Watch Your Assets

Exposing the misuse and abuse of the public commons

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Gulf Coast Polluters Dominate School-Tax Breaks

Part 2 of 2 in a series

Texas school districts are awarding hundreds of millions of dollars in annual tax breaks to large businesses under a 2001 law. The Texas Economic Development Act allows school districts to slash businesses' annual property-tax bills--ostensibly to promote investment in districts with anemic property-tax revenues. Nonetheless, property-rich districts are seeking the largest tax breaks. In fact, the biggest tax breaks are going to oil refineries and petrochemical plants to expand existing plants within property-rich school districts.

Tax breaks sought under the Texas Economic Development Act could cost the state's school-finance system an estimated $800 million by 2011, according to the Texas Comptroller. Yet no state agency has monitored the agreements to ensure that they really do attract new and beneficial businesses to needy parts of the state (see the related report "Robbing 'Robin Hood,' Aug 23, 2007).

Rather than imposing more rigorous requirements on this corporate-welfare program, Texas lawmakers are expanding it. Governor Rick Perry recently signed legislation that allows school districts to extend these tax breaks to companies building nuclear power plants. Yet nuclear projects create relatively few jobs; and many such projects likely would proceed even without handouts from school district. Petrochemical, refinery and nuclear plants also impose safety and environmental risks on surrounding communities. Yet school districts repeatedly have agreed to keep providing tax breaks even if the beneficiary plant is shut down for environmental or other regulatory violations.

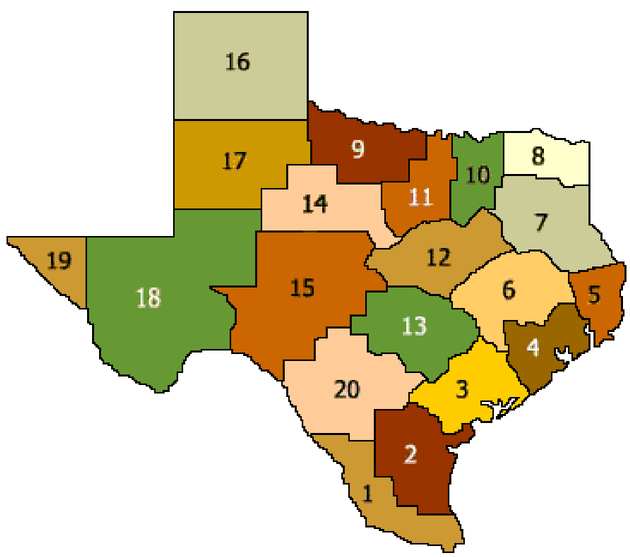
Proponents of these tax breaks credit them for landing a Toyota truck plant in San Antonio and persuading Samsung to expand its semiconductor facilities around Austin. Such facilities create numerous jobs that pay relatively high wages. Yet Toyota and Samsung are not typical beneficiaries of this tax break. "There's a difference between a power plant and a Toyota plant," said Sen. Steve Ogden (R-Bryan). "There is a need to attract businesses that could locate any place, but I can't see the need to attract a power plant that can only be built in one state. They can't build in Louisiana because we're not buying [electricity] from Louisiana."[1]

Tax-Break Geography

The Texas Comptroller reviews applications for Texas Economic Development Act tax breaks. Yet its recommendations on which projects merit approval are not binding on school districts. If school districts implemented all 56 projects that the Comptroller has endorsed to date, the participating districts would forgive an estimated $173 million in property taxes a year. These tax breaks typically last 10 years.[2]

Most Comptroller-endorsed tax-cut projects are concentrated in just a few regions of the state. The Texas Education Agency divides state school districts into the 20 regions shown in the accompanying map. Note that 16 wind-generation projects in West Texas' Region 14 account for 29 percent of all school tax-break applications that the Comptroller has endorsed. These relatively inexpensive wind farms account for 22 percent ($39 million) of all tax-break dollars proposed under this program.

Texas Education Agency
School District Region Map



In contrast, the Gulf Coast's Region 5, which accounts for 14 percent of all Comptroller-endorsed projects, represents 36 percent of all tax-break dollars proposed under this program. Tax breaks sought by this region's exorbitantly expensive petrochemical facilities and oil refineries could cost Texas' public school system an estimated $62 million a year.

