

By: Lozano

H.B. No. 1712

A BILL TO BE ENTITLED

AN ACT

1
2 relating to exemptions from property taxation and sales and use
3 taxation for certain offshore spill response and well containment
4 property used to control pollution.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 11.31, Tax Code, is amended by amending
7 Subsections (a), (b), (c), (d), and (m) and adding Subsections (o)
8 and (p) to read as follows:

9 (a) A person is entitled to an exemption from taxation of
10 all or part of real and personal property that the person owns and
11 that is used wholly or partly as a facility, device, or method for
12 the control of air, water, or land pollution. A person is not
13 entitled to an exemption from taxation under this section solely on
14 the basis that the person manufactures or produces a product or
15 provides a service that prevents, monitors, controls, or reduces
16 air, water, or land pollution, except as provided in Subsection
17 (o). Property used for residential purposes, or for recreational,
18 park, or scenic uses as defined by Section 23.81, is ineligible for
19 an exemption under this section.

20 (b) In this section, "facility, device, or method for the
21 control of air, water, or land pollution" means land that is
22 acquired after January 1, 1994, or any structure, building,
23 installation, excavation, machinery, equipment, or device, and any
24 attachment or addition to or reconstruction, replacement, or

1 improvement of that property, that is used, constructed, acquired,
2 or installed wholly or partly to meet or exceed rules or regulations
3 adopted by any environmental protection agency of the United
4 States, this state, or a political subdivision of this state for the
5 prevention, monitoring, control, or reduction of air, water, or
6 land pollution and includes property described in Subsection (o).
7 In this section, "pollution control property" includes property
8 described in Subsection (o). This section does not apply to a motor
9 vehicle.

10 (c) In applying for an exemption under this section, a
11 person seeking the exemption shall present in a permit application
12 or permit exemption request to the executive director of the Texas
13 Commission on Environmental Quality information detailing:

14 (1) the anticipated environmental benefits from the
15 installation of the facility, device, or method for the control of
16 air, water, or land pollution;

17 (2) the estimated cost of the pollution control
18 facility, device, or method; and

19 (3) the purpose of the installation of such facility,
20 device, or method, and the proportion of the installation that is
21 pollution control.

22 If the installation includes property that is not used wholly
23 for the control of air, water, or land pollution or described in
24 Subsection (o), the person seeking the exemption shall also present
25 such financial or other data as the executive director requires by
26 rule for the determination of the proportion of the installation
27 that is pollution control.

1 (d) Following submission of the information required by
2 Subsection (c), the executive director of the Texas Commission on
3 Environmental Quality shall determine if the facility, device, or
4 method is used wholly or partly as a facility, device, or method for
5 the control of air, water, or land pollution. As soon as
6 practicable, the executive director shall send notice by regular
7 mail or by electronic means to the chief appraiser of the appraisal
8 district for the county in which the property is located that the
9 person has applied for a determination under this subsection. The
10 executive director shall issue a letter to the person stating the
11 executive director's determination of whether the facility,
12 device, or method is used wholly or partly to control pollution or
13 as property described in Subsection (o) and, if applicable, the
14 proportion of the property that is pollution control property. The
15 executive director shall send a copy of the letter by regular mail
16 or by electronic means to the chief appraiser of the appraisal
17 district for the county in which the property is located.

18 (m) Notwithstanding the other provisions of this section,
19 if the facility, device, or method for the control of air, water, or
20 land pollution described in an application for an exemption under
21 this section is a facility, device, or method included on the list
22 adopted under Subsection (k) or property described in Subsection
23 (o), the executive director of the Texas Commission on
24 Environmental Quality, not later than the 30th day after the date of
25 receipt of the information required by Subsections (c)(2) and (3)
26 and without regard to whether the information required by
27 Subsection (c)(1) has been submitted, shall determine that the

1 facility, device, or method described in the application is used
2 wholly or partly as a facility, device, or method for the control of
3 air, water, or land pollution and shall take the actions that are
4 required by Subsection (d) in the event such a determination is
5 made.

6 (o) Notwithstanding any other provision in this section, a
7 person is entitled to an exemption from taxation of all or part of
8 real and personal property that the person owns or leases and that
9 is used, constructed, acquired, stored, or installed primarily as
10 part of an offshore spill response containment system. For
11 purposes of this section, property described in this subsection
12 shall be treated as used wholly as a facility, device, or method for
13 the control of air, water, or land pollution.

14 (p) In Subsection (o):

15 (1) "Offshore spill response containment system"
16 means:

17 (A) a containment system:

18 (i) for a response plan to meet or exceed
19 rules or regulations adopted by any environmental protection agency
20 of the United States, this state, or a political subdivision of this
21 state for the control, reduction, or monitoring of air, water, or
22 land pollution in the event of a blowout or loss of control of an
23 offshore well drilled or used for the exploration for or production
24 of oil, gas, sulphur or other minerals; and

25 (ii) having a design capability to respond
26 to a blowout or loss of control of such an offshore well drilled in
27 more than 5,000 feet of water; and

1 (B) real and personal property used for the
2 development, improvement, storage, deployment, repair,
3 maintenance, or testing of such containment system.

4 (2) "Environmental protection agency of the United
5 States" includes:

6 (A) the United States Department of the Interior
7 and agencies, bureaus, or other entities established in the United
8 States Department of the Interior, including the Bureau of Safety
9 and Environmental Enforcement and the Bureau of Ocean Energy
10 Management; and

11 (B) any other department, agency, bureau, or
12 entity of the United States that prescribes rules or regulations
13 described by Subsection (p)(1)(A)(i).

14 (3) "Rules or regulations adopted by any environmental
15 protection agency of the United States" include Title 30, Code of
16 Federal Regulations, Part 254, and any corresponding provision or
17 provisions of succeeding, similar, substitute, proposed, or final
18 federal regulations.

19 SECTION 2. Chapter 151, Tax Code, is amended by adding
20 Section 151.356 to read as follows:

21 Sec. 151.356 OFFSHORE SPILL RESPONSE AND WELL CONTAINMENT
22 PROPERTY. (a) A person described in Section 11.31(o), Tax Code, is
23 entitled to an exemption from the taxes imposed by this chapter for
24 the purchase, sale, lease, rental, storage, use or consumption of
25 property described in Section 11.31(o), Tax Code.

26 (b) A service performed on property described in Section
27 11.31(o), Tax Code, is exempted from the taxes imposed by this

1 chapter.

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