

By: Burnam

H.B. No. 3108

A BILL TO BE ENTITLED

AN ACT

relating to the imposition of an energy efficiency tax and to the use of the proceeds to fund education; 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 Chapter 164 to read as follows:

CHAPTER 164. ENERGY EFFICIENCY TAX

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 164.001. DEFINITIONS. In this chapter:

(1) "Affiliated power generation company," "exempt wholesale generator," and "power generation company," have the meanings assigned by Section 31.002, Utilities Code.

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

[Sections 164.002-164.020 reserved for expansion]

SUBCHAPTER B. IMPOSITION AND COLLECTION OF TAX

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

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

1 generated by the electric generator.

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

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

9 (1) the number of pounds of nitrogen oxides emitted by
10 the electric generator in generating electricity during the
11 preceding month;

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

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

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

17 (1) the number of pounds of nitrogen oxides emitted by
18 the electric generator in generating electricity during the
19 preceding month;

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

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

23 [Sections 164.026-164.050 reserved for expansion]

24 SUBCHAPTER C. PENALTIES AND OFFENSES

25 Sec. 164.051. INTEREST ON DELINQUENT TAX. A tax imposed by
26 this chapter that is delinquent draws interest as provided by
27 Section 111.060.

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

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

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

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

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

15 [Sections 164.054-164.070 reserved for expansion]

16 SUBCHAPTER D. ALLOCATION AND USE

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

20 SECTION 2. This Act takes effect September 1, 2005.