Toxic Triangle

All of Region 5's proposed tax-break developments are in Jefferson County, which is one of the nation's leading producers of toxic chemical pollution. The watchdog group Public Citizen reported in 2005 that in a typical week Port Arthur and Beaumont industrial plants average five “accidental” flares or upsets, which release clouds of emissions in excess of what their environmental permits allow.

Occasionally an upset is unavoidable in order to prevent an explosion or fire at a plant, says Beth O’Brien, author of the Public Citizen report. “But, it should be very rare. Not on a daily or even weekly basis.” The report found that most upset emission events could be prevented with installation of additional maintenance equipment.[3]

When the first school district tax break agreement was signed in Jefferson County in 2002, 21,800 local children attended schools located within a two miles of a chemical plant or refinery. Children are more susceptible to air pollutants because they breathe faster, are more active and spend more time outdoors than adults. Indeed, some local schools report major attendance drops after emissions upsets at nearby refineries, the Public Citizen study found.[4]

“Golden Triangle” Tax Breaks

School District	Applicant	Project Description	Estimated Value of Annual Tax Breaks
Beaumont ISD	ATOFINA (Now Arkema)	Acrolein Plant	$746,700
Beaumont ISD	ExxonMobil	Refinery Expansion	$2,227,000
Port Arthur ISD	Motiva Enterprises*	Refinery Expansion	$35,894,000
Port Arthur ISD	Praxair	Hydrogen Production	$602,800
Port Arthur ISD	Premcor (Now Valero)	Refinery Expansion	$5,343,000
Port Arthur ISD	Premcor (Now Valero)	Refinery Expansion	$7,124,000
Port Neches-Groves	Sabina Petrochemicals	Petrochemical Processing	$3,425,000
Sabine Pass ISD	ExxonMobil (Golden Pass)	Liquefied Natural Gas Terminal	$6,439,000
		TOTAL:	**$61,801,500**

*This agreement is under negotiation.

Refining Port Arthur

Thanks in large part to refinery revenues, which account for most of the local property-tax base, Port Arthur Independent School District (ISD) is considered to be “wealthy” under the state’s so-called “Robin Hood” formula, which redistributes wealth from property-rich to property-poor school districts.

Yet the region’s wealth is poorly distributed. A quarter of Port Arthur’s population lives below the poverty rate (compared with 15 percent statewide), according to the U.S. Census Bureau. Port Arthur’s average household income is an unrefined $26,455;[5] 84 percent of the students in this city’s public schools are categorized as economically challenged.[6]

Port Arthur ISD has signed two tax-break agreements for expansions of a local refinery owned by Premcor. Just before Port Arthur ISD awarded its first Premcor deal in 2002, a former EPA official told a U.S. Senate hearing that Premcor’s Port Arthur refinery exemplifies the failures of the nation’s pollution-tracking system. From December 2001 to March 2002 the company discharged 400 tons of pollutants through unpermitted “accidents,” according to state data.[7] Port Arthur ISD authorized additional tax breaks for a further expansion of Premcor’s refinery in December 2004.

Valero Energy acquired Premcor in April 2005, becoming North America’s largest refiner.[8] Months later Valero agreed to pay a $5.5 million settlement for environmental violations at the five plants that it bought from Premcor. Valero agreed to spend $1.6 million on health measures for the Port Arthur community. This was one of the largest settlements reached since the EPA started investigating the refinery industry in 2000.[9]

Port Arthur ISD has offered Premcor an estimated $12.4 million in annual property tax breaks. For its part, the company has agreed to give approximately half this amount back to the school district. This revenue is not subject to “Robin Hood” redistribution.

Houston-based Motiva Enterprises also is seeking huge property tax breaks to expand its Port Arthur refinery, which ranked as one of the nation’s dirtiest plants in 2002.[10] Upon completion by 2010, Motiva’s Port Arthur facility will be the nation’s largest refinery. This facility also boasts the priciest tax-break application filed under the Texas Economic Development Act. Motiva is seeking an estimated $36 million in annual property-tax breaks from Port Arthur ISD.

Local government authorities in Port Arthur are deferential to the powerful oil refineries, according to Hilton Kelley, director of local activist group Community In-power and Development Association. “They basically dictate how things are run in their community,” Kelley says.

