

Date: May 18, 2023

To: Chairman Schwertner and the Members of the Senate Committee on Business & Commerce

CC: Sen. Phil King, Sen. Brian Birdwell, Sen. Donna Campbell, Sen. Brandon Creighton, Sen. Nathan Johnson, Sen. Lois W. Kolkhorst, Sen. José Menéndez, Sen. Mayes Middleton, Sen. Robert Nichols, Sen. Judith Zaffirini
Via hand delivery and by email.

From: Adrian Shelley, Public Citizen, ashelley@citizen.org, 512-477-1155

Re: HB 5 – Corporate tax breaks – Public Citizen testimony against

Dear Chairman Schwertner and Members of the Committee:

Public Citizen appreciates the opportunity to testify against HB 5 by Representative Hunter et. al., relating to agreements to create jobs and to generate state and local tax revenue for this state. We must oppose HB 5 because we consider the program to be corporate welfare that is not in taxpayers' interest.

We oppose this program in its entirety. We are also concerned about the deliberate exclusion of renewable energy projects.

We do not support tax breaks for corporations. Our position applies to all industries including the renewable energy industry. Texas has been fortunate to have received \$93 billion in investment from the renewable energy industry over the last two decades.¹ Many renewable energy projects did take advantage of Chapter 313. But Chapter 313 expired at the end of last year and Texas continues to see investment in renewable energy generation. Now more than ever, Texas is a clean energy state.

We would not support this bill even if renewable energy projects were included. However, they have been deliberately excluded, which puts them at a competitive disadvantage compared to thermal generators (coal, gas, and nuclear) that fall under HB 5's definition of "grid reliability project" (at P.4, L.12 in the committee substitute).

This competitive disadvantage is especially concerning. There are clear public policy reasons to encourage (or at least, not discourage) renewable energy investment. These include the public health benefits of reducing air pollution and the climate benefits of reducing greenhouse gases.

If this program is to exist, it should include all sources of energy generation.

This program deprives schools of revenue and we do not believe it attracts investment.

The Chapter 313 program that this bill replaces deprived Texas schools of billions in revenue. Looking back at Chapter 313, there are 896 active projects through February 10,

¹ See https://cleanpower.org/wp-content/uploads/2023/02/Texas_clean_energy_factsheet.pdf.

2023, totaling almost \$27 billion in limited property values.² The state comptroller puts the loss tax revenue at \$10.8 billion through 2020.³

We are not persuaded by the argument that these companies would have located outside of Texas without these tax incentives. Projects in the manufacturing category include oil and gas, plastics, chemical manufacturing, cement, and semiconductors—industries that are all thriving in Texas. Most of these companies have other compelling reasons to site in Texas including availability of feedstocks, proximity to industry peers, access to markets, and robust transport and export infrastructure.

Similarly, renewable energy projects locate in Texas to meet local demand for electricity. That demand must be fulfilled by generators who are connected to Texas' electricity grid. Renewable energy generators do build projects in other markets, but that doesn't replace the demand for energy here. We believe most of these projects would have sited in Texas without a Chapter 313 agreement.

Many recipients of Chapter 313 agreements provide little benefit and significant harm to Texas.

Many recipients of Chapter 313 agreements are in industries whose burdens outweigh their benefits to Texans. One example is Cheniere's Corpus Christi LNG Terminal, which has received over \$1.2 billion in tax abatements since 2012. This project has the potential to emit almost 8,800 tons of criteria air pollutants (which harm public health) and almost 6.5 million tons of greenhouse gasses (which cause climate change) each year.⁴ As for its benefits, the project cost local schools \$4,229,348 per job created.⁵

Another example from Corpus Christi is the Bootstrap Energy cryptocurrency mine.⁶ The mine will bring about 35-50 jobs to Corpus Christi at a cost of more than \$70 million in tax breaks over the ten-year life of its Chapter 313 agreement.⁷ For reasons that Public Citizen has written about extensively,⁸ we do not believe the cryptocurrency industry

² Texas Comptroller, Chapter 313 School Valuation Limitation Agreement Documents, Agreement List as of February 2023. <https://comptroller.texas.gov/economy/local/ch313/agreement-docs.php>.

³ See <https://comptroller.texas.gov/economy/fiscal-notes/2020/nov/313.php>.

⁴ Oil and Gas Watch, Corpus Christi LNG Terminal, available at <https://oilandgaswatch.org/facility/828#:~:text=Potential%20Emissions,year%2C%20according%20to%20government%20records>.

⁵ "Tax Abatement Economic Analysis Study: Corpus Christi, Nueces County, and San Patricio County," Autocase Economics, September 2022 https://www.wepaytheyprofit.com/files/ugd/62ab5a_2898254d8d784e4a995256d8663d7e94.pdf

⁶ See <https://www.kristv.com/news/local-news/bitcoin-mining-facility-coming-to-corpus-christi>.

⁷ Bootstrap Energy, Project Corpus Christi Energy Park, at slides 22–24 (Mar. 25, 2022), <https://corpuschristi.legistar.com/View.ashx?M=F&ID=10675758&GUID=10B47135-9684-416F-A8C0-D46E8AA2B5AE>; see also City of Corpus Christi, Agenda Memorandum from Ian Vasey and Andrea Gardner to Peter Zanoni re Disannexation and Amendment Industrial District #2 Boundaries, at 2 (Mar. 3, 2022) ("However, staff's financial analysis concludes the City will forego \$70,501,509 over a ten-year period if the same development were constructed and operated outside of an Industrial District Agreement in the city limits.").

⁸ See, e.g., <https://www.citizen.org/wp-content/uploads/2022-11-17-PCTX-Crypto-Mining-Impacts-in-Texas.pdf>.



provides benefit to Texas. We recommend this industry be excluded, if it isn't already, from the definition of "manufacturing facility" in HB 5.

In conclusion, Texas should end corporate welfare programs by rejecting HB 5 and declining to revive these tax breaks.