spectrum — including the progressive nonprofit Every Texan, the conservative Texas Public Policy Foundation, and nonpartisan groups such as the Texas Industrial Areas Foundation — felt emboldened by the demise of Murphy’s proposal. Still, they thought victory would mean ensuring that only Meyer’s modest two-year extension passed.

Then they entered the office of Sen. Lois Kolkhorst.

The advocates said Kolkhorst — a Brenham Republican who for years has sought to reform Chapter 313 — and her staff urged them to lean on senators they thought might let the program expire, and helped them brainstorm amendments that could be offered if the proposal reached the floor.

“It was clear that she and her staff are all in on fighting it and wanted to think with us about, ‘How do we help create that coalition to fight it and keep it from coming up for a vote,’” said Joe Higgs, an organizer with Gulf Coast Interfaith, part of the Industrial Areas Foundation network. “That’s when we realized, ‘We need to really double down.’”

The clock runs out

The advocates were further energized when state Sen. Brian Birdwell, R-Granbury, the sponsor of the two-year extension bill, sought to stretch the renewal to three years as he introduced the bill in the Senate Committee on Natural Resources & Economic Development. Hinojosa, a member of the committee, called this gambit “a bit on the greedy side”; Birdwell scrapped the idea by the time the divided group forwarded the bill to the full Senate.

Ultimately, Dick Lavine, the senior fiscal analyst for Every Texan, and Doug Greco, an organizer with the Industrial Areas Foundation network, said Sen. José Menéndez, D-San Antonio, was prepared to join Kolkhorst in

offering amendments to highlight flaws in the program if the bill was called to the floor.

“The senators did say, ‘Well, listen, I’ll start with this amendment and then if that amendment goes on then you’ll go on with the next two, it will attract votes from the other side,’” Lavine recalled.

In the end, Birdwell, who did not respond to messages seeking comment, told colleagues he couldn’t muster the votes to get the bill through the Senate. The clock ran out on the Legislative session with no final showdown on Chapter 313.

Unless lawmakers come back during a special Legislative session to revive it, the program will end in December 2022. Existing projects will run their course but no new Chapter 313 deals will be able to be approved.

Some senators said the weighty issues of the session — the February failure of the state power grid, COVID-19, and fights over guns, abortion and voting rights — left no bandwidth for lawmakers to grapple with a program as complex as Chapter 313. Still, it was a stunning defeat for industry groups who warned that the Texas economy would suffer without the program.

“The Legislature failed to renew Chapter 313, our most important economic development tool, and our neighboring states are surely celebrating to see Texas throw in the towel,” said Tony Bennett, president and CEO of the Texas Association of Manufacturers.

But even some Chapter 313 supporters said they welcome the opportunity to rethink how to deliver on the program’s goals. State Sen. Carol Alvarado, D-Houston, said she had planned to support Meyer’s bill, but is glad there is more time to review the program.

“People do see that there is some economic benefit and that it can be used as a tool to create jobs, but there’s also some aspects that have perhaps invited some overreaching,” Alvarado said.

Dale Craymer, president of Texas Taxpayers and Research Association, which has long been among the program's top boosters, said he has "little interest in maintaining Chapter 313 in its current form."

"We'd like to have an economic development program that works rationally, that's fair, and that's competitive with other states. I don't think Chapter 313 checks all those boxes," he said.

Kolkhorst, who said the program will be "one of the hottest topics of the interim," said Chapter 313 simply crumbled under its own weight.

"I've been so unsuccessful in making changes to the program," Kolkhorst said. "But this session, enough members were engaged and said, 'I think we need to tap the brakes on all of this,' and that's exactly what happened. It came to a screeching halt."