



# The Unlikely Demise of Texas' Biggest Corporate Tax Break

After 20 years, the state's most lucrative corporate welfare program comes to an end.

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**In** 2001, state lawmakers and business leaders warned that the state's high property tax rates were discouraging corporations from locating big projects in Texas. At the time, *Site Selection* magazine—a trade publication about economic development—showed Texas' national ranking on new manufacturing plants had plummeted to 37th in the nation, and without a state income tax, the Lone Star State had no choice but to lean on sales and local property tax revenue to fund basic services like public education.

In order to attract large manufacturing projects, lawmakers proposed allowing school districts to offer generous property tax abatement deals—with the state picking up the tab—as a way to lure companies to Texas. Proponents promised that good-paying jobs and long-term investment that came with those projects would more than make up for the cost of the tax breaks.

The bill, dubbed the Texas Economic Development Act, passed quickly, championed by then-state Representative Kim Brimer, a Fort Worth Republican,

and backed by powerful business groups. Colloquially known as Chapter 313 due to its place in the state's tax code, the program is immensely popular for both industry and school districts. For the last two decades, it's been the state's largest corporate welfare program. But data reveals that 313 projects routinely lose more value than originally estimated when they return to the tax rolls, at a total cost of nearly \$10 billion to Texas since the program's beginning, raising questions about whether the projects ever actually pay off.

Despite clear problems with the program, the state has overwhelmingly voted to extend it three times and is once again slated for its perennial expiration next year. The oil and gas, manufacturing, and other industries have been clear that the program must continue, but in an unexpected twist, Chapter 313 ran into heavy resistance this legislative session. The proposed bills to renew never even reached the governor's desk, all but ensuring that for the first time since it became law, Chapter 313 would expire.

The unlikely demise of the state's most coveted corporate tax break has become a rare instance of Texas' powerful business interests failing to get what they wanted from the Legislature. At least for now.

**S**ince before it became law, Dick Lavine has waged a lonely crusade against Chapter 313. As a fiscal analyst for Every Texan, a liberal policy organization, he was the lone witness to testify in 2001 against the original bill at a House Ways & Means Committee hearing that was otherwise stacked with supportive business officials, warning that the state would be needlessly gambling away property tax revenue for projects that would have come to Texas regardless. "It's willful shortsightedness," he told the *San Antonio Express-News* at the time.

He would testify on the flaws and ill effects of Chapter 313 many times over the years, only to watch the Legislature turn around and make the program easier, he says, for corporations to exploit every time they renewed it. Lavine fully expected the Legislature to do the same thing this session. "Just look at the money that was

at stake and the power of the beneficiaries,” he says. “It was a unanimous priority for the entire corporate sector.”

Most of the 313 tax bounty goes to refineries, chemical plants, liquified natural gas facilities, and other fossil-fuel projects along the Gulf Coast. Oil and gas giants like Exxon Mobil, Chevron Phillips, Dow Chemical, and Enterprise Products Partners, have all saved hundreds of millions through 313 deals.

But that *Site Selection* article that Kim Brimer and his allies seized on to gin up support for Chapter 313 was wrong. A Senate committee found that Texas’ dismal ranking was based on an error that showed Texas had lured just three new corporate facilities in 2000 when it actually attracted 73, which ranked 8th highest. “The unavoidable conclusion,” according to a report from the committee, “is that the case for passing the largest economic development incentive program in the State’s history may have been based on the fear incited by a magazine’s typographical error.”

Despite Lavine and other critics’ warnings, Chapter 313 had become firmly entrenched: Big business and some schools had a good thing going and lawmakers saw no reason to mess it up. In 2013, the House pushed a bill to extend the program with some minor reforms. At the same time, public schools were still reeling from the steep cuts to state education funding that the Legislature made in the previous session. “We had this huge giveaway going without any accountability or transparency,” recalls former state Senator Wendy Davis, who had ousted Brimer in 2008. She succeeded in getting reforms added in the Senate but the measures were eventually defanged.

In a floor speech, Davis warned that without any new oversight, Chapter 313 deals would continue to drain the state’s school property tax system. “It’s not a pinata that’s meant to be whacked until the goodies pour out,” Davis said. “This is a very expensive incentive that should be given only in special cases.” Davis convinced nine of her fellow Senate Democrats to join her in voting against the bill, but it wasn’t enough to block it.

