

SENATE AMENDMENTS

2nd Printing

By: Eiland

H.B. No. 1897

A BILL TO BE ENTITLED

AN ACT

relating to the exemption from ad valorem taxation of pollution control property.

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

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

(i) A person seeking an exemption under this section shall provide to the chief appraiser at the time an application for the exemption is filed in accordance with Section 11.43 a copy of the letter issued by the executive director of the Texas Commission on Environmental Quality under Subsection (d), or a copy of the final letter issued by the executive director under Subsection (e) if the determination is appealed under that subsection, 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. Notwithstanding Section 41.41(a)(4), a property owner is not entitled to a remedy for the denial of an exemption for pollution control property, in whole or in part, and is not entitled to an exemption for any period that precedes the property owner's compliance with the requirements of this subsection.

SECTION 2. The changes in law made by this Act apply to any

1 determination under Section 11.31, Tax Code, that becomes final on
2 or after the effective date of this Act. A determination that
3 becomes final before the effective date of this Act is governed by
4 the law in effect immediately before the effective date of this Act,
5 and that law is continued in effect for that purpose.

6 SECTION 3. The changes in law made by this Act do not permit
7 a taxing unit to recover taxes not assessed and collected because of
8 an exemption granted under Section 11.31, Tax Code, before the
9 effective date of this Act.

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

ADOPTED

MAY 21 2013


JERRY E. GREEN
SEAL OFFICER

FLOOR AMENDMENT NO. 1

BY: Carina

1 Amend H.B. No. 1897 (senate committee printing) by striking
2 all below the enacting clause and substituting the following:

3 SECTION 1. Section 11.31, Tax Code, is amended by adding
4 Subsection (e-1) to read as follows:

5 (e-1) The executive director shall issue a determination
6 letter required by Subsection (d) to the person seeking the
7 exemption, and the commission shall take final action on the
8 initial appeal under Subsection (e) if an appeal is made, not later
9 than the first anniversary of the date the person submits the
10 information required by Subsection (c).

11 SECTION 2. Section 42.43, Tax Code, is amended by adding
12 Subsections (j) and (k) to read as follows:

13 (j) A property owner is not entitled to a refund under this
14 section resulting from the final determination of an appeal of the
15 denial of an exemption under Section 11.31, wholly or partly,
16 unless the property owner is entitled to the refund under
17 Subsection (a) or has entered into a written agreement with the
18 chief appraiser that authorizes the refund as part of an agreement
19 related to the taxation of the property pending a final
20 determination by the Texas Commission on Environmental Quality
21 under Section 11.31.

22 (k) Not later than the 10th day after the date a property
23 owner and the chief appraiser enter into a written agreement
24 described by Subsection (j), the chief appraiser shall provide to
25 each taxing unit that taxes the property a copy of the agreement.
26 The agreement is void if a taxing unit that taxes the property
27 objects in writing to the agreement on or before the 60th day after
28 the date the taxing unit receives a copy of the agreement.

29 SECTION 3. Not later than September 1, 2014, the Texas

1 Commission on Environmental Quality shall adopt rules to implement
2 Section 11.31(e-1), Tax Code, as added by this Act.

3 SECTION 4. Section 42.43(k), Tax Code, as added by this Act,
4 applies only to an agreement between a property owner and a chief
5 appraiser entered into on or after the effective date of this Act.

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

ADOPTED

Roger W. N.

FLOOR AMENDMENT NO. 2

MAY 21 2013 BY:

V FA # 1 to

Atty Gen
Secretary of the Senate

1 Amend H.B. No. 1897 (senate committee printing) by adding
2 the following SECTION, appropriately numbered, to the bill and
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION ____ (a) The legislature finds that current rules
5 adopted by the Texas Commission on Environmental Quality
6 regarding qualification of property for exemption from taxation
7 under Section 11.31, Tax Code, are consistent with the
8 legislature's desire to exempt only property used, constructed,
9 acquired, or installed wholly or partly to meet or exceed laws,
10 rules, or regulations adopted by any environmental protection
11 agency of the United States, Texas, or a political subdivision
12 of Texas, for the prevention, monitoring, control, or reduction
13 of air, water, or land pollution. The legislature further finds
14 that current unique market forces are a deterrent to landfill
15 methane capture, and the limited exemption set forth in this
16 section will prevent the loss of facilities that help the state
17 in reducing pollution.

