

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 8, 2015

TO: Honorable Dennis Bonnen, Chair, House Committee on Ways & Means

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB4087** by Smith (relating to the treatment for ad valorem tax purposes of pollution control property.), **Committee Report 1st House, Substituted**

The bill's provision requiring TCEQ's executive director to determine that certain advanced clean energy projects are used wholly as a facility, device, or method for the control of air, water, or land pollution would result in a property tax exemption of 100 percent of the property value of the project, rather than exempting just the percentage of the property used as a pollution control facility, device or method. This additional exemption would create a cost to the state through the operation of the school funding formulas.

The bill would amend Chapter 11 of the Tax Code, regarding taxable property and exemptions, to require that the executive director of the Texas Commission on Environmental Quality (TCEQ) shall determine that a property is used wholly as a facility, device, or method for the control of air, water, or land pollution if the executive director:

- 1) confirms that the property described in an application is a facility, device, or method related to property that is used, constructed, acquired, or installed wholly or partly to capture carbon dioxide from an anthropogenic source that is geologically sequestered in this state;
- 2) confirms that the property is part of an advanced clean energy project; and
- 3) determines that an established market for the sale of carbon dioxide captured from an anthropogenic source for use in enhanced oil recovery does not exist in the county in which the project is located.

If this determination is made the property would be exempt from property taxation.

The bill also would provide that if the executive director of TCEQ confirms or determines 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, it shall not limit the authority of the chief appraiser to:

- 1) evaluate whether the facility, device, or method also facilitates an increase in the production of goods, or the sale of a marketable product at a profit; and
- 2) take any resulting income into account if the chief appraiser uses the income method of appraisal to determine the market value of the facility.

The bill's provision requiring TCEQ's executive director to determine that certain advanced clean energy projects are used wholly as a facility, device, or method for the control of air, water, or land pollution would result in a property tax exemption of 100 percent of the property value of the project, rather than exempting just the percentage of the property used as a pollution control facility, device or method. This additional exemption would create a cost to local taxing units and to the state through the operation of the school funding formulas.

One project has been identified that would likely qualify for the 100 percent property tax exemption under the bill. This project has a projected investment of \$1 billion but some of this investment would likely be exempt under current law. The number of plants that would qualify in the future, the property value that would eventually be included on the appraisal rolls in the affected counties, and the amount of property value that would be exempt under current law is unknown. Consequently, the cost of the bill cannot be estimated.

As an example, if \$500 million in property value were exempted under the bill at a typical school district tax rate, the cost to the affected school districts would be about \$6.5 million. Most of this cost would be transferred to the state through the operation of the school funding formulas.

The 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, 2015. In either case, the provision requiring TCEQ to determine that certain advanced clean energy projects are used wholly as a facility device or method for the control of air, water, or land pollution would take effect on January 1, 2016.

Local Government Impact

The bill's provision requiring TCEQ's executive director to determine that certain advanced clean energy projects are used wholly as a facility, device, or method for the control of air, water, or land pollution would result in a property tax exemption of 100 percent of the property value of the project, rather than exempting just the percentage of the property used as a pollution control facility, device or method. This additional exemption would create a cost to local taxing units.

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

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