Formosa Plastics

Farther down the Gulf coast, Calhoun County ISD has a pending tax-break application for Taiwan-based Formosa Plastics. With Formosa generating more than half of that county’s property tax revenue, local officials are tightly knit with this petrochemical company, which--for better and worse--has a major presence in the community.

In October 2005, an explosion at the local Formosa plant hurt 16 workers, with one sustaining serious injuries. Federal regulators concluded that more safety equipment would have contained the resulting fire and injuries. Formosa agreed to pay a $75,000 penalty to settle related U.S. Department of Labor complaints.

Six months after this tragic accident, Calhoun County ISD Superintendent Larry Nichols and board members Jesse Briseno and Janie Delgado took a Formosa-paid trip to Taiwan. The three officials each reported receiving a $200 sports uniform from Formosa Vice President Jack Wu.[11] “In Calhoun County several people have taken that [Taiwan] trip,” Nichols said in a phone interview. “We were given the opportunity to go and we went and took a tour of the plants to understand their home city and culture.”

Superintendent Nichols told Wu in a 2005 memo that the school's highest priority for the legislative session was to reduce its Robin Hood payments to property-poor schools. The final tax-break agreement between Formosa and Calhoun County ISD could reduce these payments if the company follows the common practice of agreeing to kickback part of its tax savings to the school district.

Formosa and Calhoun County ISD are still hashing out their deal under the Economic Development Act, which requires tax-break recipients in rural areas like this one to create at least 10 jobs that pay at least 110 percent of the county's average weekly manufacturing wage.[12] In an April memo to the Texas Workforce Commission, Wu suggested that this wage should be $995 rather than the $1,420 calculated by the state. Rep. Rob Eisser (R-The Woodlands) passed a 2007 bill that allows school districts to award tax breaks without any job-creation requirements whatsoever.[13] During the 2006 election cycle, Eissler received $7,000 from companies that have received school district tax breaks.[14]

Nuclear tax meltdown

With plans afoot to triple the number of nuclear power plants in Texas, Governor Perry recently signed legislation that makes nuclear facilities eligible for school tax breaks.[15] Potential beneficiaries include the nuclear powers NRG Energy, Exelon Corp. and TXU Corp, which collectively contributed a total of $10,500 to the 2006 campaigns of the House and Senate sponsors of this bill.[16]

Significantly, this expansion of the Economic Development Act allows NRG Energy to seek a tax break to expand its nuclear facility south of Houston--even though its plans to expand the plant predated the newly expanded tax break. Power plant tax breaks also are noteworthy given that a major rationale for the Economic Development Act has been to lure new businesses and jobs to the state. Yet power companies build in Texas, which does not currently buy out-of-state kilowatts, because it boasts one of the nation's largest electricity markets. "It's not in public interest to say to any for-profit power generator that 'You're not going to have to pay your taxes, we're just going to let everybody else do it,'" says Senator Steve Ogden.

Corporate Data Centers

School districts can award tax breaks to facilities engaged in energy generation, manufacturing and research and development. During the 2007 legislative session, Sen. Kirk Watson (D-Austin) made a failed effort to expand the Economic Development Act to encompass facilities that handle the computer data functions of major corporations.[17] Although Watson's bill failed, Texas school districts have not waited for legal clearance to dole out tax breaks to data centers.

In 2004, for example, Austin ISD awarded an estimated $2.5 million in annual tax breaks to Home Depot to build a new data center. The original application for this tax break referred to the benefiting facility as the "Home Depot Data Center." After the

Comptroller raised questions about awarding tax breaks for this unapproved use, however, Austin ISD consultant Dan Casey sent the agency a memo that recharacterized the facility as a "data, research and development facility." The deal then went through.

Similarly, Austin ISD and the neighboring Round Rock school district have awarded an estimated $4.8 million in annual tax breaks to Hewlett Packard to develop a data center. Hewlett-Packard and Home Depot donated a total of $1,500 to Watson's 2006 campaign.

The Texas Economic Development Act is failing to deliver on its stated objective to attract good jobs to property-poor areas of Texas. The law has allowed school districts to award the largest of these tax breaks to industrial plants to expand existing facilities in property-rich school districts on the Northeast Gulf Coast. It is likely that many of these expansions would have occurred with or without tax handouts from local schools.

