

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 22, 2019

TO: Honorable Dustin Burrows, Chair, House Committee on Ways & Means

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB4108 by Sheffield (Relating to the required payment of taxes by an owner of a property used for nuclear electric power generation who appeals certain ad valorem tax determinations.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend Section 42.08 of the Tax Code, regarding forfeiture of remedy for non-payment of property taxes, to provide that in a district court appeal in which the subject property is used for nuclear electric power generation, the amount of taxes the property owner must pay on the property before the delinquency date in order to proceed to a determination of the appeal is the amount of taxes due on the property under the order from which the appeal is taken.

Under current law the amount of taxes the property owner must pay on a property that is appealed to district court is the lesser of:

- 1) the amount of taxes due on the portion of the taxable value of the property that is not in dispute;
- 2) the amount of taxes due on the property under the order from which the appeal is taken; or
- 3) the amount of taxes imposed on the property in the preceding tax year.

The amount of taxes due on the property under the order from which the appeal is taken is almost invariably the highest of the three alternatives. The bill's requirement that the property owner pay the highest of the three alternatives rather than the lowest could increase current year tax collections on a nuclear power plant that is appealing its property value in district court, but may also increase the amount of refund owed the property owner in a later year to the extent that the power plant's value is reduced by the court. In this situation, the timing but not the amount of tax collections could be affected. The increased current-year collections could benefit a school district that has already budgeted and set rates for that year by preventing tax collections from being under-budget.

There are currently two operating nuclear power plants in Texas: the South Texas Project in Matagorda County and the Comanche Peak Nuclear Power Plant in Somervell County. The extent to which the values of these properties will be appealed in the future, is unknown. Consequently, the fiscal impact of the bill cannot be estimated; however, the bill could cause a significant impact in a taxing unit in which a nuclear power plant valuation is appealed in district court, but is not expected to have a significant statewide impact on local taxing units or the state.

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

1, 2019 but would apply only to a district court appeal for which the petition for review is filed on or after the effective date.

Local Government Impact

Regarding forfeiture of remedy for non-payment of property taxes, passage of the bill would provide that in a district court appeal, in which the subject property is used for nuclear electric power generation, the amount of taxes the property owner must pay on the property before the delinquency date in order to proceed to a determination of the appeal is the amount of taxes due on the property under the order from which the appeal is taken.

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Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: WP, KK, SD, SJS