

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 20, 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 exemption from ad valorem taxation of pollution control property.), **As Introduced**

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 if the executive director of the Texas Commission on Environmental Quality (TCEQ) 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, and is part of an advanced clean energy project, the executive director shall determine that it is used wholly as a facility, device, or method for the control of air, water, or land pollution.

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

The bill would also 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 facilitate 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.

Two projects have been identified that would likely qualify for the 100 percent property tax exemption under the bill. These projects have a projected investment of \$3.2 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 \$1 billion 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 \$13 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, except the following provisions that would take effect on January 1, 2016:

- 1) 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, and
- 2) providing that the authority of a chief appraiser to use relevant income information in performing an income appraisal method is unrestricted.

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

LBB Staff: UP, KK, SD, SJS