

By: Lucio III

H.B. No. 4639

A BILL TO BE ENTITLED

AN ACT

relating to a franchise tax credit for certain investments made in relation to certain renewable energy technology systems.

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

SECTION 1. Chapter 171, Tax Code, is amended by adding Subchapter V to read as follows:

SUBCHAPTER V. TAX CREDIT FOR INVESTMENTS IN CERTAIN RENEWABLE ENERGY TECHNOLOGY SYSTEMS

Sec. 171.901. DEFINITIONS. In this subchapter:

(1) "Actual cost" means the costs related to a renewable energy technology system, including the cost of accessories and installation, after deducting any incentives relating to the system or costs for which any other type of tax credit is claimed.

(2) "Renewable energy technology system" means an identifiable facility, apparatus, or equipment that converts a renewable source of energy into:

(A) a usable source of thermal or mechanical energy;

(B) electricity; or

(C) fuel.

(3) "Renewable source of energy" means energy generated from:

(A) the wind; or

1           (B) the sun, including solar thermal energy and  
2 photovoltaic energy.

3           Sec. 171.902. ENTITLEMENT TO CREDIT. A taxable entity is  
4 entitled to a credit in the amount and under the conditions and  
5 limitations provided by this subchapter against the tax imposed  
6 under this chapter.

7           Sec. 171.903. QUALIFICATION. A taxable entity qualifies  
8 for a credit under this subchapter only if the taxable entity  
9 installs and places into service in this state a new renewable  
10 energy technology system.

11           Sec. 171.904. AMOUNT; LIMITATIONS. (a) The amount of a  
12 credit under this subchapter for a renewable energy technology  
13 system that uses wind-powered energy is equal to the lesser of 20  
14 percent of the actual cost of the system or \$500,000.

15           (b) The amount of a credit under this subchapter for a  
16 renewable energy technology system that uses solar thermal energy  
17 is equal to the lesser of 35 percent of the actual cost of the system  
18 or \$250,000.

19           (c) The amount of a credit under this subchapter for a  
20 renewable energy technology system that uses photovoltaic energy is  
21 equal to the lesser of 35 percent of the actual cost of the system or  
22 \$500,000.

23           (d) The taxable entity must claim a credit under this  
24 subchapter on the report based on the accounting period during  
25 which the taxable entity first places the new renewable energy  
26 technology system into service in this state.

27           (e) The total credit claimed under this subchapter for a

1 report may not exceed the amount of franchise tax due after any  
2 other applicable credits.

3 Sec. 171.905. CARRYFORWARD. (a) If a taxable entity is  
4 eligible for a credit that exceeds the limitation under Section  
5 171.904(e), the taxable entity may carry the unused credit forward  
6 for consecutive reports.

7 (b) A carryforward is considered the remaining portion of a  
8 credit that cannot be claimed in the current year because of the  
9 limitation under Section 171.904(e). A carryforward is added to  
10 the next year's credit in determining whether the limitation is met  
11 for that year. A credit carryforward from a previous report is  
12 considered to be used before the current year credit.

13 Sec. 171.906. ASSIGNMENT PROHIBITED. A taxable entity may  
14 not convey, assign, or transfer the credit allowed under this  
15 subchapter to another entity unless all of the assets of the taxable  
16 entity are conveyed, assigned, or transferred.

17 Sec. 171.907. RULES. The comptroller shall adopt rules  
18 necessary to implement this subchapter.

19 SECTION 2. This Act applies only to a report originally due  
20 on or after the effective date of this Act.

21 SECTION 3. This Act takes effect January 1, 2010.