18 (b) Subchapter B, Chapter 11, Tax Code, is amended by
19 adding Section 11.311 to read as follows:

20 Sec. 11.311. TEMPORARY EXEMPTION: LANDFILL-GENERATED GAS
21 CONVERSION FACILITIES. (a) This section applies only to real
22 and personal property that is used in the manner described by
23 Subsection (b) on January 1, 2014.

24 (b) A person is entitled to an exemption from taxation of
25 the real and personal property the person owns that is located
26 on or in close proximity to a landfill and is used to:

- 27 (1) collect gas generated by the landfill;
- 28 (2) compress and transport the gas;
- 29 (3) process the gas so that it may be:

1 (A) delivered into a natural gas pipeline; or

2 (B) used as a transportation fuel in methane-
3 powered on-road or off-road vehicles or equipment; and

4 (4) deliver the gas:

5 (A) into a natural gas pipeline; or

6 (B) to a methane fueling station.

7 (c) Property described by this section is considered to be
8 property used as a facility, device, or method for the control
9 of air, water, or land pollution.

10 (d) This section expires December 31, 2015.

11 (c) Section 403.302(d), Government Code, is amended to
12 read as follows:

13 (d) For the purposes of this section, "taxable value"
14 means the market value of all taxable property less:

15 (1) the total dollar amount of any residence
16 homestead exemptions lawfully granted under Section 11.13(b) or
17 (c), Tax Code, in the year that is the subject of the study for
18 each school district;

19 (2) one-half of the total dollar amount of any
20 residence homestead exemptions granted under Section 11.13(n),
21 Tax Code, in the year that is the subject of the study for each
22 school district;

23 (3) the total dollar amount of any exemptions granted
24 before May 31, 1993, within a reinvestment zone under agreements
25 authorized by Chapter 312, Tax Code;

26 (4) subject to Subsection (e), the total dollar
27 amount of any captured appraised value of property that:

28 (A) is within a reinvestment zone created on or
29 before May 31, 1999, or is proposed to be included within the
30 boundaries of a reinvestment zone as the boundaries of the zone
31 and the proposed portion of tax increment paid into the tax

1 increment fund by a school district are described in a written
2 notification provided by the municipality or the board of
3 directors of the zone to the governing bodies of the other
4 taxing units in the manner provided by former Section
5 311.003(e), Tax Code, before May 31, 1999, and within the
6 boundaries of the zone as those boundaries existed on September
7 1, 1999, including subsequent improvements to the property
8 regardless of when made;

9 (B) generates taxes paid into a tax increment
10 fund created under Chapter 311, Tax Code, under a reinvestment
11 zone financing plan approved under Section 311.011(d), Tax Code,
12 on or before September 1, 1999; and

13 (C) is eligible for tax increment financing
14 under Chapter 311, Tax Code;

15 (5) the total dollar amount of any captured appraised
16 value of property that:

17 (A) is within a reinvestment zone:

18 (i) created on or before December 31, 2008,
19 by a municipality with a population of less than 18,000; and

20 (ii) the project plan for which includes
21 the alteration, remodeling, repair, or reconstruction of a
22 structure that is included on the National Register of Historic
23 Places and requires that a portion of the tax increment of the
24 zone be used for the improvement or construction of related
25 facilities or for affordable housing;

26 (B) generates school district taxes that are
27 paid into a tax increment fund created under Chapter 311, Tax
28 Code; and

29 (C) is eligible for tax increment financing
30 under Chapter 311, Tax Code;

31 (6) the total dollar amount of any exemptions granted

1 under Section 11.251 or 11.253, Tax Code;

2 (7) the difference between the comptroller's estimate
3 of the market value and the productivity value of land that
4 qualifies for appraisal on the basis of its productive capacity,
5 except that the productivity value estimated by the comptroller
6 may not exceed the fair market value of the land;

7 (8) the portion of the appraised value of residence
8 homesteads of individuals who receive a tax limitation under
9 Section 11.26, Tax Code, on which school district taxes are not
10 imposed in the year that is the subject of the study, calculated
11 as if the residence homesteads were appraised at the full value
12 required by law;

13 (9) a portion of the market value of property not
14 otherwise fully taxable by the district at market value because
15 of:

16 (A) action required by statute or the
17 constitution of this state, other than Section 11.311, Tax Code,
18 that, if the tax rate adopted by the district is applied to it,
19 produces an amount equal to the difference between the tax that
20 the district would have imposed on the property if the property
21 were fully taxable at market value and the tax that the district
22 is actually authorized to impose on the property, if this
23 subsection does not otherwise require that portion to be
24 deducted; or

25 (B) action taken by the district under
26 Subchapter B or C, Chapter 313, Tax Code, before the expiration
27 of the subchapter;

28 (10) the market value of all tangible personal
29 property, other than manufactured homes, owned by a family or
30 individual and not held or used for the production of income;

31 (11) the appraised value of property the collection

1 of delinquent taxes on which is deferred under Section 33.06,
2 Tax Code;

3 (12) the portion of the appraised value of property
4 the collection of delinquent taxes on which is deferred under
5 Section 33.065, Tax Code; and

6 (13) the amount by which the market value of a
7 residence homestead to which Section 23.23, Tax Code, applies
8 exceeds the appraised value of that property as calculated under
9 that section.

