



# Missed deadline could doom controversial \$10B tax-break program

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Texas' largest corporate tax incentive program is at risk of expiring after state lawmakers missed a critical deadline and failed to advance a bill that would have extended the \$10 billion program for another two years.

The Legislature must renew the state's Chapter 313 program before the session ends on Monday or it will expire in December 2022.

Named for its place in the Texas Tax Code, Chapter 313 lets manufacturing and energy companies — including some of the world's largest oil and gas firms — save millions in property taxes by slashing the value of their properties on the tax rolls of school districts for 10 years. Supporters say it's a crucial economic incentive to attract new business to Texas.

But the primary piece of legislation that sought to renew Chapter 313 — House Bill 4242 — never came up for a vote in the Senate. Some lawmakers questioned the cost and effectiveness of the program, and a coalition of critics from across the political spectrum lobbied against the bill and similar legislation.

A Houston Chronicle investigation published this month also revealed how Chapter 313 is giving companies billions in tax breaks to lure them to Texas — despite firms announcing dozens of projects or even starting construction before applying for the incentives.

On HoustonChronicle.com: Just how easy is it to save millions on taxes? Exploit the Texas tax code like a billionaire

Last week, state Sen. Lois Kolkhorst, R-Brenham, described Chapter 313 as a program that was “run amok” and said it was time to start over with a “clean slate.”

The lack of support for Chapter 313 was unprecedented. In each of the three prior sessions when the Legislature weighed whether to renew the program — which was first passed in 2001 — the bills sailed through the business-friendly corridors of the Capitol.

“Chapter 313 was most certainly not an ideal program, but it was better than nothing — and now we’ve got nothing,” said Dale Craymer, president of Texas Taxpayers and Research Association, which has long been among the program’s top boosters.

Wednesday was the final day for House bills to pass the Senate. Messages left with state Rep. Morgan Meyer, the author of HB 4242, weren’t returned. State Sen. Brian Birdwell, the sponsor of the bill, also didn’t return a message.

Among those lobbying lawmakers against the bill were not only the conservative Texas Public Policy Foundation and the progressive nonprofit Every Texan, but grassroots groups such as the Industrial Areas Foundation, a nonprofit network of interfaith congregations, unions and others.

Doug Greco, the lead organizer for the coalition’s Austin affiliate, said the group for years has pushed Texas cities and counties to pay higher wages to their workers and the workers of companies receiving local tax breaks. It

was natural, he said, to turn attention to bills that sought to extend Chapter 313 and its meager job and wage requirements.

“The defeat of these bills sends a strong statement that Texas will not underwrite the bottom lines of corporations on the backs of Texas schoolchildren and taxpayers,” said the Rev. Miles Brandon, a leader with Austin Interfaith, an affiliate of the foundation. He said advocates would remain vigilant to ensure Chapter 313 does not survive as an amendment to any other bill.

The Chronicle’s investigation, in addition to revealing that the program was subsidizing companies that had already announced plans to build in Texas, found that lawmakers repeatedly undercut the program’s job and wage goals. Officials waived job-creation requirements for nearly two-thirds of active projects. One out of five projects paid workers less than the local prevailing wage but still kept the tax breaks.

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.

Even if lawmakers fail to extend the program by the end of the current session on Monday, the more than 500 active projects with incentive deals will continue, and likely scores more will be approved before the program dies.

## The Billion Dollar Texas Tax Giveaway

The Legislature also could reinstate Chapter 313 during its next regular session in 2023.

Still, the Senate's snub was an abrupt reversal for a program that has grown exponentially in recent years, and which had never before faced a close vote.

Former Gov. Rick Perry, a board member of Energy Transfer, a frequent recipient of tax breaks under the program, took to Twitter and unsuccessfully urged senators to support the legislation that would renew Chapter 313.

"HB 4242 will keep TX #1 for jobs and investment," wrote Perry, who as governor did not support Chapter 313 when the program was created in 2001 but later changed his mind. "To my friends in the Texas Senate: Let's keep Texas open for business! Yes on HB 4242."

Tony Bennett, president and CEO of the Texas Association of Manufacturers, said the death of Chapter 313 would harm the state's economy.

"If Chapter 313 is allowed to expire, Texas will lose multibillion dollar projects in automotive, petrochemical, aerospace and high-tech manufacturing and the thousands of high-paying jobs these projects create," Bennett said in a statement.

Critics are skeptical of such dire warnings.

Carine Martinez, director of research and publications for the Texas Public Policy Foundation, which has urged lawmakers to abolish the program for years, noted that Texas had ranked no lower than eighth in the country in attracting manufacturing jobs in 2001 — when lawmakers created Chapter 313 — and the four preceding years.

But the program's supporters relied on a typo in an industry magazine to incorrectly claim that Texas that year ranked 37th nationally in luring manufacturers, according to a 2016 state Senate committee report that found numerous faults with the Chapter 313 program.

That falsehood has been repeated dozens of times over the years by the program's supporters and the media, the report found.

Martinez said the end of Chapter 313 will give Texas a chance to see how much a difference the incentives actually make in attracting new businesses. And if a company opts to avoid Texas because it couldn't receive a tax break, she said it's worth asking whether taxpayers should be on the hook to subsidize such an enterprise.

"If they're not profitable, should the taxpayer take the risk?" she asked.

Longtime supporters of the program, however, anticipate a push to reinstate the program.

"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," said Craymer, of the tax research group. "We'll be prepared for the next regular session to come up with some suggestions for a program that would work better."