

By: Slawson, Buckley, Rogers

H.B. No. 1443

Substitute the following for H.B. No. 1443:

By: Dean

C.S.H.B. No. 1443

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the operation of certain wind-powered devices near
3 certain aviation facilities and the receipt of certain ad valorem
4 tax incentives for property on which such devices are constructed
5 or installed; authorizing an administrative penalty.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Chapter 320, Tax Code, is amended by adding
8 Section 320.002 to read as follows:

9 Sec. 320.002. PROPERTY INELIGIBLE FOR TAX INCENTIVES. (a)

10 In this section:

11 (1) "Military aviation facility" has the meaning
12 assigned by Section 312.0021.

13 (2) "Qualifying property" means a parcel of land that
14 is located wholly or partly in a reinvestment zone, a new building
15 constructed on the parcel of land, a new improvement erected or
16 affixed on the parcel of land, or tangible personal property placed
17 in service in the building or improvement or on the parcel of land.

18 (3) "Wind-powered energy device" has the meaning
19 assigned by Section 11.27.

20 (b) Notwithstanding any other law, an owner of qualifying
21 property may not receive an exemption from ad valorem taxation or a
22 limitation on appraised value for the qualifying property under an
23 agreement entered into under a law enacted as part of a program to
24 encourage economic development in an area designated as a

1 reinvestment zone if, on or after the date the agreement is entered
2 into, a wind-powered energy device is installed or constructed on
3 the qualifying property at a location that is within 25 nautical
4 miles of the boundaries of a military aviation facility located in
5 this state. The prohibition provided by this subsection applies
6 regardless of whether the wind-powered energy device is installed
7 or constructed at a location that is in the reinvestment zone.

8 SECTION 2. Section 39.002, Utilities Code, as amended by
9 Chapters 908 (H.B. 4492) and 950 (S.B. 1580), Acts of the 87th
10 Legislature, Regular Session, 2021, is reenacted and amended to
11 read as follows:

12 Sec. 39.002. APPLICABILITY. This chapter, other than
13 Sections 39.151, 39.1516, 39.155, 39.157(e), 39.159, 39.160,
14 39.203, 39.904, 39.9051, 39.9052, 39.9056, and 39.914(e), and
15 Subchapters M and N, does not apply to a municipally owned utility
16 or an electric cooperative. Sections 39.157(e), 39.203, and
17 39.904, however, apply only to a municipally owned utility or an
18 electric cooperative that is offering customer choice. If there is
19 a conflict between the specific provisions of this chapter and any
20 other provisions of this title, except for Chapters 40 and 41, the
21 provisions of this chapter control.

22 SECTION 3. Subchapter 2, Chapter 39, Utilities Code, is
23 amended by adding Section 39.9056 to read as follows:

24 Sec. 39.9056. OPERATION OF WIND-POWERED GENERATION
25 FACILITY NEAR JOINT-USE AIRPORT. (a) In this section, "joint-use
26 airport" means an airport:

27 (1) that is owned or operated by a United States Army

1 mobilization force generation installation;

2 (2) at which both military and civilian aircraft make
3 shared use of the airfield; and

4 (3) that provides air traffic control for all military
5 and civilian aircraft operating within 60 nautical miles of the
6 airport's boundaries.

7 (b) A power generation company or other person required by
8 commission rule to register with the commission before generating
9 electricity may not operate a wind-powered generation facility in
10 the ERCOT power region at a location that is within 65 nautical
11 miles of the boundaries of a joint-use airport located in this
12 state.

13 (c) An electric cooperative or municipally owned utility
14 may not operate a wind-powered generation facility in the ERCOT
15 power region at a location that is within 65 nautical miles of the
16 boundaries of a joint-use airport located in this state.

17 (d) The commission may impose an administrative penalty
18 under Section 15.023 on an electric cooperative or municipally
19 owned utility that violates Subsection (c).

20 SECTION 4. Section 320.002, Tax Code, as added by this Act,
21 applies only to ad valorem taxes imposed for a tax year beginning on
22 or after January 1, 2024.

23 SECTION 5. Section 39.9056, Utilities Code, as added by
24 this Act, applies only to a wind-powered generation facility
25 installed on or after the effective date of this Act. A wind-powered
26 generation facility installed before the effective date of this Act
27 is governed by the law as it existed immediately before that date,

1 and that law is continued in effect for that purpose.

2 SECTION 6. (a) To the extent of any conflict, Section 1 of
3 this Act prevails over another Act of the 88th Legislature, Regular
4 Session, 2023, regardless of the relative dates of enactment.

5 (b) It is the intent of the 88th Legislature, Regular
6 Session, 2023, that the amendments made by Sections 2 and 3 of this
7 Act be harmonized with another Act of the 88th Legislature, Regular
8 Session, 2023, relating to nonsubstantive additions to and
9 corrections in enacted codes.

10 SECTION 7. This Act takes effect September 1, 2023.