10 (d) This section applies only to ad valorem taxes imposed
11 for a tax year beginning on or after the effective date of this
12 section.

13 (e) Notwithstanding any other provision of this Act, this
14 section takes effect January 1, 2014.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 22, 2013

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1897 by Eiland (Relating to the exemption from ad valorem taxation of pollution control property.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend Section 11.31 of the Tax Code, related to pollution control property exemption, to require the executive director of the Texas Commission on Environmental Quality (TCEQ) to issue a determination letter to the person seeking a pollution control property exemption and require TCEQ to take final action on an initial appeal of the pollution control property exemption determination not later than the first anniversary of the date the person submits certain required pollution control property information.

The bill would amend Section 42.43 of the Tax Code related to refunds resulting from district court appeals to prohibit a property owner from receiving a refund resulting from a district court appeal of a pollution control exemption denial unless the property owner is entitled to the refund under existing law [Section 42.43(a)] or has entered into a written agreement with the chief appraiser as part of an agreement related to the taxation of the pollution control property pending a final determination by TCEQ. Not later than the 10th day after the date a property owner and the chief appraiser enter into the written agreement, the chief appraiser would be required to provide each affected taxing unit a copy of the agreement.

This bill would amend Chapter 11 of the Tax Code, related to taxable property and exemptions, to add new Section 11.311 to provide a temporary property tax exemption for real and personal property located in or in close proximity to a landfill and used to collect, compress, transport, process and deliver gas generated by the landfill into a pipeline or methane fueling station (landfill methane capture property). Landfill methane capture property used as described above would be considered to be property used as a facility, device, or method for the control of air, water, or land pollution. The exemption would apply only to property used as landfill methane capture property on January 1, 2014, and would expire on December 31, 2015. The exempted landfill methane capture property value would not be deducted in the Comptroller's property value study.

The bill's provisions related to TCEQ pollution control property exemption determinations and refunds would not affect taxable property values, tax rates, collection rates, or any other variable which might affect the revenues of units of local governments or the state.

The bill's temporary exemption of property located in or in close proximity to a landfill and used to collect, compress, transport, process and deliver gas generated by the landfill into a pipeline or

methane fueling station would cause a fiscal impact on units of local government in fiscal 2015 and 2016. Because there would be no deduction in the Comptroller's property value study that determines the taxable values used for school funding purposes, there would be no cost to the state.

Information from TCEQ indicates that one company filed an application for a pollution control property exemption determination on methane capture and associated equipment that did not qualify for the pollution control exemption under current law (Section 11.31, Tax Code). This property would be likely to qualify under the bill. The company's reported cost of this property was about \$10 million. At a typical school district tax rate the property tax revenue loss to a school district over the two-year period specified by the bill, should this amount be exempted, would be about \$260,000. The amount of other property that would qualify on January 1, 2014 for the two-year property tax exemption under the bill is unknown. Consequently, the fiscal impact to school districts or other local taxing units cannot be estimated.

Local Government Impact

The bill's temporary exemption of property located in or in close proximity to a landfill and used to collect, compress, transport, process and deliver gas generated by the landfill into a pipeline or methane fueling station would cause a fiscal impact on units of local government in fiscal 2015 and 2016.

Information from TCEQ indicates that one company filed an application for a pollution control property exemption determination on methane capture and associated equipment that did not qualify for the pollution control exemption under current law (Section 11.31, Tax Code). This property would be likely to qualify under the bill. The company's reported cost of this property was about \$10 million. At a typical school district tax rate the property tax revenue loss to a school district over the two-year period specified by the bill, should this amount be exempted, would be about \$260,000.

