

BILL ANALYSIS

C.S.H.B. 2712
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Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Energy storage is an emerging technology that can be utilized in nonattainment areas as a means of reducing the emissions from large utility-scale generators. Energy storage technologies, such as batteries, flywheels, and compressed air energy systems, mitigate emissions and help control pollution in a number of ways and provide frequency regulation to the state's electric grid, preventing or minimizing the impact of frequency fluctuations such as blackout periods. Energy storage can charge from the electric grid and discharge the stored energy without emissions in a nonattainment area when needed, providing new generation in the area without contributing to pollution and without the need to build additional facilities.

New generation facilities are generally difficult to build in nonattainment areas due to emissions limitations. Interested parties assert that because energy storage is a relatively new technology, it was not considered in legislation relating to the pollution control property tax exemption and that allowing such storage facilities located within a federally designated nonattainment area to qualify for a property tax exemption will give large-scale generators and industrial facilities incentives to install this technology to the benefit of Texas. C.S.H.B. 2712 seeks to encourage and attract energy storage resources to Texas by entitling certain entities to a property tax exemption.

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. 2712 amends the Tax Code to entitle a person to an exemption from property taxation by a taxing unit of an energy storage system owned by the person if the exemption is adopted by the governing body of the taxing unit in the manner provided by law for official action by the governing body and if the energy storage system is used, constructed, acquired, or installed wholly or partly to meet or exceed certain federal air quality regulations or any other rules or regulations adopted by any environmental protection agency of the United States, Texas, or a political subdivision of Texas for the prevention, monitoring, control, or reduction of air pollution and is located in an area designated as a nonattainment area within the meaning of the federal Clean Air Act; has a capacity of at least 10 megawatts; and is installed on or after January 1, 2014. The bill authorizes the governing body of the taxing unit to repeal such an exemption in the manner provided by law for official action by the governing body. The bill includes this exemption among the property tax exemptions that, once allowed, need not be claimed in subsequent years and that apply to the property until it changes ownership or the person's qualification for the exemption changes. The bill excludes the taxable value of property so exempted for the current tax year for the first time from the determination of the current total value of the taxable value of property listed on a taxing unit's appraisal roll.

C.S.H.B. 2712 amends the Education Code to entitle a school district to additional state aid to

the extent that state aid under the Foundation School Program based on the comptroller of public accounts' determination of the school district's taxable value of property does not fully compensate the district for property tax revenue lost due to the exemption for energy storage systems. The bill requires the commissioner of education, using information provided by the comptroller, to compute the amount of additional state aid to which a district is entitled and establishes that the commissioner's determination is final and may not be appealed. The bill adds a temporary provision, set to expire September 1, 2015, requiring the taxable value of property in a school district, for purposes of computing state aid for the 2014-2015 school year, to be determined under the comptroller's study of property values in each school district as if the exemption for energy storage systems had been in effect for the 2013 tax year.

C.S.H.B. 2712 amends the Government Code to establish that an energy storage system that receives an exemption under the bill's provisions in the year that is the subject of the comptroller's study of property values in each district is not considered to be taxable property for purposes of the calculation used in the study to determine the taxable value of property in a district.

EFFECTIVE DATE

January 1, 2014.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2712 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. Subchapter B, Chapter 11, Tax Code, is amended by adding Section 11.315 to read as follows:

Sec. 11.315. ENERGY STORAGE SYSTEM IN NONATTAINMENT AREA.

(a) In this section, "energy storage system" means a device capable of storing energy to be discharged at a later time, including a chemical, mechanical, or thermal storage device.

(b) A person is entitled to an exemption from taxation of an energy storage system the person owns that

is used, constructed, acquired, or installed wholly or partly to meet or exceed rules or regulations adopted by any environmental protection agency of the United States, this state, or a political subdivision of this state for the prevention, monitoring, control, or reduction of air pollution and that:

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter B, Chapter 11, Tax Code, is amended by adding Section 11.315 to read as follows:

Sec. 11.315. ENERGY STORAGE SYSTEM IN NONATTAINMENT AREA.

(a) In this section, "energy storage system" means a device capable of storing energy to be discharged at a later time, including a chemical, mechanical, or thermal storage device.

(b) A person is entitled to an exemption from taxation by a taxing unit of an energy storage system owned by the person if:

(1) the exemption is adopted by the governing body of the taxing unit in the manner provided by law for official action by the governing body; and

(2) the energy storage system:

(A) is used, constructed, acquired, or installed wholly or partly to meet or exceed 40 C.F.R. Section 50.11 or any other rules or regulations adopted by any environmental protection agency of the United States, this state, or a political subdivision of this state for the prevention, monitoring, control, or reduction of air pollution;

(1) is located in an area designated as a nonattainment area within the meaning of Section 107(d) of the federal Clean Air Act (42 U.S.C. Section 7407);
(2) has a capacity of at least 10 megawatts;
and
(3) is installed on or after January 1, 2014.

(B) is located in an area designated as a nonattainment area within the meaning of Section 107(d) of the federal Clean Air Act (42 U.S.C. Section 7407);
(C) has a capacity of at least 10 megawatts;
and
(D) is installed on or after January 1, 2014.

(c) Once authorized, an exemption adopted under this section may be repealed by the governing body of a taxing unit in the manner provided by law for official action by the governing body.

SECTION 2. Section 11.43(c), Tax Code, is amended.

SECTION 2. Same as introduced version.

SECTION 3. Section 26.012(6), Tax Code, is amended.

SECTION 3. Same as introduced version.

SECTION 4. Subchapter E, Chapter 42, Education Code, is amended.

SECTION 4. Same as introduced version.

SECTION 5. Section 403.302(d-1), Government Code, is amended.

SECTION 5. Same as introduced version.

SECTION 6. This Act applies only to ad valorem taxes imposed for a tax year that begins on or after the effective date of this Act.

SECTION 6. Same as introduced version.

SECTION 7. This Act takes effect January 1, 2014.

SECTION 7. Same as introduced version.