

By: Smith, Stephenson

H.B. No. 4087

Substitute the following for H.B. No. 4087:

By: Parker

C.S.H.B. No. 4087

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the treatment for ad valorem tax purposes of pollution
3 control property.

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

5 SECTION 1. Section [11.31](#), Tax Code, is amended by amending
6 Subsections (k) and (m) and adding Subsections (m-1) and (m-2) to
7 read as follows:

8 (k) The Texas Commission on Environmental Quality shall
9 adopt rules establishing a nonexclusive list of facilities,
10 devices, or methods for the control of air, water, or land
11 pollution, which must include:

- 12 (1) coal cleaning or refining facilities;
- 13 (2) atmospheric or pressurized and bubbling or
14 circulating fluidized bed combustion systems and gasification
15 fluidized bed combustion combined cycle systems;
- 16 (3) ultra-supercritical pulverized coal boilers;
- 17 (4) flue gas recirculation components;
- 18 (5) syngas purification systems and gas-cleanup
19 units;
- 20 (6) enhanced heat recovery systems;
- 21 (7) exhaust heat recovery boilers;
- 22 (8) heat recovery steam generators;
- 23 (9) superheaters and evaporators;
- 24 (10) enhanced steam turbine systems;

- 1 (11) methanation;
- 2 (12) coal combustion or gasification byproduct and
3 coproduct handling, storage, or treatment facilities;
- 4 (13) biomass cofiring storage, distribution, and
5 firing systems;
- 6 (14) coal cleaning or drying processes, such as coal
7 drying/moisture reduction, air jigging, precombustion
8 decarbonization, and coal flow balancing technology;
- 9 (15) oxy-fuel combustion technology, amine or chilled
10 ammonia scrubbing, fuel or emission conversion through the use of
11 catalysts, enhanced scrubbing technology, modified combustion
12 technology such as chemical looping, and cryogenic technology;
- 13 (16) so long as [if] the United States Environmental
14 Protection Agency regulates [~~adopts a final rule or regulation~~
15 ~~regulating~~] carbon dioxide as a pollutant or if any other
16 environmental protection agency of the United States, this state,
17 or a political subdivision of this state adopts a final rule or
18 regulation regulating carbon dioxide for that purpose, property
19 that is used, constructed, acquired, or installed wholly or partly
20 to capture carbon dioxide from an anthropogenic source in this
21 state that is geologically sequestered in this state;
- 22 (17) fuel cells generating electricity using hydrogen
23 derived from coal, biomass, petroleum coke, or solid waste; and
- 24 (18) any other equipment designed to prevent, capture,
25 abate, or monitor nitrogen oxides, volatile organic compounds,
26 particulate matter, mercury, carbon monoxide, or any criteria
27 pollutant.

1 (m) Notwithstanding the other provisions of this section,
2 if the executive director of the Texas Commission on Environmental
3 Quality confirms that the facility, device, or method for the
4 control of air, water, or land pollution described in an
5 application for an exemption under this section is a facility,
6 device, or method included on the list adopted under Subsection
7 (k), the executive director [~~of the Texas Commission on~~
8 ~~Environmental Quality~~], not later than the 30th day after the date
9 of receipt of the information required by Subsections (c)(2) and
10 (3) and without regard to whether the information required by
11 Subsection (c)(1) has been submitted, shall determine that the
12 facility, device, or method described in the application is used
13 wholly or partly as a facility, device, or method for the control of
14 air, water, or land pollution and shall take the actions that are
15 required by Subsection (d) in the event such a determination is
16 made.

17 (m-1) Notwithstanding Subsections (g-1) and (m), if the
18 executive director of the Texas Commission on Environmental Quality
19 confirms that the facility, device, or method for the control of
20 air, water, or land pollution described in an application for an
21 exemption under this section is a facility, device, or method
22 described by Subsection (k)(16) and is part of an advanced clean
23 energy project as defined by Section 382.003, Health and Safety
24 Code, and determines that an established market for the sale of
25 carbon dioxide captured from an anthropogenic source for use in
26 enhanced oil recovery does not exist in the county in which the
27 project is located, the executive director shall determine that the

1 facility, device, or method described in the application is used
2 wholly as a facility, device, or method for the control of air,
3 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 (m-2) A determination by the executive director of the Texas
7 Commission on Environmental Quality under Subsection (d) that a
8 facility, device, or method is used wholly or partly as a facility,
9 device, or method for the control of air, water, or land pollution
10 or a determination by the executive director of the commission
11 under Subsection (m) that a facility, device, or method described
12 in an application is used wholly or partly for that purpose because
13 the executive director has confirmed that the facility, device, or
14 method is included on the list adopted under Subsection (k) does not
15 limit the authority of the chief appraiser under Chapter 23 to:

16 (1) evaluate whether the facility, device, or method
17 also facilitates an increase in the production of goods at the
18 facility at which the facility, device, or method is installed or
19 the sale of a marketable product at a profit in the ordinary course
20 of business of the facility; and

21 (2) take any resulting income into account if the
22 chief appraiser uses the income method of appraisal to determine
23 the market value of the facility.

24 SECTION 2. Sections 11.31(k) and (m), Tax Code, as amended
25 by this Act, and Section 11.31(m-2), Tax Code, as added by this Act,
26 are intended to clarify rather than change existing law.

27 SECTION 3. Section 11.31(m-1), Tax Code, as added by this

1 Act, applies only to ad valorem taxes imposed for a tax year
2 beginning on or after January 1, 2016.

3 SECTION 4. (a) Except as provided by Subsection (b) of this
4 section:

5 (1) this Act takes effect immediately if it receives a
6 vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution; and

8 (2) if this Act does not receive the vote necessary for
9 immediate effect, this Act takes effect September 1, 2015.

10 (b) Section 11.31(m-1), Tax Code, as added by this Act,
11 takes effect January 1, 2016.