

By: Shine

H.B. No. 3894

A BILL TO BE ENTITLED

AN ACT

relating to an exemption from sales and use taxes for battery energy storage systems.

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

SECTION 1. Section 151.318, Tax Code, is amended by amending Subsection (a) and adding Subsection (g) to read as follows:

(a) The following items are exempted from the taxes imposed by this chapter if sold, leased, or rented to, or stored, used, or consumed by a manufacturer:

(1) tangible personal property that will become an ingredient or component part of tangible personal property manufactured, processed, or fabricated for ultimate sale;

(2) tangible personal property directly used or consumed in or during the actual manufacturing, processing, or fabrication of tangible personal property for ultimate sale if the use or consumption of the property is necessary or essential to the manufacturing, processing, or fabrication operation and directly makes or causes a chemical or physical change to:

(A) the product being manufactured, processed, or fabricated for ultimate sale; or

(B) any intermediate or preliminary product that will become an ingredient or component part of the product being manufactured, processed, or fabricated for ultimate sale;

1 (3) services performed directly on the product being
2 manufactured prior to its distribution for sale and for the purpose
3 of making the product more marketable;

4 (4) actuators, steam production equipment and its
5 fuel, in-process flow through tanks, cooling towers, generators,
6 heat exchangers, transformers and the switches, breakers,
7 capacitor banks, regulators, relays, reclosers, fuses,
8 interruptors, reactors, arrestors, resistors, insulators,
9 instrument transformers, and telemetry units that are related to
10 the transformers, electronic control room equipment, computerized
11 control units, pumps, compressors, and hydraulic units, that are
12 used to power, supply, support, or control equipment that qualifies
13 for exemption under Subdivision (2) or (5) or to generate
14 electricity, chilled water, or steam for ultimate sale; battery
15 energy storage systems used to generate, process, or store
16 electricity for distribution and sale, regardless of the origin of
17 the electricity used to charge the battery energy storage system;
18 transformers located at an electric generating facility that
19 increase the voltage of electricity generated for ultimate sale,
20 the electrical cable that carries the electricity from the electric
21 generating equipment to the step-up transformers, and the switches,
22 breakers, capacitor banks, regulators, relays, reclosers, fuses,
23 interruptors, reactors, arrestors, resistors, insulators,
24 instrument transformers, and telemetry units that are related to
25 the step-up transformers; and transformers that decrease the
26 voltage of electricity generated for ultimate sale and the
27 switches, breakers, capacitor banks, regulators, relays,

1 reclosers, fuses, interruptors, reactors, arrestors, resistors,
2 insulators, instrument transformers, and telemetry units that are
3 related to the step-down transformers;

4 (5) tangible personal property used or consumed in the
5 actual manufacturing, processing, or fabrication of tangible
6 personal property for ultimate sale if the use or consumption of the
7 property is necessary and essential to a pollution control process;

8 (6) lubricants, chemicals, chemical compounds, gases,
9 or liquids that are used or consumed during the actual
10 manufacturing, processing, or fabrication of tangible personal
11 property for ultimate sale if their use or consumption is necessary
12 and essential to prevent the decline, failure, lapse, or
13 deterioration of equipment exempted by this section;

14 (7) gases used on the premises of a manufacturing
15 plant to prevent contamination of raw material or product, or to
16 prevent a fire, explosion, or other hazardous or environmentally
17 damaging situation at any stage in the manufacturing process or in
18 loading or storage of the product or raw material on premises;

19 (8) tangible personal property used or consumed during
20 the actual manufacturing, processing, or fabrication of tangible
21 personal property for ultimate sale if the use or consumption of the
22 property is necessary and essential to a quality control process
23 that tests tangible personal property that is being manufactured,
24 processed, or fabricated for ultimate sale;

25 (9) safety apparel or work clothing that is used
26 during the actual manufacturing, processing, or fabrication of
27 tangible personal property for ultimate sale if:

1 (A) the manufacturing process would not be
2 possible without the use of the apparel or clothing; and

3 (B) the apparel or clothing is not resold to the
4 employee;

5 (10) tangible personal property used or consumed in
6 the actual manufacturing, processing, or fabrication of tangible
7 personal property for ultimate sale if the use or consumption of the
8 property is necessary and essential to comply with federal, state,
9 or local laws or rules that establish requirements related to
10 public health; and

11 (11) tangible personal property specifically
12 installed to:

13 (A) reduce water use and wastewater flow volumes
14 from the manufacturing, processing, fabrication, or repair
15 operation;

16 (B) reuse and recycle wastewater streams
17 generated within the manufacturing, processing, fabrication, or
18 repair operation; or

19 (C) treat wastewater from another industrial or
20 municipal source for the purpose of replacing existing freshwater
21 sources in the manufacturing, processing, fabrication, or repair
22 operation.

23 (g) In this section, "battery energy storage system" means
24 an electrochemical device that processes, stores, and transforms
25 electrical energy into chemical energy and processes and transforms
26 chemical energy back into electrical energy for distribution and
27 sale. The term includes cells, battery modules, racks, battery

1 management systems, invertors or power conversion systems,
2 controllers, ventilation and cooling systems, fire suppression
3 systems, containers or enclosures, and ancillary equipment
4 including breakers, cabling, junction boxes, and lighting.

5 SECTION 2. The change in law made by this Act does not
6 affect tax liability accruing before the effective date of this
7 Act. That liability continues in effect as if this Act had not been
8 enacted, and the former law is continued in effect for the
9 collection of taxes due and for civil and criminal enforcement of
10 the liability for those taxes.

11 SECTION 3. This Act takes effect September 1, 2023.