Source Agencies: 304 Comptroller of Public Accounts, 582 Commission on Environmental Quality

LBB Staff: UP, RB, SD, SJS, KK

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 15, 2013

TO: Honorable John Carona, Chair, Senate Committee on Business & Commerce

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1897 by Eiland (Relating to the exemption from ad valorem taxation of pollution control property.), **As Engrossed**

<p>No significant fiscal implication to the State is anticipated.</p>
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This bill would amend Section 11.31 of the Tax Code related to pollution control property to require a property owner to provide the chief appraiser, at the time the property owner files an application for a pollution control exemption in accordance with current law, a copy of a letter issued by the Texas Commission on Environmental Quality (TCEQ) determining that the property is used wholly or partly as pollution control property. If the determination was appealed, the property owner must file the final letter issued by TCEQ based on the outcome of the appeal. The bill would provide that, notwithstanding current law allowing a protest to an appraisal review board of the denial of an exemption, a property owner is not entitled to a remedy for the denial of the exemption, in whole or in part, and is not entitled to the exemption for any period preceding the tax year in which the property owner satisfies the bill's proposed application requirement.

The bill's provision that a property owner is not entitled to the exemption or to a remedy for the denial of the exemption, in whole or in part, for any period preceding the tax year in which the property owner files a positive determination letter from TCEQ, along with the application, with the chief appraiser, could, in some instances, move the exemption's effective date forward. This provision would create a gain to units of local government and to the state through the operation of the school finance formula. The gain, however, is not expected to be significant.

This bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2013. The changes in the bill would apply to any TCEQ pollution control determination that becomes final on or after the effective date. A taxing unit would not be permitted to recover taxes not assessed and collected because of a pollution control exemption granted before the effective date.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: UP, RB, SD, SJS, KK

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 12, 2013

TO: Honorable Harvey Hilderbran, Chair, House Committee on Ways & Means

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1897 by Eiland (relating to the exemption from ad valorem taxation of pollution control property.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

This bill would amend Section 11.31, Tax Code, to prohibit a chief appraiser from accepting an application for a pollution control exemption and provides 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 copy of the letter issued by the Texas Commission on Environmental Quality (TCEQ) determining that the property is used wholly or partly as pollution control property. The bill would provide that a property owner is not entitled to the exemption 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 this requirement.

The bill's provision that a property owner is not entitled to the exemption 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 files a determination letter from TCEQ, along with the application, with the chief appraiser, could, in some instances, move the exemption's effective date forward. This provision would create a gain to units of local government and to the state through the operation of the school finance formula. The gain, however, is not expected to be significant.

This bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2013. The changes in the bill would apply only to an application for an exemption that is pending before a chief appraiser on the effective date of this bill or is filed with a chief appraiser on or after the effective date of this bill.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: UP, KK, SD, SJS

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

March 28, 2013

TO: Honorable Harvey Hilderbran, Chair, House Committee on Ways & Means

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1897 by Eiland (Relating to the exemption from ad valorem taxation of pollution control property.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend Section 11.31, Tax Code, to specify that a pollution control property determination by the Texas Commission on Environmental Quality (TCEQ) becomes final on January 1, of the year following the year in which the determination, or any appeal of the determination, is final. The bill would also permit the executive director of TCEQ to require a person allowed an exemption in a prior year to file a new permit application to confirm their current exemption qualification.

The bill's provision specifying that January 1, of the year following the year a determination is made is the date on which a pollution control property determination is final could, in some instances, move the exemption's effective date forward. The bill's provision allowing TCEQ to require a new permit application to verify the property's current pollution control status could, in some instances, prevent the exemption of property that is not qualified for the property tax exemption. These provisions would create a gain to units of local government and to the state through the operation of the school finance formula. The gain, however, is not expected to be significant.

This bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2013.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: UP, KK, SD, SJS

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

TAX/FEE EQUITY NOTE

83RD LEGISLATIVE REGULAR SESSION

April 12, 2013

TO: Honorable Harvey Hilderbran, Chair, House Committee on Ways & Means

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1897 by Eiland (relating to the exemption from ad valorem taxation of pollution control property.), **Committee Report 1st House, Substituted**

No statistically significant impact on the overall distribution of a state tax or fee burden among individuals and businesses is anticipated from the provisions of this bill.

Source Agencies:

LBB Staff: UP, KK

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

TAX/FEE EQUITY NOTE

83RD LEGISLATIVE REGULAR SESSION

March 28, 2013

TO: Honorable Harvey Hilderbran, Chair, House Committee on Ways & Means

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1897 by Eiland (Relating to the exemption from ad valorem taxation of pollution control property.), **As Introduced**

Because the bill would not create or impact a state tax or fee, no comment from this office is required by the rules of the House as to the general effects of the proposal on the distribution of tax and fee burdens among individuals and businesses.

Source Agencies:

LBB Staff: UP, KK