

BILL ANALYSIS

C.S.H.B. 1897
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Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Approximately 20 years ago, voters approved an amendment to the Texas Constitution that allowed the legislature to grant a property tax exemption for all or part of real and personal property used or installed wholly or partly to meet or exceed environmental regulations for addressing air, water, or land pollution. Because of the complexity of the facilities, devices, and methods involved, the Texas Commission on Environmental Quality (TCEQ) often must work with the applicant for such exemption to ensure the calculation of the extent of any pollution control determination is correct. Interested parties contend that, because some determinations can take years as a result of objections and requests for more data, it makes sense that such an exemption be granted only after a final determination is made. The parties further contend that if an appeal results in a substantially higher determination, accumulated refunds for overpaid taxes could be financially damaging to affected taxing units as the refunds become due.

C.S.H.B. 1897 seeks to address this issue by, among other provisions, prohibiting a chief appraiser from accepting an application for a pollution control property tax exemption until the property owner provides a copy of the letter issued by the executive director of TCEQ determining that the property is used wholly or partly as pollution control property.

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

C.S.H.B. 1897 amends the Tax Code to remove the requirement for a person seeking a property tax exemption for pollution control property to provide to the chief appraiser a copy of the letter issued by the executive director of the Texas Commission on Environmental Quality determining that the property is used wholly or partly as pollution control property and to instead prohibit a chief appraiser from accepting an application for such an exemption and exclude a property owner from being entitled to such an exemption unless the property owner provides a copy of the letter to the chief appraiser at the time the property owner files the application. The bill establishes that a property owner is not entitled to such an exemption nor to relief for the denial of the exemption, in whole or in part, for any tax year preceding the tax year in which the property owner provides a copy of the letter with the application for the exemption. The bill limits its applicability to an exemption application that is pending before a chief appraiser on the bill's effective date or is filed with a chief appraiser on or after the bill's effective date.

EFFECTIVE DATE

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

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1897 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 11.31, Tax Code, is amended by adding Subsections (o) and (p) to read as follows:

(o) A determination that a facility, device, or method is used wholly or partly as a facility, device, or method for the control of air, water, or land pollution is effective January 1 of the year following the year in which the determination becomes final or, if the determination is appealed, the appeal is finally determined.

(p) Notwithstanding Section 11.43(c), the executive director may require a person allowed an exemption under this section in a prior year to file a new permit application or permit exemption request under Subsection (c) to confirm the person's current qualification for the exemption by delivering a written notice that a new application or request is required to the person previously allowed the exemption.

No equivalent provision, but see SECTION. 1, above.

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision, but see SECTION. 1, below.

SECTION 1. Section 11.31(i), Tax Code, is amended to read as follows:

(i) A chief appraiser may not accept an application for an exemption authorized by this section and a property owner is not entitled to the exemption unless the property owner provides to the chief appraiser at the time the property owner files the application [A person seeking an exemption under this section shall provide to the chief appraiser] a copy of the letter issued by the executive director of the Texas Commission on Environmental Quality under Subsection (d) determining that the facility, device, or method is used wholly or partly as pollution control property. The chief appraiser shall accept a final determination by the executive director as conclusive evidence that the facility, device, or method is used wholly or partly as pollution control property. A property owner is not entitled to an exemption authorized by this section, or to relief for the denial of the exemption, in whole or in part, for any tax year preceding

the tax year in which the property owner satisfies the requirements of this subsection.

SECTION 2. The change in law made by Section 11.31(o), Tax Code, as added by this Act, applies only to a determination that becomes final or the appeal of which is finally determined on or after the effective date of this Act.

SECTION 2. The changes in law made by this Act apply only to an application for an exemption that is pending before a chief appraiser on the effective date of this Act or is filed with a chief appraiser on or after the effective date of this Act. An application for an exemption that is filed with a chief appraiser before the effective date of this Act and is not pending on the effective date of this Act is governed by the law in effect when the application was filed, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

SECTION 3. Same as introduced version.