

By: Bonnen, O'Day, Branch

H.B. No. 2994

A BILL TO BE ENTITLED

AN ACT

relating to certain agreements made with electric power generation facilities under the Property Redevelopment and Tax Abatement Act and to similar agreements and compliance reports under the Texas Economic Development Act.

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

SECTION 1. Subchapter C, Chapter 312, Tax Code, is amended by adding Section 312.403 to read as follows:

Sec. 312.403. TAX ABATEMENT AGREEMENT FOR NUCLEAR ELECTRIC POWER GENERATION FACILITY IN COUNTY REINVESTMENT ZONE. (a) In this section, "nuclear electric power generation" has the meaning assigned by Section 313.024(e).

(b) An agreement made under this subchapter with the owner of property that is a nuclear electric power generation facility may include a provision that defers the effective date of the agreement to a later date agreed to by the taxing unit and the owner of the property, but not later than the seventh anniversary of the date the agreement is made.

(c) If the effective date of an agreement is deferred under Subsection (b), the agreement may have a term ending not later than 10 years after the effective date of the agreement, notwithstanding Sections 312.204 and 312.208.

SECTION 2. Sections 313.021(1) and (4), Tax Code, are amended to read as follows:

(1) "Qualified investment" means:

(A) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2002, and is described as Section 1245 property by Section 1245(a), Internal Revenue Code of 1986;

(B) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2002, without regard to whether the property is affixed to or incorporated into real property, and that is used in connection with the manufacturing, processing, or fabrication in a cleanroom environment of a semiconductor product, without regard to whether the property is actually located in the cleanroom environment, including:

(i) integrated systems, fixtures, and piping;

(ii) all property necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity, or other environmental conditions or manufacturing tolerances; and

(iii) production equipment and machinery, moveable cleanroom partitions, and cleanroom lighting; ~~[or]~~

(C) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2002, without regard to whether the property is affixed to or incorporated into real property, and that is used in connection with the operation of a

nuclear electric power generation facility, including:

(i) property, including pressure vessels, pumps, turbines, generators, and condensers, used to produce nuclear electric power; and

(ii) property and systems necessary to control radioactive contamination;

(D) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2002, without regard to whether the property is affixed to or incorporated into real property, and that is used in connection with operating an integrated gasification combined cycle electric generation facility, including:

(i) property used to produce electric power by means of a combined combustion turbine and steam turbine application using synthetic gas or another product produced by the gasification of coal or another carbon-based feedstock; or

(ii) property used in handling materials to be used as feedstock for gasification or used in the gasification process to produce synthetic gas or another carbon-based feedstock for use in the production of electric power in the manner described by Subparagraph (i); or

(E) a building or a permanent, nonremovable component of a building that is built or constructed during the applicable qualifying time period that begins on or after January 1, 2002, and that houses tangible personal property described by Paragraph (A), ~~or~~ (B), (C), or (D).

(4) "Qualifying time period" means:

(A) the first two tax years that begin on or after the date a person's application for a limitation on appraised value under this subchapter is approved, except as provided by Paragraph (B); or

(B) in connection with a nuclear electric power generation facility, the first seven tax years that begin on or after the third anniversary of the date the school district approves the property owner's application for a limitation on appraised value under this subchapter, unless a shorter time period is agreed to by the governing body of the school district and the property owner.

SECTION 3. Section 313.024, Tax Code, is amended by adding Subsections (a-1) and (b-1) and amending Subsection (c) to read as follows:

(a-1) Notwithstanding Subsection (a), this subchapter and Subchapters C and D also apply to property used in the production of nuclear electric power that is owned by an entity to which on and after January 1, 2008, Chapter 171 of this code, as amended by Chapter 1, Acts of the 79th Legislature, 3rd Called Session, 2006, will apply. This subsection expires January 1, 2008.

(b-1) Notwithstanding Subsection (b), property used in connection with electric power generation by the use of integrated gasification combined cycle technology or nuclear electric power generation is eligible for a limitation on appraised value under this subchapter. This subsection expires January 1, 2008.

