



SIERRA CLUB

LONE STAR CHAPTER

**To: Dr. Charles Schwertner, Chair, Senate Committee on Business and Commerce
Members, Senate Committee on State Affairs**

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Sierra Club Urges No Vote on HB 5

In recent weeks, there has been a concerted effort by big industries to persuade state legislators, particularly Democrats, to support House Bill 5 (HB 5) or to otherwise vote in favor of it when it reaches the floor. **Sierra Club is against it because it is an unneeded corporate subsidy that pits communities against each other.**

HB 5 is an attempt to resuscitate the Chapter 313 program, which gave millions of dollars to polluting industries through school property tax abatements. Solar and wind projects were included too, but the majority of the dollars for energy projects went to polluting industries.

The bill as passed by the house now includes energy storage projects as eligible for the subsidy. It still excludes solar and wind projects, however.

Would we oppose this bill even if solar and wind projects were put back in? Yes, two wrongs don't make a right and the fact is we don't need these subsidies. LNG facilities will come to Texas because of our gas infrastructure, and wind and solar will come because of excellent solar and wind resources.

- 1) **School finance is impacted.** Even though an 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.
- 2) **The public is largely taken out of the decision.** Under the last iteration of Chapter 313, information was difficult to find, notice was imperfect and by the time the public had a chance to voice their position, the decision was 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. **However, HB 5**

instead greases the wheels for approval by requiring that school districts approve or deny the application within 35 days, which gives no time for public input.

- 3) **Jobs ain't there.** 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 promised 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.
- 4) **Environmental Injustice.** Most importantly, many of these projects require significant water resources, and produce pollution and waste. Even as a corporation is offered favorable tax treatment, and at times a beneficial payment to the school district, local communities (often communities on the frontline of air and water pollution) are burdened with even more pollution.

Rather than these kinds of corporate tax breaks to wealthy companies, we think it makes more sense for Texas to invest in its future, which will attract more sustainable industries. **Invest in our schools, community colleges, and universities to attract leading clean energy and manufacturing industries. We should also** utilize new federal funding from the IIJA (Bipartisan Infrastructure Law) to make our electric grid more resilient through transmission upgrades, create hydrogen hubs, create multi-modal transportation – including a vast EV-charging infrastructure, and be a leader on low-carbon industry development. **In addition, we should prioritize worker training programs.** We believe the state should use either state funds or take advantage of unique funding under the IIJA and the Inflation Reduction Act of 2022 to create unique programs that work for workers, especially those transitioning from employment in the oil and gas industry, coal industry, and heavy manufacturing to new types of industry. Investing in new industries and particularly workers would be beneficial to all Texans, and the IRA and IIJA also offer monies for worker transition programs.

OK so if the bill were to move forward does the Sierra Club have any proposed amendments?

We would suggest six amendments. We believe the first three are the most important.

1. **Move the expiration date to 2029 so the Legislature has a chance to see if the program works. This would match the PUCT sunset date of 2029.**
2. **Improving transparency by requiring 30-day notice, a public meeting and at least 15 days after the public meeting before a decision can be made by the School Board;**

CSHB 5 does not have any requirement for notice or a public meeting for decisions made by the school district. But the public must be involved since their livelihoods and taxes could be affected. This amendment would give school districts more time to make a decision on whether or not to approve or disapprove the application, extending the

time from 35 to 60 days, and also require a 30-day notice and public hearing to assure the public is involved in the decision. In addition, the final decision must be made in a public meeting to assure transparency.

3. **Assure that any industry with a poor environmental compliance history from the TCEQ should not have access to the program until they achieve a satisfactory compliance history;**
4. **Require applicants for tax limitations to demonstrate that the benefits of subsidized projects are sufficient to offset both lost tax revenue and environmental costs resulting from a project through an environmental cost and benefits report prepared by the Comptroller;**
5. **Require that any facility that has an unauthorized pollution event that is considered a major violation will lose the benefits of the tax abatement until they have paid the fines and fixed the issues.**

Facilities that flaunt environmental rules should not receive the benefits of a tax abatement agreement. This proposed amendment would state that if a facility had a major water or air pollution event, their abatement could be put on hold until they have paid their fines and fixed any underlying issues. If they don't, the temporary suspension of their agreement can be terminated.

6. **Allow renewable energy projects to gain access to the program, if they are connected to electric storage or compressed air energy storage that is equal to 50 percent of their total capacity;**

Under this proposal, the definition of Grid Reliability project to assure that both thermal generation such as gas, hydrogen or nuclear, or non-thermal generation like solar, wind and geothermal can qualify for a property tax abatement, while also expanding storage projects to include compressed air storage in addition to batteries. Texas should not be picking energy winners and losers. If the property tax abatements are continued, wind and solar should be included.