SIERRA CLUB
LONE STAR CHAPTER

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To: Chairman Brian Birdwell
Vice-Chair Judith Zaffarini
Members, Senate Committee on Natural Resources and Economic Development

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Invest in Infrastructure and Good Jobs, not Local Incentives or Property Tax Relief that Hurts School Funding and Pits Communities against Each Other

During the 87th Legislative Support, there was not sufficient legislative support to continue the Chapter 313 program, which offers major cuts on school property taxes to certain power plants and manufacturing plants in return for promises of investments and jobs. In addition, legislation was filed and passed that requires some improved transparency on Chapter 380 and 381. Specifically, the 87th Texas Legislature passed House Bill 2404, which required the Texas Comptroller of Public Accounts to create and make accessible an online database for local governments to report their economic development agreements authorized by either Chapter 380 or Chapter 381 of the Local Government Code. economic incentives by requiring that agreements be posted on the website of the Texas Comptroller of Public Accounts.

Chapter 380 of the Local Government Code authorizes municipalities to offer incentives designed to promote economic development by offering loans and grants of city funds or services at little or no cost to promote state and local economic development and to stimulate business and commercial activity.

Chapter 381 of the Local Government Code allows counties to provide incentives encouraging developers to build in their jurisdictions. A county may administer and develop a program to make loans and grants of public money to promote state or local economic development and to stimulate, encourage and develop business location and commercial activity in the county. The county also may develop and administer a program for entering into a tax abatement agreement. This tool allows counties to negotiate directly with developers and businesses.

End 313

While the program at times has been successful in promoting the development of renewable energy and certain manufacturing facilities, many of which the Sierra Club has supported, the Sierra Club is in favor of not reviving Chapter 313 which ends this year. Indeed even as the program ends, we are seeing company after company try and get a last minute deal approved even though the actual proposed development may not occur for several years.

Why end Chapter 313? First, school finance is impacted. Even though the individual school district offering the tax break may benefit with a make whole payment and a donation from the individual enterprise, the state as a whole suffers as funding that would have supported all school districts is instead funneled to an individual school district. This is not equitable to the state and pits individual school districts – rural and suburban and urban - tax rich and tax poor – against one another.

Second, the rules surrounding Chapter 313 have largely removed the public voice. Information is difficult to find, notice is imperfect and by the time the public has a chance to voice their support, concerns or opposition, the decision is already pre-cooked. If Texas were to continue 313 agreements, then much better public participation and notice rules must be enacted, as well as more robust investigation and accountability.

Third, the promised investment and jobs frequently has not materialized as promised in the initial applications, meaning the industry receives favorable tax treatment, but the community doesn't receive the benefits.

In addition, to attract these industries, local communities must frequently invest in local water, electric and transportation infrastructure that creates expenses for the local communities. .

Finally, and most importantly, some of these industries come with externalities - water use, pollution and waste. Even as the industry is offered favorable tax treatment and at times a beneficial payment to the school district, local communities - often frontline environmental justice communities – are burdened with more pollution.

Speaking frankly, wind and solar companies will invest in West Texas because the resource is good, and LNG Companies and Refineries will invest along the coast because – it’s a coast and Texas has gas and oil. It’s not the tax breaks that attract them, it’s the resources.

While Sierra Club supports ending the 313 Tax agreements, if they are continued we would support continuing them for all industry, including renewable energy and storage companies.

Chapter 380 and 381: Need Improvement

Chapter 380 has very few guidelines as the state leaves it open to the city to decide how to use local incentives. While the Sierra Club has no objection to allowing cities to use local monies as matching funds for federal dollars, the other sections of the chapter do not set any standards in terms of job creation, working conditions or environmental standards. In addition, we believe that some basic public participation requirements should be created in statute, such as 30-day notice, documents being posted online and at least one public hearing before city councils.

Chapter 381 is similarly very broad categories to allow county governments to grant incentives or loans to attract businesses to their communities. Again, while we have no objection to the use of county monies for matching grants as authorized, we note again there are no required job creation, worker standards, environmental performance or any other measure. In addition, we would support some basic requirements around notice, documentation on a publicly available website and a public meeting on any use of county funds.

Invest and Utilize the IIJA and IRA monies to attract cleaner industry and better jobs

Rather than tax breaks, we think it makes more sense for the state to invest in its future, which will attract more industry. First, invest in our schools, community colleges and universities to attract leading industries, including hydrogen, renewable, storage, high tech, pollution control equipment, electric vehicle manufacturers, geothermal technologies and heat pumps, and other industries representing the transition to a clean economy.

It is worth noting that even without any state funding, those bills include massive tax breaks for industry already. As an example, while renewable energy developers may be losing opportunities under Chapter 313, the IRA of 2022 includes vast federal incentives to develop clean energy projects, including those with carbon sequestration, new nuclear projects and storage developments. These incentives are increased when they are located in underserved communities and include content from domestic supply chains. Attached please find information about the various tax incentives and rebates available under the IRA, which we produced from the REPEAT Project. It doesn't make sense to utilize state funds when so much federal funding is already available to attract industry.

Instead, let's utilize funding from the IIJA of 2021 (Bipartisan Infrastructure Law) and the IRA of 2022 (Inflation Reduction Act) to make our electric grid more resilient through transmission upgrades, and the creation of hydrogen hubs, multi-modal transportation – including a vast EV-charging infrastructure, and low-carbon industry development. Funding to continue to develop our water infrastructure - again partially using funds from the IIJA – through the Texas Water Development Board should be prioritized by giving the agency the GR it needs to invest in flood infrastructure and water and wastewater service. Supplemental funding from the state should also be used to invest in flood infrastructure funding, and community resiliency.

Third, prioritize worker training programs. We believe the state should use either state funds or take advantage of unique funding under the IIJA and recently approved IRA of 2022 to create unique programs that work for workers, especially those transitioning from traditional employment in the coal mining, oil and gas industry, and heavy manufacturing to new types of industry. Last legislative session, Rep. Gina Hinojosa and Senator "Chuy" Hinojosa introduced legislation (HB 3878 and SB 955) - *Relating to economic development and workforce retraining opportunities in the transition to the use of clean energy sources* - that would have created a worker transition training program and advisory committee. Sierra Club would support similar legislation to assure that we identify opportunities to invest in new industries and workers that could be beneficial to all Texans, and also take advantage of the provisions in the IRA and IIJA for worker transition programs and incentives that we could benefit from.

Rather than offering carrots to attract industry, and pit industries and communities against one another, Texas should invest in the 21st century, and create a leading multi-modal transportation system, a resilient electric grid, sustainable water solution and worker training programs. While we object less to local government incentives that do not undermine school finance, we are concerned that there appear to be no job creation, worker benefits and safety and environmental performance requirements in Chapter 380 and 381 Agreements, and no public notice and participation guidelines.

Denuding our school funding is not helpful to anyone, and providing incentives with little transparency is contrary to the public interest.