| **House Bill 3275**  Senate Amendments  Section-by-Section Analysis | | |
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| HOUSE VERSION | SENATE VERSION (IE) | CONFERENCE |
| No equivalent provision. | SECTION \_\_. Section 11.28, Tax Code, is amended to read as follows:  Sec. 11.28. PROPERTY EXEMPTED FROM [~~CITY~~] TAXATION BY AGREEMENT. (a) The owner of property to which an agreement made under Chapter 312 [~~the Property Redevelopment and Tax Abatement Act (Chapter 312 of this code)~~] applies is entitled to exemption from taxation by an incorporated city or town or other taxing unit of all or part of the value of the property as provided by the agreement.  (b) The owner of property to which an agreement made by an incorporated city or town under Chapter 314 applies is entitled 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. [FA2] |  |
| SECTION 1. Section 311.009(a), Tax Code, is amended to read as follows:  (a) Except as provided by Subsection (b), the board of directors of a reinvestment zone consists of at least five and not more than 15 members, unless more than 15 members are required to satisfy the requirements of this subsection. Each taxing unit other than the municipality or county that created the zone that levies taxes on real property in the zone may appoint one member of the board if the taxing unit has approved the payment of all or part of the tax increment produced by the unit into the tax increment fund for the zone. A unit may waive its right to appoint a director. The governing body of the municipality or county that created the zone may appoint not more than 10 directors to the board; except that if there are fewer than five directors appointed by taxing units other than the municipality or county, the governing body of the municipality or county may appoint more than 10 members as long as the total membership of the board does not exceed 15. | SECTION 1. Section 311.009, Tax Code, is amended by amending Subsection (a) and adding Subsection (h) to read as follows:  (a) Except as provided by Subsection (b), the board of directors of a reinvestment zone consists of at least five and not more than 15 members, unless more than 15 members are required to satisfy the requirements of this subsection. Each taxing unit other than the municipality or county that created the zone that levies taxes on real property in the zone may appoint one member of the board if the taxing unit has approved the payment of all or part of the tax increment produced by the unit into the tax increment fund for the zone. A unit may waive its right to appoint a director. The governing body of the municipality or county that created the zone may appoint not more than 10 directors to the board; except that if there are fewer than five directors appointed by taxing units other than the municipality or county, the governing body of the municipality or county may appoint more than 10 members as long as the total membership of the board does not exceed 15.  (h) Notwithstanding any other provision of this section and in addition to the individuals authorized to serve on the board of directors of a zone under this section, a member of the state senate in whose district a zone is wholly or partly located, or a member of the state house of representatives in whose district a zone is wholly or partly located, may serve as an ex officio nonvoting member of the board or may designate another individual to serve in the member's place at the pleasure of the member. This subsection does not apply to the member of the state senate and the member of the state house of representatives who are members of the board as provided by Subsection (b), if applicable. [FA1(1),(2)] |  |
| SECTION 2. Section 311.0091, Tax Code, is amended by amending Subsection (f) and adding Subsection (i) to read as follows:  (f) Except as provided by Subsection (i), to [~~To~~] be eligible for appointment to the board, an individual must:  (1) be a qualified voter of the municipality; or  (2) be at least 18 years of age and own real property in the zone or be an employee or agent of a person that owns real property in the zone.  (i) The eligibility criteria for appointment to the board specified by Subsection (f) do not apply to an individual appointed by a conservation and reclamation district:  (1) created under Section 59, Article XVI, Texas Constitution; and  (2) the jurisdiction of which covers four counties. | SECTION 2. Section 311.0091, Tax Code, is amended by amending Subsection (f) and adding Subsections (i) and (j) to read as follows:  (f) Except as provided by Subsection (i), to [~~To~~] be eligible for appointment to the board, an individual must:  (1) be a qualified voter of the municipality; or  (2) be at least 18 years of age and own real property in the zone or be an employee or agent of a person that owns real property in the zone.  (i) The eligibility criteria for appointment to the board specified by Subsection (f) do not apply to an individual appointed by a conservation and reclamation district:  (1) created under Section 59, Article XVI, Texas Constitution; and  (2) the jurisdiction of which covers four counties.  (j) Notwithstanding any other provision of this section and in addition to the individuals authorized to serve on the board of directors of a zone under this section, a member of the state senate in whose district a zone is wholly or partly located, or a member of the state house of representatives in whose district a zone is wholly or partly located, may serve as an ex officio nonvoting member of the board or may designate another individual to serve in the member's place at the pleasure of the member. This subsection does not apply to the member of the state senate and the member of the state house of representatives who are members of the board as provided by Subsection (c), if applicable. [FA1(3),(4)] |  |
