

## **BILL ANALYSIS**

H.B. 3254  
By: Strama  
Energy Resources  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Interested parties note that developing a green sector in a city's economy can strengthen that economy. The parties assert that one way to encourage such development would be to allow certain cities to create a renewable energy reinvestment zone in which businesses that locate in such a zone would be eligible to enter into municipal tax abatement agreements to receive a property tax abatement for a specified period. The parties further note that a county and a school district, under certain circumstances, could also enter into a property tax abatement agreement with a business located in such a zone. H.B. 3254 seeks to address this issue by creating renewable energy reinvestment zones.

### **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**

H.B. 3254 amends the Tax Code to set out provisions creating renewable energy reinvestment zones and providing for the abatement of property taxes on the property of a renewable energy company located in such a zone. The bill limits its provisions to a municipality that has a population of at least 45,000 but not more than 60,000; that is located in a county with a population of at least one million; and that does not contain within its corporate limits more than two school districts that are categorized as category II school districts under provisions relating to a limitation on the appraised value of certain property used to create jobs or any school districts to which provisions relating to a limitation on the appraised value of property in certain rural school districts apply. The bill provides a short title, the Renewable Energy Reinvestment Zone Act, for purposes of citing its provisions.

H.B. 3254 authorizes the governing body of a municipality by ordinance to designate as a renewable energy reinvestment zone an area in the taxing jurisdiction or extraterritorial jurisdiction of the municipality that the governing body finds satisfies the required criteria. The bill requires the ordinance to describe the boundaries of the zone and prohibits the governing body from adopting an ordinance designating an area as a renewable energy reinvestment zone until the governing body has held a public hearing on the designation and has found that the improvements sought are feasible and practical and would be a benefit to the land to be included in the zone and to the municipality after the expiration of a municipal tax abatement agreement. The bill entitles interested persons at the hearing to speak and present evidence for or against the designation. The bill requires notice of the hearing, not later than the seventh day before the hearing date, to be published in a newspaper having general circulation in the municipality and delivered in writing to the presiding officer of the governing body of each county and school district that includes in its boundaries real property that is to be included in the proposed renewable energy reinvestment zone. The bill establishes that such notice is presumed delivered when placed in the mail postage prepaid and properly addressed to the appropriate presiding officer. The bill establishes that a notice properly addressed and sent by registered or certified

mail for which a return receipt is received by the sender is considered to have been delivered to the addressee.

H.B. 3254 requires an area, in order to be designated as a renewable energy reinvestment zone, to meet the following requirements: be at least 100 acres in size; at least 75 percent of the land be owned by the municipality designating the area or by a municipal development corporation created under the Better Jobs Act at the time of the designation of the area as a zone; and be zoned for commercial purposes. The bill establishes that the designation of a renewable energy reinvestment zone for tax abatement expires five years after the date of the designation and authorizes the designation to be renewed for periods not to exceed five years. The bill establishes that the expiration does not affect an existing tax abatement agreement under the bill's provisions.

H.B. 3254 prohibits a municipality from entering into a tax abatement agreement under the bill's provisions and prohibits the governing body of a municipality from designating an area as a renewable energy reinvestment zone unless the governing body adopts a resolution stating that the municipality elects to become eligible to participate in tax abatement and establishes guidelines and criteria governing tax abatement agreements by the municipality. The bill requires the guidelines and criteria applicable to property to provide for the availability of tax abatement only for new facilities or structures. The bill prohibits the governing body of a municipality from entering into a tax abatement agreement unless it finds that the terms of the agreement and the property subject to the agreement meet the applicable adopted guidelines and criteria. The bill establishes that the guidelines and criteria are effective for two years from the date adopted and authorizes the guidelines and criteria, during that period, to be amended or repealed only by a vote of three-fourths of the members of the governing body. The bill establishes that the adoption of the guidelines and criteria by the governing body of a municipality does not limit the discretion of the governing body to decide whether or not to enter into a specific tax abatement agreement; limit the discretion of the governing body to delegate to its employees the authority to determine whether the governing body should consider a particular application or request for tax abatement; or create any property, contract, or other legal right in any person to have the governing body consider or grant a specific application or request for tax abatement.

