

BILL ANALYSIS

C.S.H.B. 2753
By: Farias
County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Solar power is among the cleanest forms of power available. Presently, however, the equipment to produce it remains out of reach to many environmentally conscious Texans. Implementation of a residential rooftop solar system is cost-prohibitive for many homeowners, and expansion in Texas of the solar industry, which might result in cost reductions, has not progressed as quickly as some had hoped.

C.S.H.B. 2753 alleviates, in part, the difficulty of affording residential solar implementation by facilitating financing through an individualized, voluntary property tax assessment. The county must enter into an agreement with an approved financing institution that is willing to provide financing, by which the amount owed is collected via a special assessment. The total amount owed cannot be more than 40 percent of the property's value, but the amount must be enough to pay for the cost of the solar energy project, the interest that will be charged for the loan, and administrative fees, providing that the administrative fees are not over 10 percent of the total finance amount. While the special assessment is in effect, a lien on the property will be in effect, and the county shall have co-equal priority with other property tax liens. The amount owed will be paid in 20 annual installments. Once the debt is satisfied, then the assessment will be removed.

The money collected by the county shall be distributed for the sole purpose of repaying the solar energy improvements on the property, the cost of financing, as well as paying the appropriate fees to the county. The agreement must specify that the county is not liable in any way for the debt of the property owner. However, the county assessor must verify that the person requesting the solar energy improvement assessment is the actual owner of the property and that there are no delinquent taxes on the property. Finally, the bill prohibits a county from establishing additional criteria other than what is set forth in the bill's language.

C.S.H.B. 2753 amends the Local Government Code to authorize the commissioners court to provide for a solar energy improvement special assessment to be imposed on a single-family residential property within the boundaries of the county if the owner of the property requests the special assessment, and provides that the voluntary assessment is collected at the same time and in the same manner as other property taxes.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Finance Commission of Texas in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 2753 amends the Local Government Code to authorize the commissioners court of a county to provide by order for a solar energy improvement special assessment to be imposed on a single-family residential property within the boundaries of the county if the owner of the property requests the special assessment. The bill establishes that the purpose of its provisions is to increase access by residents of the county to the benefits of residential solar technology

improvements by participation in a voluntary special assessment on their residential property that can be used to facilitate financing arrangements for the eligible solar energy improvements.

C.S.H.B. 2753 requires a commissioners court adopting an order providing for a special assessment to direct the appropriate appraisal district to include the special assessment in the property tax assessments for property subject to the special assessment and to collect the special assessment at the same time and in the same manner as property taxes are levied and collected if the property owner has submitted a written application, in a format approved by the county tax assessor-collector, requesting that the special assessment be applied to the owner's property for the purpose of financing an eligible solar energy improvement on the property and the county tax assessor-collector has verified that the property owner requesting the special assessment is the owner of record of the property with respect to which the special assessment will be imposed, that there are no delinquent taxes on the property, and that the property is not subject to a child support lien under state law, or a mechanic's, contractor's, or materialman's lien under state law. The bill directs the appraisal district to collect the special assessment at the same time and in the same manner as property taxes are levied and collected if the property owner has submitted certification, in a format approved by the county tax assessor-collector, that the improvements to the property are eligible solar energy improvements, and if the property owner has submitted documentation, in a format approved by the county tax assessor-collector, of the proposed financing agreement for the solar energy improvements to the property to establish that the financing will be provided by a financial institution certified as a solar energy improvement financing institution; to establish that the financing is for an amount, including principal, interest, and administrative fees to the county, that is not more than 40 percent of the assessed value of the property according to current county appraisal district records; and to establish that the annual amount of the special assessment necessary to satisfy the financing agreement and the number of years the special assessment must be imposed on the property.

C.S.H.B. 2753 specifies that the amount of the special assessment on a property is the amount necessary to pay the costs of the eligible solar energy improvements, the costs of the financing of the improvements when due, and the administrative fees collected by the county and establishes that an agreement entered into by the owner of the property with the solar energy improvement financing institution is conclusive regarding the amount that may be assessed against the property. The bill requires that the special assessment be imposed at the same time and in the same manner as property taxes are imposed, and that money derived from the imposition of the special assessment be kept separate from other county funds. The bill clarifies that a special assessment constitutes a lien on the property that is effective during the period in which the special assessment is imposed and has priority equal to other property tax liens. The bill prohibits administrative fees imposed by the county from exceeding 10 percent of the principal amount of the property owner's obligation to the financial institution for the solar energy improvement, and authorizes those fees to be used by the county to pay expenses of promoting the solar energy improvement special assessment program.

C.S.H.B. 2753 requires proceeds from a special assessment on a property to be disbursed by the county tax assessor-collector solely for the purposes of financing the solar energy improvements to that property and paying the applicable administrative fees to the county. The bill requires the county tax assessor-collector to enter into an agreement with the solar energy improvement financing institution providing financing to the property owner specifying the procedures by which the tax assessor-collector shall transfer the revenue from the special assessment to the institution.

C.S.H.B. 2753 requires the Finance Commission of Texas to adopt rules for the certification of a financial institution as a solar energy improvement financing institution, requiring the rules to ensure that a solar energy improvement financing institution is a member institution of the Federal Deposit Insurance Corporation or the National Credit Union Administration, or an entity that the commission finds meets generally accepted criteria for financial stability and soundness. The bill prohibits a county from establishing additional criteria for participation by property

owners in the special assessment beyond those provided under provisions for contractual assessments for solar energy improvements and prohibits a county from requiring, as a condition of being subject to a special assessment, that a property comply with energy efficiency standards, including energy audits, appliance replacement, or energy efficiency improvements.

C.S.H.B. 2753 defines "eligible solar energy improvement," "photovoltaic system," and "solar thermal system."

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2753 differs from the original by specifying that the written application from a property owner requesting a solar energy improvement special assessment is in a format approved by the county tax assessor-collector, rather than by the county treasurer as in the original, and makes conforming changes. The substitute adds a provision not in the original that the property not be subject to a child support lien or to a mechanic's, contractor's, or materialman's lien under state law. The substitute removes provisions in the original requiring improvements to property that are subject to a special assessment to comply with guidelines for residential photovoltaic or solar thermal systems established by the Texas Commission on Environmental Quality and to be installed in compliance with any guidelines established by the commission for installation of such systems. The substitute adds a provision not in the original to prohibit administrative fees imposed by the county from exceeding a certain amount, and to authorize those fees to be used by the county to pay the expenses of promoting the special assessment program.