(c) For purposes of determining an applicant's eligibility

for a limitation under this subchapter:

(1) the land on which a building or component of a building described by Section 313.021(1)(E) [~~313.021(1)(C)~~] is located is not considered a qualified investment;

(2) property that is leased under a capitalized lease may be considered a qualified investment;

(3) property that is leased under an operating lease may not be considered a qualified investment; and

(4) property that is owned by a person other than the applicant and that is pooled or proposed to be pooled with property owned by the applicant may not be included in determining the amount of the applicant's qualifying investment.

SECTION 4. Section 313.024(b), Tax Code, as effective January 1, 2008, is amended to read as follows:

(b) To be eligible for a limitation on appraised value under this subchapter, the entity must use the property in connection with:

(1) manufacturing;

(2) research and development;

(3) a clean coal project, as defined by Section 5.001, Water Code;

(4) a gasification project for a coal and biomass mixture; ~~or~~

(5) renewable energy electric generation;

(6) electric power generation using integrated gasification combined cycle technology; or

(7) nuclear electric power generation.

SECTION 5. Section 313.024(e), Tax Code, is amended by adding Subdivisions (3) and (4) to read as follows:

(3) "Integrated gasification combined cycle technology" means technology used to produce electricity in a combined combustion turbine and steam turbine application using synthetic gas or another product produced from the gasification of coal or another carbon-based feedstock, including related activities such as materials-handling and gasification of coal or another carbon-based feedstock.

(4) "Nuclear electric power generation" means activities described in category 221113 of the 2002 North American Industry Classification System.

SECTION 6. Subchapter B, Chapter 313, Tax Code, is amended by adding Section 313.0408 to read as follows:

Sec. 313.0408. REPORT ON COMPLIANCE WITH AGREEMENTS. (a) Before the beginning of each regular session of the legislature, the comptroller shall submit to the lieutenant governor, the speaker of the house of representatives, and each other member of the legislature a report on grants made under this chapter that states:

(1) the number of qualifying jobs each recipient of a limitation on appraised value committed to create in this state;

(2) the number of qualifying jobs each recipient created;

(3) the median wage of the jobs each recipient created;

(4) the amount of qualified investment each recipient

1 committed to expend or allocate per project;

2 (5) the amount of qualified investment each recipient
3 expended or allocated per project;

4 (6) the market value of the qualified property of each
5 recipient;

6 (7) the limitation on appraised value for the
7 qualified property of each recipient;

8 (8) the average amount of property taxes that would
9 have been collected, if taxes were imposed on the market value of
10 each qualified property, for each job created by each recipient;

11 (9) the number of jobs created by each recipient in
12 each sector of the North American Industry Classification System
13 (NAICS); and

14 (10) of the number of direct jobs each recipient
15 created, the number of positions created that provide health
16 benefits for employees.

17 (b) The report may not include information that is made
18 confidential by law.

19 (c) The comptroller may require a recipient to submit, on a
20 form the comptroller provides, information required to complete the
21 report.

22 SECTION 7. (a) The governmental acts and proceedings of the
23 governing body of a taxing unit relating to the consideration or
24 approval of an ad valorem tax abatement agreement under Chapter
25 312, Tax Code, that occurred before the effective date of this Act,
26 or of the governing body of a school district relating to the
27 consideration or approval of a limitation on appraised value for ad

1 valorem tax purposes under Chapter 313, Tax Code, that occurred
2 before the effective date of this Act, are validated as of the dates
3 they occurred.

4 (b) The governmental acts and proceedings of the taxing unit
5 or the governing body of the taxing unit that occurred after the
6 consideration or approval of an ad valorem tax abatement agreement
7 under Chapter 312, Tax Code, or of the school district or the
8 governing body of the school district that occurred after the
9 consideration or approval of a limitation on appraised value for ad
10 valorem tax purposes under Chapter 313, Tax Code, may not be held
11 invalid on the ground that the consideration or approval of the tax
12 abatement agreement or limitation on appraised value, in the
13 absence of this section, was invalid.

14 SECTION 8. (a) Except as otherwise provided by Subsection
15 (b) of this section, this Act takes effect immediately if it
16 receives a vote of two-thirds of all the members elected to each
17 house, as provided by Section 39, Article III, Texas Constitution.
18 If this Act does not receive the vote necessary for immediate
19 effect, this Act takes effect September 1, 2007, except as provided
20 by Subsection (b).

21 (b) Section 4 of this Act takes effect January 1, 2008.