

By: Burnam

H.B. No. 35

A BILL TO BE ENTITLED

AN ACT

relating to funding for public education; imposing taxes and providing penalties.

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

SECTION 1. Subtitle E, Title 2, Tax Code, is amended by adding Chapters 163 and 164 to read as follows:

CHAPTER 163. COAL TAX

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 163.001. DEFINITIONS. In this chapter:

(1) "Coal" includes lignite.

(2) "Lignite" means coal commonly referred to as brown coal, of intermediate grade between peat and bituminous coal.

(3) "Use" includes storage for use in this state, but does not include the storage for use or shipment out of this state.

[Sections 163.002-163.020 reserved for expansion]

SUBCHAPTER B. IMPOSITION AND COLLECTION OF TAX

Sec. 163.021. TAX IMPOSED. (a) A tax is imposed on the purchase in this state of coal for use in this state.

(b) A tax is imposed on the use of coal in this state.

Sec. 163.022. RATE OF TAX. (a) Except as provided by Subsection (b), the rate of the taxes imposed by this chapter is 7.5 percent of the total price paid for the coal, without regard to where the purchase occurs, delivered at the site at which the coal will be used, including transportation costs to that site.

1 (b) The rate of the taxes imposed by this chapter on coal
2 used in this state by a producer of coal who owns the coal in place
3 and who produces the coal for the producer's own use is 7.5 percent
4 of the fair market value of the coal, including transportation
5 costs to the site at which the coal is used.

6 Sec. 163.023. USE TAX DEDUCTION. A person may deduct from
7 the amount of tax otherwise imposed by Section 163.021(b) the
8 amount of tax reported and paid under Section 163.021(a).

9 Sec. 163.024. PAYMENT OF TAX. On or before the 25th day of
10 each month, each person on whom a tax is imposed by this chapter
11 shall send to the comptroller the amount of tax due under this
12 chapter for the preceding month.

13 Sec. 163.025. REPORTS. On or before the 25th day of each
14 month, each person on whom a tax is imposed by this chapter shall
15 file with the comptroller a report stating:

16 (1) the amount of coal purchased by the person for use
17 in this state and used in this state during the preceding month and
18 the total price of that coal;

19 (2) the amount of coal used in this state by a producer
20 of coal who owns the coal in place and who produces the coal for the
21 producer's own use, and the total market value of that coal; and

22 (3) any other information required by the comptroller.

23 Sec. 163.026. RECORDS. A person on whom a tax is imposed by
24 this chapter shall keep a complete record of:

25 (1) the amount of coal purchased by the person for use
26 in this state;

27 (2) the use of coal in this state by the person; and

1 (3) any other information required by the comptroller.

2 [Sections 163.027-163.050 reserved for expansion]

3 SUBCHAPTER C. PENALTIES AND OFFENSES

4 Sec. 163.051. INTEREST ON DELINQUENT TAX. A tax imposed by
5 this chapter that is delinquent draws interest as provided by
6 Section 111.060.

7 Sec. 163.052. PENALTY. (a) A person on whom a tax is
8 imposed by this chapter and who fails to file a report as required
9 by this chapter or does not pay the tax when it is due forfeits to
10 the state a penalty of 12 percent of the amount of tax delinquent.

11 (b) If a report required by this chapter is not filed or a
12 tax imposed by this chapter is not paid within 30 days after it is
13 due, the person on whom the tax is imposed forfeits to the state a
14 penalty of an additional 12 percent of the amount of tax delinquent.

15 (c) The minimum penalty under this section is \$1.

16 Sec. 163.053. CRIMINAL PENALTY. (a) A person who violates
17 this chapter commits an offense.

18 (b) An offense under this section is a class C misdemeanor.

19 [Sections 163.054-163.070 reserved for expansion]

20 SUBCHAPTER D. ALLOCATION AND USE

21 Sec. 163.071. ALLOCATION OF TAX REVENUE. All of the revenue
22 from the tax imposed by this chapter shall be deposited to the
23 credit of the foundation school fund.

24 CHAPTER 164. ENERGY EFFICIENCY TAX

25 SUBCHAPTER A. GENERAL PROVISIONS

26 Sec. 164.001. DEFINITIONS. In this chapter:

27 (1) "Affiliated power generation company," "exempt

1 wholesale generator," and "power generation company," have the
2 meanings assigned by Section 31.002, Utilities Code.

3 (2) "Electric generator" includes a power generation
4 company, an affiliated power generation company, and an exempt
5 wholesale generator.

6 [Sections 164.002-164.020 reserved for expansion]

7 SUBCHAPTER B. IMPOSITION AND COLLECTION OF TAX

8 Sec. 164.021. TAX IMPOSED. A tax is imposed on each
9 electric generator in this state that uses a process to generate
10 electricity that results in the emission of nitrogen oxides.

11 Sec. 164.022. RATE OF TAX. The rate of the tax imposed by
12 this chapter is 60 cents for each pound of nitrogen oxides emitted
13 by the electric generator in generating a megawatt hour of
14 electricity multiplied by the total megawatt hours of electricity
15 generated by the electric generator.

16 Sec. 164.023. PAYMENT OF TAX. On or before the 25th day of
17 each month, each electric generator on whom a tax is imposed by this
18 chapter shall send to the comptroller the amount of tax due under
19 this chapter for the preceding month.

20 Sec. 164.024. REPORTS. On or before the 25th day of each
21 month, each electric generator on whom a tax is imposed by this
22 chapter shall file with the comptroller a report stating:

23 (1) the number of pounds of nitrogen oxides emitted by
24 the electric generator in generating electricity during the
25 preceding month;

26 (2) the total number of megawatt hours generated by
27 the electric generator during the preceding month; and

1 (3) any other information required by the comptroller.

2 Sec. 164.025. RECORDS. A person on whom a tax is imposed by
3 this chapter shall keep a complete record of:

4 (1) the number of pounds of nitrogen oxides emitted by
5 the electric generator in generating electricity during the
6 preceding month;

7 (2) the total number of megawatt hours generated by
8 the electric generator during the preceding month; and

9 (3) any other information required by the comptroller.

10 [Sections 164.026-164.050 reserved for expansion]

11 SUBCHAPTER C. PENALTIES AND OFFENSES

12 Sec. 164.051. INTEREST ON DELINQUENT TAX. A tax imposed by
13 this chapter that is delinquent draws interest as provided by
14 Section 111.060.

15 Sec. 164.052. PENALTY. (a) An electric generator on whom a
16 tax is imposed by this chapter and who fails to file a report as
17 required by this chapter or does not pay the tax when it is due
18 forfeits to the state a penalty of 12 percent of the amount of tax
19 delinquent.

20 (b) If a report required by this chapter is not filed or a
21 tax imposed by this chapter is not paid on or before the 30th day
22 after the date it is due, the electric generator on whom the tax is
23 imposed forfeits to the state a penalty of an additional 12 percent
24 of the amount of tax delinquent.

25 (c) The minimum penalty under this section is \$1.

26 Sec. 164.053. CRIMINAL PENALTY. (a) A person who violates
27 this chapter commits an offense.

1 (b) An offense under this section is a Class C misdemeanor.

2 [Sections 164.054-164.070 reserved for expansion]

3 SUBCHAPTER D. ALLOCATION AND USE

4 Sec. 164.071. ALLOCATION OF TAX REVENUE. All of the revenue
5 from the tax imposed by this chapter shall be deposited to the
6 credit of the foundation school fund.

7 SECTION 2. This Act takes effect September 1, 2004.