| SECTION 3. Section 311.013(l), Tax Code, is amended to read as follows:  (l) The governing body of a municipality or county that designates an area as a reinvestment zone may determine, in the designating ordinance or order adopted under Section 311.003 or in the ordinance or order adopted under Section 311.011 approving the reinvestment zone financing plan for the zone, the portion of the tax increment produced by the municipality or county that the municipality or county is required to pay into the tax increment fund for the zone. If a municipality or county does not determine the portion of the tax increment produced by the municipality or county that the municipality or county is required to pay into the tax increment fund for a reinvestment zone, the municipality or county is required to pay into the fund for the zone the entire tax increment produced by the municipality or county, except as provided by Subsection (b)(1). | SECTION 3. Same as House version. |  |
| SECTION 4. Section 311.016(a), Tax Code, is amended to read as follows:  (a) On or before the 150th [~~90th~~] day following the end of the fiscal year of the municipality or county, the governing body of a municipality or county shall submit to the chief executive officer of each taxing unit that levies property taxes on real property in a reinvestment zone created by the municipality or county a report on the status of the zone. The report must include:  (1) the amount and source of revenue in the tax increment fund established for the zone;  (2) the amount and purpose of expenditures from the fund;  (3) the amount of principal and interest due on outstanding bonded indebtedness;  (4) the tax increment base and current captured appraised value retained by the zone; and  (5) the captured appraised value shared by the municipality or county and other taxing units, the total amount of tax increments received, and any additional information necessary to demonstrate compliance with the tax increment financing plan adopted by the governing body of the municipality or county. | SECTION 4. Same as House version. |  |
| No equivalent provision. | SECTION \_\_. Subtitle B, Title 3, Tax Code, is amended by adding Chapter 314 to read as follows:  CHAPTER 314. RENEWABLE ENERGY REINVESTMENT ZONES  Sec. 314.001. SHORT TITLE. This chapter may be cited as the Renewable Energy Reinvestment Zone Act.  Sec. 314.002. APPLICABILITY. The provisions of this chapter applicable to a municipality apply only to a municipality that:  (1) has a population of at least 45,000 but not more than 60,000;  (2) is located in a county with a population of at least one million; and  (3) does not contain within its corporate limits:  (A) more than two school districts that are categorized as category II school districts under Section 313.022; or  (B) any school districts to which Subchapter C, Chapter 313, applies.  Sec. 314.003. DEFINITION. In this chapter, "renewable energy company" means a business organization that manufactures, assembles, sells, maintains, or conducts research on renewable energy and renewable energy efficient products, including:  (A) solar energy;  (B) wind energy;  (C) biomass energy;  (D) geothermal energy;  (E) battery technology;  (F) electric vehicles;  (G) lighting using light-emitting diodes;  (H) fuel cells;  (I) energy generated from agricultural sources;  (J) nuclear energy;  (K) clean coal technology; and  (L) water-saving devices.  Sec. 314.004. ELIGIBILITY OF MUNICIPALITY TO PARTICIPATE IN TAX ABATEMENT. (a) A municipality may not enter into a tax abatement agreement under this chapter and the governing body of a municipality may not designate 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 guidelines and criteria applicable to property must provide for the availability of tax abatement only for new facilities or structures.  (b) The governing body of a municipality may not enter into a tax abatement agreement under this chapter unless it finds that the terms of the agreement and the property subject to the agreement meet the applicable guidelines and criteria adopted by the governing body under this section.  (c) The guidelines and criteria adopted under this section are effective for two years from the date adopted. During that period, the guidelines and criteria may be amended or repealed only by a vote of three-fourths of the members of the governing body.  (d) The adoption of the guidelines and criteria by the governing body of a municipality does not:  (1) limit the discretion of the governing body to decide whether to enter into a specific tax abatement agreement;  (2) limit the discretion of the governing body to delegate to its employees the authority to determine whether or not the governing body should consider a particular application or request for tax abatement; or  (3) 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.  Sec. 314.005. DESIGNATION OF ZONE. (a) The governing body of a municipality by ordinance may 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 requirements of Section 314.006.  (b) The ordinance must describe the boundaries of the zone.  (c) The governing body may not adopt 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 an agreement entered into under Section 314.008. At the hearing, interested persons are entitled to speak and present evidence for or against the designation. Not later than the seventh day before the date of the hearing, notice of the hearing must be:  (1) published in a newspaper having general circulation in the municipality; and  (2) 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.  (d) A notice made under Subsection (c)(2) is presumed delivered when placed in the mail postage prepaid and properly addressed to the appropriate presiding officer. 