

By: Edwards

H.B. No. 3206

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the implementation of the exemption from ad valorem
3 taxation for pollution control property.

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

5 SECTION 1. Section 11.31, Tax Code, is amended by amending
6 Subsections (c), (d), (g), and (m) and adding Subsections (c-1) and
7 (n) to read as follows:

8 (c) In applying for an exemption under this section, a
9 person seeking the exemption shall present in a permit application
10 or permit exemption request to the executive director of the Texas
11 Commission on Environmental Quality [~~Natural Resource Conservation~~
12 ~~Commission~~] information detailing:

13 (1) the anticipated environmental benefits from the
14 installation of the facility, device, or method for the control of
15 air, water, or land pollution;

16 (2) the estimated cost of the pollution control
17 facility, device, or method; and

18 (3) the purpose of the installation of such facility,
19 device, or method, and the proportion of the installation that is
20 pollution control property.

21 (c-1) If the installation includes property that is not used
22 wholly for the control of air, water, or land pollution, the person
23 seeking the exemption shall also present such financial or other
24 data as the executive director requires by rule for the

1 determination of the proportion of the installation that is
2 pollution control property.

3 (d) Following submission of the information required by
4 Subsection (c) and, if applicable, Subsection (c-1), the executive
5 director of the Texas Commission on Environmental Quality [~~Natural~~
6 ~~Resource Conservation Commission~~] shall determine if the facility,
7 device, or method is used wholly or partly as a facility, device, or
8 method for the control of air, water, or land pollution. As soon as
9 practicable, the executive director shall send notice by regular
10 mail to the chief appraiser of the appraisal district for the county
11 in which the property is located that the person has applied for a
12 determination under this subsection. The executive director shall
13 issue a letter to the person stating the executive director's
14 determination of whether the facility, device, or method is used
15 wholly or partly to control pollution and, if applicable, the
16 proportion of the property that is pollution control property. The
17 executive director shall send a copy of the letter by regular mail
18 to the chief appraiser of the appraisal district for the county in
19 which the property is located.

20 (g) The commission shall adopt rules to implement this
21 section. Rules adopted under this section must:

22 (1) establish specific standards for considering
23 applications for determinations;

24 (2) be sufficiently specific to ensure that
25 determinations are equal and uniform; and

26 (3) provide a method that allows [~~allow~~]
27 determinations that distinguish the proportion of property that is

1 used to control, monitor, prevent, or reduce pollution from the
2 proportion of property that is used to produce goods or services.

3 (m) Notwithstanding the other provisions of this section,
4 if the facility, device, or method for the control of air, water, or
5 land pollution described in an application for an exemption under
6 this section is a facility, device, or method included on the list
7 adopted under Subsection (k), the executive director of the Texas
8 Commission on Environmental Quality, not later than the 30th day
9 after the date of receipt of the information required by Subsection
10 (c) and, if applicable, Subsection (c-1) [~~Subsections (c)(2) and~~
11 ~~(3) and without regard to whether the information required by~~
12 ~~Subsection (c)(1) has been submitted~~], shall determine that the
13 facility, device, or method described in the application is used
14 wholly or partly as a facility, device, or method for the control of
15 air, water, or land pollution and shall take the actions that are
16 required by Subsection (d) in the event such a determination is
17 made, including issuing a letter to the applicant stating the
18 proportion of the property that is pollution control property if
19 the property is not used wholly to control pollution. Rules adopted
20 by the commission under this section may permit the applicant to
21 base the applicant's statement under Subsection (c)(3) of the
22 proportion of the property that is pollution control property on a
23 method selected by the applicant. If in accordance with such rules
24 the applicant bases the applicant's statement on a method selected
25 by the applicant, the executive director shall calculate the
26 proportion of the property that is pollution control property on
27 the basis of the method selected by the applicant and on the basis

1 of the method the commission has adopted by rule under this section.
2 The executive director shall then determine the proportion of the
3 property that is pollution control property on the basis of the
4 method that results in the lower proportion of the property being
5 determined to be pollution control property.

6 (n) The Texas Commission on Environmental Quality shall
7 establish a permanent advisory committee consisting of
8 representatives of industry, appraisal districts, taxing units,
9 and environmental groups to advise the commission regarding the
10 implementation of this section. Chapter 2110, Government Code,
11 does not apply to the size, composition, or duration of the advisory
12 committee.

13 SECTION 2. Section 11.43, Tax Code, is amended by adding
14 Subsection (n) to read as follows:

15 (n) Notwithstanding Subsection (c), a person who received
16 an exemption under Section 11.31 in the 2009 tax year for a
17 facility, device, or method included on the list adopted under
18 Section 11.31(k) may not receive the exemption in the 2010 tax year
19 unless the person files a new application for the exemption in
20 accordance with Subsection (d). The proportion of the property
21 that is pollution control property shall be determined in
22 accordance with the amendment to Section 11.31(m) by the 81st
23 Legislature, Regular Session, 2009, and rules adopted by the Texas
24 Commission on Environmental Quality in accordance with that
25 amendment. This subsection expires January 1, 2011.

26 SECTION 3. As soon as practicable after the effective date
27 of this Act, the Texas Commission on Environmental Quality shall:

1 (1) adopt rules as necessary to implement Section
2 11.31(m), Tax Code, as amended by this Act; and

3 (2) appoint the initial members of the advisory
4 committee under Section 11.31(n), Tax Code, as added by this Act.

5 SECTION 4. Section 11.31(m), Tax Code, as amended by this
6 Act, applies only to ad valorem taxes imposed for a tax year
7 beginning on or after January 1, 2010.

8 SECTION 5. This Act takes effect September 1, 2009.