TEXAS TAXPAYERS
TTARA
AND RESEARCH ASSOCIATION

Research Brief

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Chapter 312:
Local Property Tax Abatements

One of Texas' key economic development programs—Chapter 312 of the Tax Code that allows cities and counties to offer temporary tax abatements—is set to expire in 2019. In this brief, TTARA looks at how the program works.

Things to Know

- The Legislature must re-authorize Chapter 312 in 2019 or it will expire, leaving Texas without one of its most important economic development tools.
- Chapter 312 of the Tax Code, allows cities, counties and non-school special districts to offer full or partial property tax abatements for a period not to exceed 10 years for new investments.
- Chapter 312 allows communities to attract new jobs and grow tax bases without any cost to the state or to local taxpayers.
- Texas has among the highest property tax burdens in the nation, putting the state at a competitive disadvantage in attracting major investment projects.

How an Abatement Works

Chapter 312 of the Tax Code, the Property Redevelopment and Tax Abatement Act, allows the governing bodies of cities, counties and other non-school special districts to exempt all or part of the taxable value of new investments for a period not to exceed 10 years. Chapter 312 does not apply to school districts, as they are covered by Chapter 313.

To be eligible for an abatement, a project must be a new facility or an expansion or modernization of an existing one. Only residential, commercial, or industrial projects are eligible; oil and gas development is not.

Chapter 312 requires public hearings, formal legal agreements, "clawback" provisions for non-performance, and state reporting requirements, as well as an annual application to ensure eligibility.

Chapter 312 was first passed in 1987 and was extended in 1991, 2001, and 2009. It is set to expire in 2019, unless reauthorized by the Legislature.

Chapter 312: Local Property Tax Abatements

Why Does Texas Need Abatements?

Texas is a relatively high tax state for business—particularly capital-intensive businesses. Texas does not levy a personal income tax and relies more heavily on sales and property taxes than other states. Texas has some of the highest property tax rates across the states—fourth highest for an industrial facility and 60% higher than the national average (see below). Without incentives such as the abatements allowed under Chapter 312, Texas would be at a significant disadvantage when competing for major capital investment projects.

Abatements by the Numbers

In 2014 and 2015, the most recent years for which data are available, cities and counties abated taxes on 101 properties. Less than half of the agreements were for the maximum allowable 10 years and roughly a third were for five years. Abatements were evenly split between new facilities and expansions or modernizations of existing facilities—meaning they play a critical role in both preserving and creating jobs.

Revenue Gain—Not a Loss

Tax abatements do not reduce *existing* local property taxes and do not cause a loss of revenue. Instead, they offer a temporary limit on future taxes for a facility not yet built. Even so, projects typically *add* to the tax rolls even during the time of the abatement. For example, the abatement may not exempt the entire investment. Further, project inventories, which can be substantial, may not be subject to an abatement. Plus, major projects typically spark construction or business activity with support companies near the project.

Nor do tax abatements cause the state to lose—in fact, the state ends up a clear winner. Abated projects may enjoy temporary local tax relief, but they pay 100% of their franchise, sales, and other state taxes.

Critics erroneously equate the “cost” of an abatement to the amount of benefit a project receives, rather than the benefit it brings to the community. In fact, the choice for the community is typically between a vacant field or a permanent new facility that will pay a substantial amount of state and local taxes over its lifespan.

State and local tax bills differ substantially across locations. For a company, it is not the amount of the tax incentive it receives that sways its decision. It is the ultimate tax cost over the life of the project that matters—a factor that is often ignored, and rarely even scored, by public policymakers.

Property Taxes Over a 25-Year $1 Billion Investment