

By: McClendon

H.B. No. 2420

A BILL TO BE ENTITLED

AN ACT

relating to ad valorem and sales and use tax exemptions for high-speed passenger rail facilities.

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

ARTICLE 1. AD VALOREM TAX EXEMPTION

SECTION 1.01. Subchapter B, Chapter 11, Tax Code, is amended by adding Section 11.34 to read as follows:

Sec. 11.34. HIGH-SPEED PASSENGER RAIL FACILITY. (a) In this section:

(1) "Ancillary facility" means property, equipment, or a building that is acquired, installed, or constructed for the construction, management, and operation of a high-speed passenger rail facility.

(2) "Earthworks and structures" means an excavation or embankment of earth made for a high-speed passenger rail facility, including the clearing and grubbing of right-of-way; demolition of structures; relocation of utilities, pipelines, and any other obstacles in right-of-way; stripping and stockpiling; removal of subsoils for embankment or spoil; borrow pits; dressing and seeding of slopes; construction of culverts; road crossings; bridges; restoration of roadway; drainage in right-of-way or along road networks; or restoration of a hydrologic system.

(3) "Environmental facility" means a facility, an improvement, or equipment related to a high-speed passenger rail

1 facility that is required for the enhancement or protection of the  
2 environment or the high-speed passenger rail facility or for the  
3 mitigation of any adverse environmental effect of the construction,  
4 operation, or maintenance of the high-speed passenger rail  
5 facility.

6 (4) "High-speed passenger rail" means a rail or  
7 electromagnetically guided technology that permits the operation  
8 of rolling stock between scheduled stops at speeds of at least 200  
9 miles per hour.

10 (5) "High-speed passenger rail facility" means any  
11 real, personal, or mixed property or any interest, right, or power  
12 in that property that is determined by the owner of the facility to  
13 be necessary or convenient for the provision of an intercity  
14 high-speed passenger rail transportation system in this state and  
15 all property or interests necessary for the financing, refinancing,  
16 acquiring, purchasing, condemning, constructing, planning,  
17 designing, engineering, enlarging, reconstructing, remodeling,  
18 repairing, renovating, extending, improving, bettering,  
19 furnishing, maintaining, using, or equipping of the system,  
20 including right-of-way, earthworks and structures, trackwork,  
21 electrification facilities, train controls, traction power  
22 systems, rail stations, rolling stock, ancillary facilities,  
23 environmental facilities, and maintenance facilities.

24 (6) "Maintenance facility" includes a workshop,  
25 service facility, garage, equipment or other storage facility,  
26 security facility, or personnel facility.

27 (7) "Personnel facility" includes temporary or

1 transient employee lodging.

2 (8) "Right-of-way" means an easement or any other  
3 interest in real property determined by the owner of a high-speed  
4 passenger rail facility to be necessary or convenient for the  
5 trackwork of the facility.

6 (9) "Rolling stock" means high-speed electrically  
7 propelled trains that run on rails or electromagnetic guideways.

8 (10) "Station" means a passenger service building,  
9 terminal, or station, including ticketing facilities, waiting  
10 areas, platforms, concessions, retail establishments, restaurants,  
11 elevators, escalators, facilities for handicapped access, access  
12 roads, parking facilities, baggage handling facilities, local  
13 maintenance facilities, offices for purposes of the owner of a  
14 high-speed passenger rail facility, ancillary facilities, and any  
15 interest in real property necessary or convenient for the listed  
16 items.

17 (11) "Trackwork" means track, track beds, track bed  
18 preparation, ties, rail fasteners, slabs, rails, emergency  
19 crossovers, setout tracks, storage tracks, and switches.

20 (12) "Traction power systems" means transformers,  
21 switches, controls, conductors, and any supports necessary to  
22 provide power to rolling stock.

23 (13) "Train controls" includes signaling,  
24 interlocking equipment, speed monitoring equipment, emergency  
25 braking systems, central traffic control facilities, and  
26 communication systems.

27 (b) A person is entitled to an exemption from taxation of a

1 high-speed passenger rail facility owned by the person.

2 (c) A high-speed passenger rail facility may not be exempted  
3 under this section for more than 50 years.

4 SECTION 1.02. Section 11.43(c), Tax Code, is amended to  
5 read as follows:

6 (c) An exemption provided by Section 11.13, 11.17, 11.18,  
7 11.182, 11.183, 11.19, 11.20, 11.21, 11.22, 11.23(h), (j), or  
8 (j-1), 11.29, 11.30, ~~or~~ 11.31, or 11.34, once allowed, need not be  
9 claimed in subsequent years, and except as otherwise provided by  
10 Subsection (e), the exemption applies to the property until it  
11 changes ownership or the person's qualification for the exemption  
12 changes. However, the chief appraiser may require a person allowed  
13 one of the exemptions in a prior year to file a new application to  
14 confirm the person's current qualification for the exemption by  
15 delivering a written notice that a new application is required,  
16 accompanied by an appropriate application form, to the person  
17 previously allowed the exemption.

18 SECTION 1.03. This article applies only to ad valorem taxes  
19 imposed for a tax year beginning on or after January 1, 2010.

20 SECTION 1.04. This article takes effect January 1, 2010,  
21 but only if the constitutional amendment proposed by the 81st  
22 Legislature, Regular Session, 2009, authorizing the legislature to  
23 exempt from ad valorem taxation a high-speed passenger rail  
24 facility is approved by the voters. If that amendment is not  
25 approved by the voters, this article has no effect.

26 ARTICLE 2. SALES AND USE TAX EXEMPTION

27 SECTION 2.01. Subchapter H, Chapter 151, Tax Code, is

1 amended by adding Section 151.3312 to read as follows:

2 Sec. 151.3312. HIGH-SPEED PASSENGER RAIL FACILITY. (a) In  
3 this section, "high-speed passenger rail facility," "rolling  
4 stock," "trackwork," and "train controls" have the meanings  
5 assigned by Section 11.34.

6 (b) The sale or storage, use, or other consumption of the  
7 following items is exempted from the taxes imposed by this chapter:

8 (1) tangible personal property for the construction or  
9 operation of, or that will become an ingredient or component part  
10 of, a high-speed passenger rail facility, including rolling stock,  
11 trackwork, and train controls; and

12 (2) services to construct a high-speed passenger rail  
13 facility.

14 SECTION 2.02. The change in law made by this article does  
15 not affect tax liability accruing before the effective date of this  
16 Act. That liability continues in effect as if this Act had not been  
17 enacted, and the former law is continued in effect for the  
18 collection of taxes due and for civil and criminal enforcement of  
19 the liability for those taxes.

20 ARTICLE 3. EFFECTIVE DATE

21 SECTION 3.01. Except as otherwise provided by this Act,  
22 this Act takes effect September 1, 2009.