

By: Creighton

S.B. No. 1845

A BILL TO BE ENTITLED

AN ACT

relating to a franchise tax credit for certain large economic development projects, including certain electric generation facilities.

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

SECTION 1. Chapter 171, Tax Code, is amended by adding Subchapter N to read as follows:

SUBCHAPTER N. TAX CREDIT FOR CERTAIN ECONOMIC DEVELOPMENT PROJECTS

Sec. 171.701. DEFINITION. In this subchapter, "qualifying electric generation facility" means an electric generation facility that does not use solar or wind resources to generate electricity.

Sec. 171.702. APPLICABILITY. This subchapter applies only to a taxable entity that, during the period beginning on January 1 of a year and ending December 31 of that same year, invests at least \$450 million in a business facility located in this state.

Sec. 171.703. ENTITLEMENT TO CREDIT. A taxable entity is entitled to a credit in the amount and under the conditions provided by this subchapter against the tax imposed under this chapter.

Sec. 171.704. AMOUNT OF CREDIT; LIMITATIONS. (a) Except as otherwise provided by this section, a taxable entity may claim a credit on a report in an amount that is the greater of:

(1) the product of \$5,250 and the number of new jobs

1 created by the taxable entity during the period described by  
2 Section 171.702; or

3 (2) the product of \$10,000 and the number of megawatts  
4 a qualifying electric generation facility produces, if the business  
5 facility described by Section 171.702 is a qualifying electric  
6 generation facility.

7 (b) The total credit claimed under this subchapter on a  
8 report, including the amount of any carryforward under Section  
9 171.705, may not exceed the lesser of:

10 (1) the amount of franchise tax due for the report  
11 after applying any other applicable credits; or

12 (2) \$23,650,000.

13 (c) A taxable entity may not claim a credit under Subsection  
14 (a) on more than five consecutive reports.

15 Sec. 171.705. CARRYFORWARD. (a) A taxable entity that is  
16 eligible for a credit under this subchapter that exceeds the  
17 limitation under Section 171.704(b) may carry the unused credit  
18 forward for not more than 10 consecutive reports.

19 (b) A carryforward is considered the remaining portion of a  
20 credit that cannot be claimed in the current year because of the  
21 limitation under Section 171.704(b).

22 (c) Credits, including a carryforward, are considered to be  
23 used in the following order:

24 (1) a carryforward under this subchapter; and

25 (2) a current year credit.

26 Sec. 171.706. APPLICATION FOR CREDIT. (a) A taxable entity  
27 must apply for a credit under this subchapter on or with the report

1 for which the credit is claimed.

2 (b) The comptroller shall prescribe the form and method of  
3 applying for a credit under this section. A taxable entity must use  
4 the form and method prescribed by the comptroller to apply for the  
5 credit.

6 (c) The comptroller may require a taxable entity to submit  
7 with an application any information the comptroller determines is  
8 necessary to determine whether the taxable entity meets the  
9 requirements of Section 171.702.

10 Sec. 171.707. ASSIGNMENT PROHIBITED; EXEMPTION. A taxable  
11 entity may not convey, assign, or transfer the credit allowed under  
12 this subchapter to another taxable entity unless substantially all  
13 of the assets of the taxable entity are conveyed, assigned, or  
14 transferred in the same transaction.

15 Sec. 171.708. RULES. The comptroller shall adopt rules  
16 necessary to implement and administer this subchapter.

17 SECTION 2. This Act applies only to an entity that:

18 (1) makes the investment required by Section 171.702,  
19 Tax Code, as added by this Act, on or after January 1, 2024; or

20 (2) if the new business facility described by Section  
21 171.702, Tax Code, as added by this Act, is a qualifying electric  
22 generation facility, completes the facility or makes the investment  
23 required by that section on or after January 1, 2024.

24 SECTION 3. This Act applies only to a report originally due  
25 on or after the effective date of this Act.

26 SECTION 4. This Act takes effect January 1, 2024.