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Chapter 313 program doomed after Texas lawmakers miss deadline; 'We're going to lose a lot of projects'

Tesla, Samsung among big brands that secured property tax breaks through '313'

By [Kathryn Hardison](#) – Staff Writer, Austin Business Journal

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Texas lawmakers missed an important deadline this session to extend a \$10 billion program that has been used to incentivize massive manufacturing and energy projects to the Lone Star State by lowering their school property tax bills.

The Texas Legislature missed a May 26 deadline to advance House Bill 4242, which would have extended the Chapter 313 incentives program by two years. Those incentives have been used for major local projects such as Tesla's \$1 billion gigafactory and Samsung Austin Semiconductor's massive East Austin facility, as well as tons of energy projects throughout the state.

The decision not to advance HB 4242 means the program will likely expire in December 2022. Many have questioned the program's effectiveness in its current form, while others have said that allowing the program to expire could have negative consequences for the future of Texas' economic development — a longtime badge of honor for Texas as companies pour into the state to seek a [business-friendly environment, lower costs of living and relatively lower taxes](#).

Texas, and its cities and counties, still have mechanisms — such as chapters 380 and 381 of the local government code — to offer property tax breaks and other incentives to incoming or expanding businesses, but the pending loss of Chapter 313 has set many economic development advocates back on their heels.

"This is going to leave a mark," said Glenn Hamer, president and CEO of the Texas Association of Business. "There's no other way to put it. I can't tell you how much of one right now."

University of Texas at Austin government professor Nate Jensen, a critic of incentives, said support for the Chapter 313 program has "frayed a bit" of late as interfaith groups and organized labor have joined organizations from both sides of the political spectrum in opposition of the program. For example, Central Texas Interfaith on May 24 sent a call to action urging members to ask their legislators to oppose HB 4242. The email decried that "Chapter 313 costs taxpayers nearly \$1 billion a year in tax breaks" which largely benefit large petrochemical and manufacturing companies.

[Dale Craymer](#), president of Texas Taxpayers and Research Association, said on May 27 that it's unlikely lawmakers will try to push the issue through before May 31, the last day of the session, or bring it back up in a special session. Agreements currently in place will remain intact, and companies can continue to apply for the program's property tax breaks until the end of 2022.

Chapter 313 allows a school district to offer a cap of up to 10 years on a portion of the taxable property value of new manufacturing or renewable energy projects. This has been a major incentive for many companies because of the state's high property taxes in lieu of no income tax. In addition to Samsung — which may seek incentives soon for a \$17 billion expansion that could land in Austin — and Tesla, companies that have benefited from the program include Freeport LNG [in the Houston area](#) and Caterpillar Inc. in Seguin. A total of 509 agreements were in effect as of earlier this year, according to the Texas comptroller. The projects incentivized by Chapter 313 represent \$217 billion in investments by companies and in turn have received gross tax benefits of \$10.8 billion, the state reports.

Craymer said many are worried companies won't consider Texas for future economic development projects that are on the drawing board today — which are likely to break ground in three to four years — because there won't be any assurance of incentives.

"We're going to lose a lot of projects that companies are currently in the initial planning stages for. If Texas isn't on their list now, we likely won't be on their list in the future," he said. "Even if we come back in 2023 and create a new program, it will create a gap of investment in the state."

[Tony Bennett](#), president and CEO of the Texas Association of Manufacturers, said in a May 27 statement that nearby states are likely celebrating after the Legislature's decision to not renew the program.

"Texas will be sidelined for major automotive, petrochemical, aerospace and high-tech manufacturing projects that cannot afford to locate in a state with the fourth-highest property taxes in the nation, especially when nearly all other states offer property tax discounts," he said. "I never thought I'd see the day when Texas took the same path California took decades ago when lawmakers took manufacturing jobs for granted and hurt their economy."

Craymer said Chapter 313 is crucial to attracting projects, though there are issues with the program. Over the years, the bulk of the savings has shifted to the school districts

and away from businesses, he said, adding that after crunching the numbers, businesses typically end up with net tax savings of 36%.

"Chapter 313 is not a free ride, it is only a partial discount on your tax bill," he said. "You get a 36% discount in Texas versus an 80% discount in Louisiana or a 100% discount in other states like Georgia. Chapter 313 is not as generous an incentive as what companies can get in other states."

A large majority of the Legislature doesn't like incentives programs, which has ultimately been the program's downfall and why it's become a controversial topic over the years. The Texas Public Policy Foundation praised lawmakers for not taking initiative to renew the program.

"Sunsetting this program is a critical victory for each and every Texan — made possible by a tidal wave of bipartisan support for free-market principles and broad property tax relief Texans sorely need," [Kevin Roberts](#), TPPF's CEO, said in a statement. "For two decades, Texas taxpayers have borne the brunt of special-interest corporate welfare that raises our property taxes and allows government to pick winners and losers. These 20 years of hard data have proven Chapter 313 doesn't live up to its lofty promises to create jobs or lure new businesses to our state."

Another effort to expand and extend the program was House Bill 1556, authored by Republican Rep. Jim Murphy. The bill, which stalled earlier this month, would have [extended the program for another decade](#) and allowed companies to apply for a tax cap on upgrades and renovations to existing facilities. It also proposed eliminating some types of projects that could qualify, like nuclear energy, and changed how a minimum qualified investment would be determined. Murphy's bill attracted scrutiny and was ultimately amended to leave much of the current program intact.

"Not only was it an incredibly costly bill at a time of serious budget constraints, but it was silent on most of the major criticisms of the program," Jensen wrote in a May 27 email. "Rather than proposing a reform to the program along with a renewal, supporters pushed for an expansion. This was a huge blunder and once this expansion died, there was no serious backup bill."

According to Hamer at the Texas Association of Business, the failure to extend Chapter 313 incentives will cast a pall over the 2021 Legislative session, despite other business wins surrounding education, broadband access and protections for businesses amidst the Covid-19 pandemic.

"This is a cloud and a significant disappointment," Hamer said. "I'm not going to say anything otherwise."

Paul Thompson contributed to this story.