H.B. 3254 authorizes the governing body of a municipality eligible to enter into tax abatement agreements to agree in writing with a renewable energy company that owns taxable real property that is located in a renewable energy reinvestment zone, but that is not located in an improvement project financed by tax increment bonds, to exempt from taxation 50 percent of the value of the real property and of tangible personal property located on the real property for a period of 15 years, on the condition that the company construct a facility on the property to be used in connection with the company's operations as specified by the agreement. The bill authorizes the governing body of an eligible municipality to agree in writing with a renewable energy company that owns a leasehold interest in tax-exempt real property that is located in a renewable energy reinvestment zone, but that is not located in an improvement project financed by tax increment bonds, to exempt 50 percent of the value of property subject to property taxes, including the leasehold interest, improvements, and tangible personal property located on the real property, for a period of 15 years, on the condition that the company construct a facility on the property to be used in connection with the company's operations as specified by the agreement. The bill subjects a tax abatement agreement to the rights of holders of outstanding bonds of the municipality and requires an improvement, development, or redevelopment in a municipality that has a comprehensive zoning ordinance taking place under an agreement to conform to the comprehensive zoning ordinance. The bill authorizes the property subject to a tax abatement agreement to be located in the extraterritorial jurisdiction of the municipality and establishes that, in that event, the agreement applies to taxes of the municipality if the municipality annexes the property during the period specified in the agreement. The bill excludes from property tax abatement property that is in a renewable energy reinvestment zone and that is owned or leased by a person who is a member of the governing body of the municipality or a

member of a zoning or planning board or commission of the municipality. The bill establishes that property owned or leased by a person who is subject to a tax abatement agreement in effect when the person becomes a member of the governing body or of the zoning or planning board or commission does not cease to be eligible for property tax abatement under that agreement because of the person's membership on the governing body, board, or commission.

H.B. 3254 requires the governing body of a municipality or a designated officer or employee of the municipality, not later than the seventh day before the date on which the municipality enters into a municipal tax abatement agreement, to deliver to the presiding officer of the governing body of each county and school district in which the property to be subject to the agreement is located a written notice that the municipality intends to enter into the agreement. The bill requires the notice to include a copy of the proposed agreement. The bill establishes that such notice is presumed delivered when placed in the mail postage paid and properly addressed to the appropriate presiding officer. The bill establishes that a notice properly addressed and sent by registered or certified mail for which a return receipt is received by the sender is considered to have been delivered to the addressee and that failure to deliver the notice does not affect the validity of the agreement.

H.B. 3254 requires a municipal tax abatement agreement to include certain specific terms. The bill requires an agreement, in order to be effective, to be approved by the affirmative vote of a majority of the members of the governing body of the municipality at a regularly scheduled meeting of the governing body. The bill authorizes an agreement, on approval by the governing body, to be executed in the same manner as other contracts made by the municipality.

H.B. 3254 authorizes the tax abatement agreement, at any time before its expiration, to be modified by the parties to the agreement to include other provisions that could have been included in the original agreement or to delete provisions that were not necessary to the agreement. The bill requires the modification to be made by the same procedure by which the original agreement was approved and executed. The bill prohibits the original agreement from being modified to extend beyond 15 years from the date of the original agreement and authorizes an agreement made to be terminated by the mutual consent of the parties in the same manner that the agreement was approved and executed.

H.B. 3254 establishes that, if municipal property taxes on property located in the taxing jurisdiction of a municipality are abated under a tax abatement agreement, the agreement also applies to the taxation of the property by a county or school district in which the property is located if the governing body of the county or school district approves the agreement by the affirmative vote of a majority of the members of the governing body at a regularly scheduled meeting of the governing body. The bill prohibits a county or school district from approving a municipal tax abatement agreement unless the governing body of the county or school district adopts a resolution stating that the county or school district elects to become eligible to participate in tax abatement and establishes guidelines and criteria governing the approval by the county or school district of municipal tax abatement agreements. The bill makes provisions governing guidelines and criteria for the entry by a municipality into a tax abatement agreement applicable to guidelines and criteria established by a county or school district for approval of a municipal tax abatement agreement to the extent those provisions can be made applicable.

H.B. 3254 entitles the owner of property to which an agreement made by an incorporated city or town under the bill's provisions applies to exemption from taxation by the incorporated city or town and from taxation by a county or school district that has approved the agreement of part of the value of the property as provided by the agreement. The bill makes a nonsubstantive change.

H.B. 3254 defines "renewable energy company."

**EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.