

BILL ANALYSIS

H.B. 546
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Ways & Means
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties assert that there are efforts to strengthen local economies by encouraging the development of a new green sector. The parties contend that these efforts would be helped by the creation a renewable energy reinvestment zone in which businesses would be eligible to enter into municipal tax abatement agreements to receive a property tax abatement for a specified period. The same parties further contend that allowing the development of eligibility criteria for tax abatement in such a zone by an applicable county or school district would also benefit the local economy. H.B. 546 seeks to address these issues relating to the creation of renewable energy investment zones and the abatement of property taxes on property of a renewable energy company in such a zone.

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. 546 amends the Tax Code to provide for the creation of renewable energy reinvestment zones and the abatement of property taxes in such a zone by a municipality that has a population of at least 45,000 but not more than 60,000; is located in a county with a population of at least one million; and does not contain within its corporate limits more than two category II school districts, categorized as such for purposes of the limitation on appraised value of property used to create jobs under the Texas Economic Development Act, or any school districts to which the limitation on appraised value of property in certain rural school districts under that act applies.

H.B. 546 authorizes the governing body of a municipality by ordinance to designate as a renewable energy reinvestment zone an area in the municipality's taxing jurisdiction or extraterritorial jurisdiction that the governing body finds meets the applicable criteria for such a zone, requires such an ordinance to describe the zone's boundaries, and prohibits the governing body from adopting an ordinance making such a designation 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 entered into under the bill's provisions. The bill sets out procedure and notice requirements for such a hearing.

H.B. 546 establishes the following criteria for an area to be designated as a renewable energy reinvestment zone: the area must be at least 100 acres in size, at least 75 percent of the land in the area must be owned by the designating municipality or by a municipal development corporation created under the Better Jobs Act at the time of the designation, and the area must 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 is renewable for periods of up to five years and that the expiration of the designation does not affect an existing tax abatement agreement made under the bill's provisions.

H.B. 546 prohibits a municipality and the municipality's governing body from entering into a tax abatement agreement under the bill's provisions and from designating an area as a renewable energy reinvestment zone, respectively, 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 such tax abatement agreements. The bill requires the guidelines and criteria applicable to property to provide for the availability of tax abatement only for new facilities or structures and prohibits the governing body of a municipality from entering into a tax abatement agreement under the bill's provisions unless it finds that the terms of the agreement and the property subject to the agreement meet the applicable guidelines and criteria. The bill specifies that the guidelines and criteria are effective for two years from the date adopted and requires a three-fourths vote of the governing body's members for their amendment or repeal. The bill specifies that a governing body's adoption of the guidelines and criteria neither limits the governing body's discretion to decide whether to enter into a specific tax abatement agreement or 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 nor creates 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. 546 authorizes the governing body of a municipality eligible to enter into a tax abatement agreement under the bill's provisions to agree in writing with a renewable energy company that owns either taxable real property or a leasehold interest in tax-exempt real property that is located in a renewable energy reinvestment zone but not 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, or 50 percent of the value of taxable property, including the leasehold interest, improvements, and tangible personal property located on the real property, as applicable, for 15 years if the company constructs a facility on the property for use in connection with the company's operations as specified by the agreement.

H.B. 546 subjects a tax abatement agreement under the bill's provisions to the rights of holders of the municipality's outstanding bonds and requires an improvement, development, or redevelopment taking place under such an agreement to conform to a comprehensive zoning ordinance if the municipality has such an ordinance. The bill authorizes the property subject to an agreement to be located in the municipality's extraterritorial jurisdiction and specifies that the agreement applies in that event to municipal taxes 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 member of the municipality's governing body or of a municipal zoning or planning board or commission. The bill establishes that property subject to a tax abatement agreement in effect when a person who owns or leases the property 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. The bill sets out requirements, including a deadline and procedures, for giving notice of a municipal intent to enter into a tax abatement agreement to the governing body of each county and school district in which property to be subject to the agreement is located.

H.B. 546 sets out the specific terms required to be in a tax abatement agreement under the bill's provisions, requires approval by an affirmative majority vote of the members of the municipality's governing body at a regularly scheduled meeting of the governing body for the agreement to be effective, and authorizes the agreement's execution, on its approval by the governing body, in the same manner as other contracts made by the municipality. The bill authorizes the parties to a tax abatement agreement, at any time before the agreement expires, to modify 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 bill requires a modification to be made by the same procedure by which the original agreement was approved and executed and prohibits the original agreement from being modified to extend

beyond 15 years from the date of the original agreement. The bill authorizes the parties to an agreement to terminate the agreement by mutual consent in the same manner that the agreement was approved and executed.

H.B. 546 makes a tax abatement agreement under the bill's provisions applicable to the taxation of the property by a county or school district in which the property is located if municipal property taxes on property located in the taxing jurisdiction of a municipality are abated under the agreement and 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 applies its provisions governing guidelines and criteria for a municipality's entry into a tax abatement agreement 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. 546 entitles an owner of property to which an agreement made by an incorporated city or town under the bill's provisions applies to a property tax exemption from the incorporated city or town and from a county or school district that has approved the agreement of part of the property's value as provided by the agreement.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.