



# HB 3143 and SB 1046 Extending Local Property Tax Abatements

by Bill Peacock  
Vice President, Research

## Purpose

Under current law, the ability of local governments to offer tax abatements or limitations is drawing to a close. The Property Redevelopment and Tax Abatement Act, also known as Chapter 312 of the Texas Tax Code, allows cities, counties, and various special purpose districts to offer tax abatements to certain businesses. It will expire this year unless it is renewed. HB 3143 and SB 1046, along with HB 360, HB 499, HB 2438, SB 118, SB 350, and SB 1158 would extend (or eliminate) the expiration date of Chapter 312.

Similarly, Subchapters B and C of the Texas Economic Development Act, also known as Chapter 313 of the Texas Tax Code, allow school districts to offer property tax limitations to certain businesses. They will expire in 2022 unless they are renewed. HB 2129 and HB 2438 would extend the expiration date of these Chapter 313 subchapters.

## Background

Reporter Patrick Michels correctly observed in a March 2016 profile for the *Texas Observer* that Chapter 313 “actually makes it worthwhile for school districts to give away millions of dollars in tax revenue.” While Chapter 312 is not as problematic, nonetheless there is no clear evidence that, on balance, businesses invest more capital and create and sustain more jobs in Texas as a consequence of Chapter 312 or Chapter 313.

For years, property tax abatements and limitations under Chapters 312 and 313 have been sharply criticized by free-market advocates who oppose “corporate welfare,” the label they use for a wide array of benefits for favored businesses at the expense of other businesses and taxpayers. Progressive voices such as *Texas Observer* have also questioned the wisdom and propriety of such tax abatements as an economic development strategy.

Despite mounting criticism, these property tax abatements remain on the books and have a number of vociferous

defenders. Undoubtedly, one key reason for the durability of Chapters 312 and 313 is the significant role they have played and continue to play in the building and placement of wind turbines and solar panels in Texas. Without the property tax abatements, it is likely Texas would have far fewer turbines and solar panels, and in many cases the turbines/panels wouldn’t be located where they currently are.

Yet the costs of continuing these programs are high in the case of renewable energy projects. The rapid, subsidized growth of wind and solar farms is greatly harming the reliability of Texas’ electricity grid. The Public Utility Commission of Texas recently reacted to this problem by increasing an administrative pricing mechanism that could increase power costs for Texas consumers by as much as \$1.3 billion this year and grow to \$2.5 billion by 2020.

## Analysis

Cities, counties, and local special purpose districts enter into Chapter 312 abatement agreements with businesses seeking to expand or locate in their area. Similarly, school districts offer tax limitations to companies through Chapter 313 agreements.

Too often, however, negotiations with these companies take place without input from residents and taxpayers. Commissioners courts, city councils, school boards, etc., can keep documents secret and meet behind closed doors to discuss these agreements because of exemptions in the Texas Open Meetings Act and the Texas Public Information Act.

Citizens usually receive only a 72-hour notice for the city council, commissioners court, or governing board meetings where 312 tax abatement agreements and the related tax reinvestment zone creation are presented in a public hearing. Local governments can approve a reinvestment zone and a 312 agreement immediately after the public hearing. Citizens often have almost no opportunity to provide meaningful input.

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School districts can vote only to accept an application for a 313 agreement which is then forwarded to the Comptroller for review and certification. The Comptroller's process usually lasts at least 150 days. After certification, school boards can then vote to approve an agreement and provide the abatement. This process provides more time for citizens to have input, though much of the information is still difficult to obtain.

HB 3143 does improve transparency by requiring an open meeting and posting of information regarding guidelines and criteria governing tax abatement agreements. It also requires more transparency about taxable values for property under a 312 agreement. And it applies to all properties the standard that, to qualify for a reinvestment zone designation, a property "must be reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment." SB 1046 also provides more information to the public about proposed tax abatements and requires posting notice 120 hours before a public meeting.

## Recommendations

The Foundation opposes the extension of Chapters 312 and 313; they should be allowed to expire in 2019 and 2022, respectively.

Far better for economic development, i.e., job growth, would be for Texas to double-down on the Texas Model: lower taxes, less regulation, and fewer frivolous lawsuits. For instance, the Foundation has proposed the abolition of the school district maintenance and operations property tax, which accounts for about 50 percent of all property taxes. This could be done in as little as 12 years through one simple mechanism: restraint of spending growth to 4 percent by the Texas Legislature. Under this proposal, growth

of the Texas economy and Texas jobs would far outpace the minimal gains offered by Chapters 312 and 313.

However, if the Legislature does decide to extend either of these programs, HB 3143 and SB 1046 do not do enough to increase public participation and reduce the harm caused by renewable energy subsidies. To address these issues, we suggest these changes to Chapters 312 and 313:

### Chapter 312

- Create an application process for 312 similar to the 313 process. The governing body of a local taxing authority would have to first vote to accept an application for 312. Then there would be a 90-day period for public review and input. Only after the 90 days could the governing body vote to adopt an abatement agreement.
- Adding a jobs requirement (10 rural, 25 urban) to Chapter 312, like the Chapter 313 requirement.

### Chapter 313

- Eliminate ability of school districts to waive the 313 jobs requirement.

### Chapters 312 and 313

- Do not allow property with wind and solar farms to receive property tax abatements.
- Require discussions by governing bodies about negotiations with businesses over financial or other incentives to be held in public. Currently, those discussions may be hidden from public view under an exemption in the Open Meetings Act.
- Treat as public information any documents offering financial or other incentives to business prospects before the deal is made. Currently, this information may be hidden from public view under an exemption in the Public Information Act. 

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