

BILL ANALYSIS

Senate Research Center
83R4113 SMH-F

H.B. 546
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Finance
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The City of Pflugerville is taking steps to strengthen its local economy by encouraging clean and renewable energy companies to locate in Pflugerville.

H.B. 546 is bracketed to Pflugerville and assists with this effort by giving the city the authority to create a renewable energy reinvestment zone to support the development of a renewable energy business park. Qualified businesses that locate in this zone will be eligible to enter into municipal tax abatement agreements to receive a 50 percent property tax abatement for a period of 15 years.

H.B. 546 allows Travis County and the Pflugerville Independent School District to develop criteria for businesses located in the renewable energy reinvestment zone to be eligible to receive a property tax abatement from the county or school district.

H.B. 546 amends current law relating to the creation of renewable energy reinvestment zones and the abatement of ad valorem taxes on property of a renewable energy company located in such a zone.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle B, Title 3, Tax Code, by adding Chapter 314, as follows:

CHAPTER 314. RENEWABLE ENERGY REINVESTMENT ZONES

Sec. 314.001. SHORT TITLE. Provides that this chapter may be cited as the Renewable Energy Reinvestment Zone Act.

Sec. 314.002. APPLICABILITY. Provides that 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 (Applicability; Categorization of School Districts); or
 - (B) any school districts to which Subchapter C (Limitation on Appraised Value of Property in Certain Rural School Districts), Chapter 313 (Texas Economic Development Act), applies.

Sec. 314.003. DEFINITION. Defines, in this chapter, "renewable energy company."

Sec. 314.004. ELIGIBILITY OF MUNICIPALITY TO PARTICIPATE IN TAX ABATEMENT. (a) Prohibits a municipality from entering into a tax abatement agreement under this chapter and 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. Requires that the guidelines and criteria applicable to property provide for the availability of tax abatement only for new facilities or structures.

(b) Prohibits the governing body of a municipality from entering 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) Provides that the guidelines and criteria adopted under this section are effective for two years from the date adopted. 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.

(d) Provides that 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) 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 requirements of Section 314.006.

(b) Requires that the ordinance describe the boundaries of the zone.

(c) 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 an agreement entered into under Section 314.008. Entitles interested persons to speak at the hearing and present evidence for or against the designation. Requires that the notice of the hearing, not later than the seventh day before the date of the hearing, 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) Provides that 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. Provides 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.

Sec. 314.006. CRITERIA FOR RENEWABLE ENERGY REINVESTMENT ZONE. Requires that an area, to be designated as a renewable energy reinvestment zone under this chapter, 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 (Municipal Development Corporations), Local Government Code; and
- (3) the area must be zoned for commercial purposes.

Sec. 314.007. EXPIRATION OF REINVESTMENT ZONE. Provides that 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. Provides that 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) Authorizes the governing body of a municipality eligible to enter into tax abatement agreements under Section 314.004 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. 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 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. Provides that a tax abatement agreement under this section is subject to the rights of holders of outstanding bonds of the municipality. Requires that an improvement, development, or redevelopment taking place under an agreement under this section, in a municipality that has a comprehensive zoning ordinance, conform to the comprehensive zoning ordinance.

(b) Authorizes the property subject to an agreement made under this section to be located in the extraterritorial jurisdiction of the municipality. Provides 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.

(c) Provides that 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, except as otherwise provided by this subsection, is excluded from property tax abatement. Provides that 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) Requires a governing body of the municipality, not later than the seventh day before the date on which the municipality enters into an agreement under Section 314.008, 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. Requires that the notice include a copy of the proposed agreement.

(b) Provides that notice is presumed delivered when placed in the mail postage paid and properly addressed to the appropriate presiding officer. Provides 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.

(c) Provides that failure to deliver the notice does not affect the validity of the agreement.

Sec. 314.010. SPECIFIC TERMS OF TAX ABATEMENT AGREEMENT. Requires that an agreement made under Section 314.008:

(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) Requires that an agreement made under this chapter by a municipality 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 to be effective.

(b) Authorizes an agreement, on approval by the governing body, to be executed in the same manner as other contracts made by the municipality.

Sec. 314.012. MODIFICATION OR TERMINATION OF AGREEMENT. (a) Authorizes the agreement, at any time before the expiration of an agreement made under this chapter, 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 original agreement. Requires that the modification be made by the same procedure by which the original agreement was approved and executed. Prohibits the original agreement from being modified to extend beyond 15 years from the date of the original agreement.

(b) Authorizes an agreement made under this chapter to 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) Provides that, 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) Prohibits a county or school district from approving 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. Provides that 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.

SECTION 2. Amends Section 11.28, Tax Code, as follows:

Sec. 11.28. New heading: PROPERTY EXEMPTED FROM TAXATION BY AGREEMENT. (a) Creates this subsection from existing text. Makes a nonsubstantive change.

(b) Entitles the owner of property to which an agreement made by an incorporated city or town under Chapter 314 applies to an 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.

SECTION 3. Effective date: upon passage or September 1, 2013.