Moreover, property-rich districts consciously are using this program to circumvent Robin-Hood redistributions of tax revenue to property-poor schools. By choking corporate funding of Texas schools, this program sells short the education and training of the state's future workers, a result that can only undermine the law's stated objective of attracting desirable employers and jobs to Texas.

Given that school districts are awarding the biggest tax breaks to smokestack industries in Gulf Coast areas that already flunk federal air standards, this incentive program risks making a smoggy state less attractive to prized employers of the kinds of skilled workers who can—and do—demand a high quality of life. Rather than incorporating health, safety or environmental protections into these tax-break agreements, 90 percent of the agreements that TPJ analyzed for this report contain clauses that allow companies to continue to receive tax break even if they are shut down for regulatory violations. Port Arthur community activist Hilton Kelley asks, "If they are not meeting the Clean Air Act standards, then why should they continue to benefit?"

Some of the school districts awarding the tax breaks appear to be heavily influenced by the recipient corporations that provide much of these districts' revenues. No wonder that many tax-break agreements appear to have been drafted by the recipients with little consideration to the public interest. The Texas Economic Development Act contains little disincentive to prevent school districts with limited expertise in economic development from handing out the tax breaks willy-nilly. The state provides negligible oversight to ensure that the tax breaks meet the laws minimal requirements or fulfill the program's ostensible goals.

Despite the program's shortcomings, legislators and lobbyists are actively seeking to expand it into a school-tax dodge for all manner of corporate activities. Already expanded to cover nuclear power plant construction and stripped of its minimal job creation requirements, you can bet the business community will be looking for more loopholes to avoid paying their fair share of the school tax burden.

Some will rob you with a fountain pen. – Woodie Guthrie

"Watch Your Assets" is a Texans for Public Justice project.
Lauren Reinlie, Project Director

[1] Comments made by Sen. Steve Ogden during a Senate floor debate on HB 2994, the bill that expanded eligibility for school district tax breaks to nuclear power plants. May 23, 2007.

[2] Application list as of May 2007. This does not include estimates of the cost of tax credits paid to the companies to reimburse them for taxes paid in the first two years of the agreements. Calculations of the estimated value of the tax breaks were made by subtracting the limited appraised value of the property from the qualified investment then multiplying by the 2006 school district M&O tax rates.

[3] "Industrial Upset Pollution: Who Pays the Price?," Public Citizen. August 2005.

[4] "Industrial Upset Pollution: Who Pays the Price?" Public Citizen. August 2005.

[5] http://quickfacts.census.gov/qfd/states/48/4858820.html

[6] http://www3.cpa.state.tx.us/districts.nsf/b6646a99a0dbee598625680e0054b52c/e2f403ee20cc5cba862572d000781df3?OpenDocument

[7] "Senate Hearing Focuses on Pollution from Port Arthur, Texas, Oil Refinery," Karen Masterson. Houston Chronicle. July 31, 2002.

[8] http://www.valero.com/AboutUs/default.htm

[9] "Oil refiner Valero must make upgrades," Dina Cappiello. Houston Chronicle. June 17, 2005.

[10] "Industrial Upset Pollution: Who Pays the Price?," Public Citizen. August 2005.

[11] The officials reported the April 2006 trip through conflict disclosures posted on the district's website. The records have since been removed from the website. TPJ also filed two Texas Public Information Act requests for related records. Although the law requires officials to answer these requests within 10 business days, Nichols response required almost three months and several complaints to the Texas Attorney General's office.

[12] The law requires facilities in non-rural areas to create at least 25 such jobs. In most tax-break agreements analyzed by TPJ, the company seeking the tax break pledged to create just the legal minimum number of jobs.

[13] HB 1470

[14] Conoco Phillips, Dow Chemical, Exxon Mobil, Hewlett Packard, TXU Energy, Valero Engery, and Toyota all contributed to Rep. Eissler's 2006 campaign.

[15] HB 2994

[16] Specifically, PACs affiliated with Exelon and TXU gave a total of $7,000 to Rep. Dennis Bonnen (R-Angleton) and $3,500 to Sen. Glenn Hegar (R-Katy).

[17] SB 1150