

By: Bonnen, O'Day, Branch (Senate Sponsor - Hegar) H.B. No. 2994  
(In the Senate - Received from the House April 26, 2007;  
April 27, 2007, read first time and referred to Committee on  
Business and Commerce; May 15, 2007, reported adversely, with  
favorable Committee Substitute by the following vote: Yeas 6,  
Nays 0; May 15, 2007, sent to printer.)

COMMITTEE SUBSTITUTE FOR H.B. No. 2994

By: Estes

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 313.032 to read as follows:

Sec. 313.032. 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 assessing the progress of each agreement made under this chapter. The report must be based on data certified to the comptroller by each recipient of a limitation on appraised value under this subchapter and state for each agreement:

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

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

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

(4) the amount of the qualified investment each recipient committed to spend or allocate for each project;

(5) the amount of the qualified investment each recipient spent or allocated for each project;

(6) the market value of the qualified property of each recipient as determined by the applicable chief appraiser;

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

(8) the dollar amount of the taxes that would have been imposed on the qualified property if the property had not received a limitation on appraised value;

(9) the dollar amount of the taxes imposed on the qualified property;

(10) the number of new jobs created by each recipient in each sector of the North American Industry Classification System; and

(11) of the number of new jobs each recipient created, the number of jobs created that provide health benefits for employees.

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

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

SECTION 7. (a) The governmental acts and proceedings of the governing body of a taxing unit relating to the consideration or approval of an ad valorem tax abatement agreement under Chapter 312, Tax Code, that occurred before the effective date of this Act, or of the governing body of a school district relating to the consideration or approval of a limitation on appraised value for ad valorem tax purposes under Chapter 313, Tax Code, that occurred before the effective date of this Act, are validated as of the dates they occurred.

4-1 (b) The governmental acts and proceedings of the taxing unit  
4-2 or the governing body of the taxing unit that occurred after the  
4-3 consideration or approval of an ad valorem tax abatement agreement  
4-4 under Chapter 312, Tax Code, or of the school district or the  
4-5 governing body of the school district that occurred after the  
4-6 consideration or approval of a limitation on appraised value for ad  
4-7 valorem tax purposes under Chapter 313, Tax Code, may not be held  
4-8 invalid on the ground that the consideration or approval of the tax  
4-9 abatement agreement or limitation on appraised value, in the  
4-10 absence of this section, was invalid.

4-11 SECTION 8. (a) Except as otherwise provided by Subsection  
4-12 (b) of this section, this Act takes effect immediately if it  
4-13 receives a vote of two-thirds of all the members elected to each  
4-14 house, as provided by Section 39, Article III, Texas Constitution.  
4-15 If this Act does not receive the vote necessary for immediate  
4-16 effect, this Act takes effect September 1, 2007, except as provided  
4-17 by Subsection (b).

4-18 (b) Section 4 of this Act takes effect January 1, 2008.

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