That attempt in 2013 was the last serious attempt at reforming Chapter 313. The neutered bill easily passed into law, extending the program out to its current expiration date of December 2022.

For all its support, there have been signs in recent years that the political winds were turning against the corporate handouts. The right-wing Texas Public Policy Foundation became a vocal critic of the program, providing an ideological counterpart to Lavine's argument in the fight. Since 2017, the Texas Democratic and Republican party platforms have explicitly called for an end to the program.

Perhaps the biggest champion of Chapter 313 in the Legislature has been Representative Jim Murphy, a Republican from Houston. In 2015, lawmakers passed a bill authored by Murphy that would have expanded the scope of projects that could get 313 deals, but the measure eventually was vetoed by Governor Greg Abbott, who cited "serious concerns" about the program's transparency and value. Murphy tried again in 2019, but the bill died in the Senate.

In this year's session, Murphy doubled down with an audacious proposal: expand the scope of qualified projects not just to new construction, but also routine upgrades and renovations for facilities already in Texas. The proposal would have taken an additional \$30 billion in property tax revenue off the rolls by 2049 compared to a 10-year extension of the program as is.

Meanwhile, the coalition opposed to Chapter 313 this year was broader than ever, and went after Murphy's bill emphasizing the negative impact on school funding, and conducting analysis on how much state revenue individual districts lost out on each year because of the program. Organizers say their efforts were based on work in Louisiana that got lawmakers to reform its similar corporate tax abatement program.

The program "had been sold as a win-win for so long," says Doug Greco, an organizer with Industrial Areas Foundation affiliate Austin Interfaith. The key was "changing the analysis from a win-win to a winners and losers. ... It's one thing to say it will cost state X number of dollars. It's another to show legislators that those dollars could be put into Bastrop ISD, or wherever. That was what changed

minds.” Before the bill reached the floor, Every Texan and the Texas Public Policy Foundation issued their first-ever joint statement condemning Chapter 313. “I think that really helped legitimize the conservatives getting involved,” Lavine says.

Murphy eventually moved to kill his own bill after running into opposition on the House floor.

In early May, the House passed a backup bill to extend Chapter 313 for two more years, giving legislators enough time to examine the program and come up with potential reforms in the interim. Opponents would have considered that alone a significant victory, but they kept up the pressure as the two-year extension went to the Senate.

As the final days of the session ticked away, supporters and opponents of Chapter 313 waited for the bill to come up for debate.

In a sign that the program may be in jeopardy, and with just a few days left in session, former Governor Rick Perry sent out a tweet urging Republican senators to vote to extend the program. Perry is on the board of natural gas giant Energy Transfer Partners, which owns a subsidiary with eight Chapter 313 deals worth about \$135 million in tax breaks. His last-minute push to save the program was rather ironic. Of the hundreds of bills that reached his desk in his first legislative session, the tax break program was one of the only ones that he let become law without his signature. “I am concerned that these same provisions may have long-term fiscal and economic repercussions, especially with regard to the funding of public schools,” Perry said in a statement at the time. He added that the impact of the program should be “further evaluated” before the next legislative session. Of course, that never happened.

Opponents said that Senator Brian Birdwell, who eventually carried the bill in the upper chamber, did not think he could muster enough votes to get it passed, all but dooming Chapter 313.

“It was a rare victory for the people against the corporate sector,” says Lavine. “It got too big. There were too many abuses and it was too easy to understand.”

While it's possible that Governor Abbott could make it an item in a special session, it seems unlikely. Abbott has remained quiet about the program and his office did not respond to requests for comment.

“There obviously just wasn't sufficient support for the program,” says Dale Craymer, president of the Texas Taxpayers and Research Association, a leading supporter of 313. “It is an imperfect program. It is in need of reform. I certainly don't quibble with that.”

But even if Chapter 313 goes away, Texas will feel the effects for years to come. There are more than 500 active deals that the state is on the hook for, and many don't end until the 2030s. Meanwhile, corporations still have 19 months to secure new agreements before the program expires.

“There's gonna be a land rush to lock it in,” says Lavine.