

BILL ANALYSIS

C.S.S.B. 1311
By: Duncan
Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, the Tax Code permits counties to execute tax abatement agreements with the owners of taxable property located in a reinvestment zone. It is unclear whether such agreements can be entered into with an entity that leases the real property for purposes of placing wind turbines or other renewable energy generation fixtures on the real property. Such abatements are important in counties where renewable energy resources are under development.

C.S.S.B. 1311 expressly grants county commissioners courts the authority to grant abatements with the owner of tangible personal property, with the owner of a leasehold interest, and with a lessee of taxable real property under certain circumstances and clarifies existing law regarding the duration of an abatement granted under the Property Redevelopment and Tax Abatement Act.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 1311 amends Section 312.006, Tax Code, as amended by Chapters 1029 (H.B. 1449) and 1505 (H.B. 1200), Acts of the 77th Legislature, Regular Session, 2001, to extend the expiration date of the Property Redevelopment and Tax Abatement Act from September 1, 2009 to September 1, 2019.

C.S.S.B. 1311 amends the act to authorize the governing body of a taxing unit granting an abatement and the owner of the property that is the subject of the abatement agreement to agree to defer the commencement of the abatement period until a date that is subsequent to the date the agreement is entered into, but prohibits the duration of an abatement period from exceeding 10 years. The bill defines "abatement period." The bill establishes that these provisions deferring the commencement of an abatement period are intended to clarify rather than to change existing law.

C.S.S.B. 1311 authorizes a county commissioners court to execute a tax abatement agreement with the owner of tangible personal property located on real property in a reinvestment zone to exempt from taxation all or a portion of the value of the real property, all or a portion of the value of the tangible personal property located on the real property, or all or a portion of the value of both. The bill revises and partially replaces provisions relating to a commissioners court's execution of a tax abatement agreement with the owner of a leasehold interest in tax-exempt real property or leasehold interests or improvements on tax-exempt real property. The bill, under the new provisions, establishes that the commissioners court is authorized to execute a tax abatement agreement with the owner of a leasehold interest in tax-exempt real property located in a county reinvestment zone to exempt all or a portion of the value of the leasehold interest in the real property. The bill authorizes the court to execute a tax abatement agreement

with the owner of tangible personal property or an improvement located on tax-exempt real property that is located in a designated reinvestment zone to exempt all or a portion of the value of the tangible personal property or improvement located on the real property. The bill authorizes the commissioners court to execute a tax abatement agreement with a lessee of taxable real property located in a county reinvestment zone to exempt from taxation all or a portion of the value of the fixtures, improvements, or other real property owned by the lessee and located on the property that is subject to the lease, all or a portion of the value of tangible personal property owned by the lessee and located on the real property that is the subject of the lease, or all or a portion of the value of both the fixtures, improvements, or other real property and the tangible personal property.

C.S.S.B. 1311 establishes that a property tax abatement agreement that was executed before the effective date of this bill by the commissioners court of a county and an owner of taxable real property or tangible personal property or an owner of a leasehold interest in tax-exempt real property, under provisions relating to a county tax abatement agreement as those provisions existed before the effective date of this bill, that provides for an exemption from taxation of all or a portion of the value of real property, tangible personal property, or both, or of all or a portion of the value of a leasehold interest in tax-exempt real property, that is not invalid for a reason other than an inconsistency with such provisions as they existed before the effective date of the bill, and that is consistent with the same provisions as amended by the bill, is ratified and validated as of the date the agreement was executed.

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.S.B. 1311 adds a provision not in the original extending the expiration date of the Property Redevelopment and Tax Abatement Act from September 1, 2009 to September 1, 2019.

C.S.S.B. 1311 adds provisions not included in the original authorizing an agreement to defer the commencement of an abatement period, and limiting the duration of an abatement period. The substitute includes a statement, not in the original, that the intent of such added provisions is to clarify rather than change existing law.

C.S.S.B. 1311 adds provisions not in the original authorizing the commissioners court to execute a tax abatement agreement with the owner of tangible personal property located on real property in a county reinvestment zone, or with the owner of tangible personal property or an improvement located on tax-exempt real property in a county reinvestment zone. The substitute makes changes not in the original to replace and modify provisions relating to an abatement agreement with the owner of a leasehold interest involving tax-exempt real property in a county reinvestment zone. The substitute, in provisions relating to the execution of a tax abatement agreement with a lessee of taxable real property located in a county reinvestment zone to exempt from taxation all or a portion of the value of certain fixtures, improvements, other real property, or tangible personal property located on the real property, removes a provision in the original making the provision only applicable to tangible and personal property and fixtures, improvements, or other real property used for renewable electric generation.

C.S.S.B. 1311 adds a provision not included in the original ratifying and validating certain property tax abatement agreements executed before the effective date of the bill.

C.S.S.B. 1311 differs from the original by making conforming and technical changes and using language reflective of certain bill drafting conventions.