TEXAS CHAPTER 313 PROGRAM:
EVALUATING ECONOMIC DEVELOPMENT STRATEGIES

Summary

The Texas Chapter 313 program was created to incentivize capital investment in Texas. An analysis of the program finds that 85-90% of projects would have located in Texas without the 313 program and 80% of the program's dollars are lost revenue for the state's school finance system

What is Chapter 313?

The Texas Chapter 313 program was created in 2001 by the State Legislature. It provides funding to local governments to allocate tax abatements to firms for economic development purposes. The program was intended to attract large manufacturers to Texas and address concerns that companies were reportedly spurning the state for locations with lower property taxes. With a focus on attracting capital, the main requirement to participate in the program is the level of investment as opposed to job creation. Firms' tax abatement benefits are not open to negotiation. State statute determines the abatement details based on the amount of capital invested and the location of the school district, subject to firms complying with the program's job creation requirements.

From 2005 to 2015, this program gave businesses over $1.4 billion in property tax breaks (Texas State Auditor 2016). The existing 311 Chapter 313 agreements are estimated to provide over $7 billion in tax abatements over the lifetime of these projects (Senate Committee on Natural Resources and Economic Development 2016, 50). The Comptroller now estimates that this program will cost $1 billion per year in 2022 (Texas Comptroller of Public Accounts 2017).

A central component of the program is the role of school districts in authorizing these incentives. The local tax revenue the school district has forgone is substantially replaced through the state's school funding formula, along with "supplemental payments" from firms to incentivize districts to execute Chapter 313 agreements. As part of the agreement, school districts can negotiate a "supplemental" payment from the company, transferring some of the company's tax benefits, in cash, to the school district. According to a review of the program, "Supplemental payments are paid outside of the school funding formula, and incentivize the districts to enter into agreements that may not be beneficial to the state" (Texas Comptroller's Office 2010, 19).

Key Findings

Chapter 313 is unique in Texas economic development in that local school districts, as opposed to economic developers, participate in the program and have the authority to veto a firm's petition for incentives. By participating in this program, school districts can legally request "supplemental payments" from firms, often amounting to more than 40% of the provided tax benefits. An analysis of 257 firms that located in Texas with the support of the Chapter 313 Program from 2002-2014 found that:

- The program is concentrated in a very small number of industries. Wind generation and distribution account for 48% of the projects. The majority of manufacturing projects were related to oil and gas industry, comprising an additional 26% of the total projects.
- If this program is influencing investment decisions, it is merely shifting investments across U.S. states and not resulting in new investment in the United States. Only 35% of applicants

indicated they were even considering international locations for their investment. Two applicants even indicated that they were only considering locations within the State of Texas.

- Over 90% of projects applied for additional incentives at the state and local level.
- Predictions from a statistical model indicates that between 85-90% of projects would have located in Texas without the 313 program.
- Estimates suggest that 80% of the program's dollars are lost revenue for the state's school finance system, amounting to at least $4.4 billion for these projects.[1]

Recommendations

The recommendations from this study stem from the finding that the the majority of projects participating in the program would have located in Texas even without the program. This leads to the following recommendations:

- The structure of the program incentivizes school districts to support 313 projects that were likely to move to Texas regardless of whether the state provided tax abatement credits. Allowing school districts to receive supplemental payments has led to the overuse of this program. Additional analysis should be required during the application phase to minimize participation in the program by companies that would likely have invested in the state even without the 313 program.
- The verification of the 313 requirements, including if 313 is a "determining factor in the company's investment decision, is left to the school district, while the Comptroller or other government agencies only evaluate materials in the application for the 313 program. School districts most likely do not have the capacity or interest to make these determinations, and thus, there is a need for additional verification.
- The documentation required to show that 313 was "a determining factor" in the company's decision is very weak. For companies with operations outside of Texas, simply naming other locations is considered to be sufficient to demonstrate that the program is a determining factor. Companies may simply assert that the program's benefits are required to make a project financially feasible. Further evidence and evaluation is necessary to differentiate companies in which 313 is a determining factor.
- A rigorous evaluation of the overall impact of the 313 program should include more than a verification of jobs created and compliance with the 313 agreement. Evaluations of the program must estimate the probability that company applicants--or other companies with similar facilities--would relocate in Texas regardless of whether they received the 313 designation.

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[1] Agreements with some school districts are limited by a 2010 cap on supplemental payments ($100 per student or $50,000 in total). Since 2009, many companies and districts have signed agreements that allow supplemental payments to rise automatically to 40% of the company's net tax benefit if this cap is lifted legislatively in the future. Thus, the analysis *overestimates* the number of companies that located to Texas due to this program and *underestimates* the lost revenues for the state.