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.  Sec. 314.006. CRITERIA FOR RENEWABLE ENERGY REINVESTMENT ZONE. To be designated as a renewable energy reinvestment zone under this chapter, an area must meet the following requirements:  (1) the area must be at least 100 acres in size;  (2) at the time of the designation of the area as a zone, at least 75 percent of the land in the area must be owned by the municipality designating the area or by a municipal development corporation created under Chapter 379A, Local Government Code; and  (3) the area must be zoned for commercial purposes.  Sec. 314.007. EXPIRATION OF REINVESTMENT ZONE. The designation of a renewable energy reinvestment zone for tax abatement expires five years after the date of the designation and may be renewed for periods not to exceed five years. The expiration of the designation does not affect an existing tax abatement agreement made under this chapter.  Sec. 314.008. MUNICIPAL TAX ABATEMENT AGREEMENT. (a) The governing body of a municipality eligible to enter into tax abatement agreements under Section 314.004 may 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 governing body of an eligible municipality may 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 ad valorem taxation, 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. A tax abatement agreement under this section is subject to the rights of holders of outstanding bonds of the municipality. In a municipality that has a comprehensive zoning ordinance, an improvement, development, or redevelopment taking place under an agreement under this section must conform to the comprehensive zoning ordinance.  (b) The property subject to an agreement made under this section may be located in the extraterritorial jurisdiction of the municipality. In that event, the agreement applies to taxes of the municipality if the municipality annexes the property during the period specified in the agreement.  (c) Except as otherwise provided by this subsection, 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 is excluded from property tax abatement. Property owned or leased by a person that 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.  Sec. 314.009. NOTICE OF TAX ABATEMENT AGREEMENT TO COUNTIES AND SCHOOL DISTRICTS. (a) Not later than the seventh day before the date on which a municipality enters into an agreement under Section 314.008, the governing body of the municipality or a designated officer or employee of the municipality shall 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 notice must include a copy of the proposed agreement.  (b) A notice is presumed delivered when placed in the mail postage paid and properly addressed to the appropriate presiding officer. 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.  (c) Failure to deliver the notice does not affect the validity of the agreement.  Sec. 314.010. SPECIFIC TERMS OF TAX ABATEMENT AGREEMENT. An agreement made under Section 314.008 must:  (1) list the kind, number, and location of all proposed improvements of the property;  (2) provide access to and authorize inspection of the property by municipal employees and by employees of each county and school district that approves the agreement to ensure that the improvements are made according to the specifications and conditions of the agreement;  (3) limit the uses of the property consistent with the general purpose of encouraging development or redevelopment of the renewable energy reinvestment zone during the period that property tax exemptions are in effect;  (4) provide for recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements as provided by the agreement;  (5) contain each term agreed to by the owner of the property;  (6) require the owner of the property to certify annually to the governing body of the municipality and each county and school district that approves the agreement that the owner is in compliance with each applicable term of the agreement; and  (7) provide that the governing body of the municipality may cancel or modify the agreement if the property owner fails to comply with the agreement.  Sec. 314.011. APPROVAL OF AGREEMENT BY GOVERNING BODY OF MUNICIPALITY. (a) To be effective, an agreement made under this chapter by a municipality must 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.  (b) On approval by the governing body, an agreement may be executed in the same manner as other contracts made by the municipality.  Sec. 314.012. MODIFICATION OR TERMINATION OF AGREEMENT. (a) At any time before the expiration of an agreement made under this chapter, the agreement may 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 original agreement. The modification must be made by the same procedure by which the original agreement was approved and executed. The original agreement may not be modified to extend beyond 15 years from the date of the original agreement.  (b) An agreement made under this chapter may be terminated by the mutual consent of the parties in the same manner that the agreement was approved and executed.  Sec. 314.013. TAX ABATEMENT BY COUNTY AND SCHOOL DISTRICT. (a) If municipal property taxes on property located in the taxing jurisdiction of a municipality are abated under an agreement under Section 314.008, 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.  (b) A county or school district may not approve a municipal tax abatement agreement under this chapter 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 provisions of Section 314.004 governing guidelines and criteria for the entry by a municipality into a tax abatement agreement apply 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. [FA2] |  |
| SECTION 5. This Act takes effect September 1, 2011. | SECTION 5. Same as House version. |  |