



Promote Transparency and Local Benefit When Reforming Chapters 312 and 313

Testimony before the Texas House Committee on Ways & Means

by Cutter W. González, Policy Analyst

Chairman Burrows and Members of the Committee:

I am Cutter González, a policy analyst in the Armstrong Center for Energy & the Environment at the Texas Public Policy Foundation. I am testifying today in support of House Bill 2799.

Chapters 312 and 313 of the Texas Tax Code allow counties, cities, school districts, and special purpose districts to reduce the amount of taxes paid by favored businesses that locate or expand within their geographic boundaries. These local subdivisions are supposed to benefit by the influx of capital and the availability of new, high-paying jobs. Unfortunately, as I learned while traveling across Texas to investigate issues in our statewide supply of reliable energy, the benefits are often unfelt by residents, and the process leaves them in the dark.

Since Chapter 313 involves school finance, agreements under the statute must be submitted to the Comptroller for certification. This provides residents with some information and a timeline of no less than 90 days to get involved (the length of time statutorily provided to the Comptroller for review). Chapter 312, however, does not have a similar process.

In fact, under 312 residents often only become aware of the proposed agreements 72 hours before a public hearing is scheduled, the minimum requirement for posting any agenda item. Votes on executing the tax abatement agreements often follow immediately after a hearing. Exemptions from the Open Meetings Act and Public Information Act hide the discussions about the tax abatement agreements from public view until the deal is almost certain to pass. The public is left in the dark during months of negotiations, yet somehow they are expected to provide meaningful public input on only three days' notice.

It is nearly impossible for residents to organize in 72 hours. It is fully impossible to analyze an agreement they have not seen.

Of all the counties the Foundation visited over the last year, there were two types of engagement in the Chapter 312 process with two disparate results. The first was aware of a tax deal early on. This was either because of neighborhood buzz about land leasing agreements or because the Chapter 313 agreement was submitted first, making information available on the Comptroller's website. The second was only made aware on the minimum 72 hours' notice.

The first type resulted in some lively debates about whether or not to enter into these agreements. In many of these cases, local governments rejected proposed 312 agreements. The second, however, universally lost their fights against a Chapter 312 agreement. Public engagement matters.

Chapter 313 is supposed to bring jobs. That much is clear in the existing statute and has been clear since it was first introduced to the Texas Legislature in 2001. In fact, the original form of what later became the Texas Economic Development Act (Chapter 313) required 250 qualifying jobs with no waiver provision. The legislative process significantly reduced this requirement to what we have today: 10 jobs in rural areas and 25 in urban areas. This provision can also be waived by an amendment to the statute passed in later legislative sessions.

Without jobs, residents experience no direct benefit from these deals. While the school districts might have greater funds available, increased tax revenues can lead to increased spending rather than providing much needed relief. The authors of the statute understood that jobs were a promise kept to locals for granting a tax deal to a prospecting business.

The map below shows the counties that have been active in fighting special deals under Chapters 312 and 313. We visited all of these counties and learned first-hand from their experiences: These statutes need serious, meaningful reform, or they need to expire. ★



ABOUT THE AUTHOR



Cutter González is the energy project campaign manager at the Texas Public Policy Foundation. Trained in geosciences, he joined the Foundation to manage their campaign to end subsidies that corrupt the energy market and result in less-desirable environmental outcomes. Additionally, he serves as a policy analyst for the project, offering criticism and new research.

González has worked on behalf of numerous political organizations to further an agenda of economic freedom, individual responsibility, and liberty, most recently through his service as a board member of the Constitutionalist Foundation, Inc.

González earned his bachelor of science in geography with minors in psychology and public administration from Texas State University.

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