

By: Hegar

S.B. No. 1710

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the authority of certain taxing units to enter into an  
3 agreement under the Property Redevelopment and Tax Abatement Act or  
4 the Texas Economic Development Act with the owner of certain  
5 electric power generation facilities.

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

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

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

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

19 (c) If the effective date of an agreement is deferred under  
20 Subsection (b), the agreement may have a term ending not later than  
21 10 years after the effective date of the agreement, notwithstanding  
22 Sections 312.204 and 312.208.

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

1 (1) "Qualified investment" means:

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

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

15 (i) integrated systems, fixtures, and  
16 piping;

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

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

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

1 nuclear electric power generation facility, including:

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

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

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

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

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

23 (E) a building or a permanent, nonremovable  
24 component of a building that is built or constructed during the  
25 applicable qualifying time period that begins on or after January  
26 1, 2002, and that houses tangible personal property described by  
27 Paragraph (A), ~~(B)~~, (C), or (D).

1 (4) "Qualifying time period" means:

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

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

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

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

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

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

1 for a limitation under this subchapter:

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

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

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

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

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

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

18 (1) manufacturing;

19 (2) research and development;

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

22 (4) a gasification project for a coal and biomass  
23 mixture; [~~or~~]

24 (5) renewable energy electric generation;

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

27 (7) nuclear electric power generation.

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

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

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

13 SECTION 6. (a) The governmental acts and proceedings of the  
14 governing body of a taxing unit relating to the consideration or  
15 approval of an ad valorem tax abatement agreement under Chapter  
16 312, Tax Code, that occurred before the effective date of this Act,  
17 or of the governing body of a school district relating to the  
18 consideration or approval of a limitation on appraised value for ad  
19 valorem tax purposes under Chapter 313, Tax Code, that occurred  
20 before the effective date of this Act, are validated as of the dates  
21 they occurred.

22 (b) The governmental acts and proceedings of the taxing unit  
23 or the governing body of the taxing unit that occurred after the  
24 consideration or approval of an ad valorem tax abatement agreement  
25 under Chapter 312, Tax Code, or of the school district or the  
26 governing body of the school district that occurred after the  
27 consideration or approval of a limitation on appraised value for ad

1 valorem tax purposes under Chapter 313, Tax Code, may not be held  
2 invalid on the ground that the consideration or approval of the tax  
3 abatement agreement or limitation on appraised value, in the  
4 absence of this section, was invalid.

5 SECTION 7. (a) Except as otherwise provided by Subsection  
6 (b) of this section, this Act takes effect immediately if it  
7 receives a vote of two-thirds of all the members elected to each  
8 house, as provided by Section 39, Article III, Texas Constitution.  
9 If this Act does not receive the vote necessary for immediate  
10 effect, this Act takes effect September 1, 2007, except as provided  
11 by Subsection (b).

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