

BILL ANALYSIS

C.S.H.B. 1443
By: Slawson
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The 86th Texas Legislature enacted S.B. 277, which prohibited landowners from receiving certain tax incentives for the installation of a wind-powered energy device within 25 nautical miles of a military aviation facility located in Texas, including benefits under a Chapter 313 property tax abatement agreement. The intent of this legislation, according to Senate Research Center's analysis, was to protect the long-term viability of Texas bases to carry out their missions. With the recent expiration of Chapter 313 of the Tax Code, there has been a new crop of applications to build wind-powered energy devices in the area around Fort Hood. These installations will impair the ability of highly specialized helicopter training routes since the installations can rise up to 500 feet and the routes are flown as low as 200 feet. C.S.H.B. 1443 seeks to establish a boundary of 65 nautical miles from the boundaries of a joint-use airport on a U.S. Army mobilization force generation installation to protect important low altitude training flights.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1443 amends the Tax Code to prohibit an owner of qualifying property from receiving an exemption from property tax or a limitation on appraised value for the qualifying property under an agreement entered into under a law enacted as part of a program to encourage economic development in an area designated as a reinvestment zone if, on or after the date the agreement is entered into, a wind-powered energy device is installed or constructed on the qualifying property at a location that is within 25 nautical miles of the boundaries of a military aviation facility located in Texas. This prohibition applies regardless of whether the wind-powered energy device is installed or constructed at a location that is in the reinvestment zone. For this purpose, the bill defines "qualifying property" as a parcel of land that is located wholly or partly in a reinvestment zone, a new building constructed on the parcel of land, a new improvement erected or affixed on the parcel of land, or tangible personal property placed in service in the building or improvement or on the parcel of land. These provisions apply only to a tax year beginning on or after January 1, 2024. To the extent of any conflict, these provisions prevail over another act of the 88th Legislature, Regular Session, 2023, relating to nonsubstantive additions to and corrections in enacted codes.

C.S.H.B. 1443 amends the Utilities Code to prohibit a power generation company or other person required by rules of the Public Utility Commission of Texas (PUC) to register with the PUC before generating electricity from operating a wind-powered generation facility in the ERCOT power region at a location that is within 65 nautical miles of the boundaries of a joint-use airport in Texas. The bill also prohibits an electric cooperative or municipally owned utility from operating a wind-powered generation facility in the ERCOT power region at any such location. The bill authorizes the PUC to impose an administrative penalty on an electric cooperative or municipally owned utility that violates that operational prohibition. For these purposes, a "joint-use airport" is an airport at which both military and civilian aircraft make shared use of the airfield and that, as follows:

- is owned or operated by a U.S. Army mobilization force generation installation; and
- provides air traffic control for all military and civilian aircraft operating within 60 nautical miles of the airport's boundaries.

These provisions apply only to a wind-powered generation facility installed on or after the bill's effective date. The bill establishes that it is the legislature's intent that these provisions be harmonized with another act of the 88th Legislature, Regular Session, 2023, relating to nonsubstantive additions to and corrections in enacted codes.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 1443 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes provisions not in the introduced making certain qualifying property ineligible for tax incentives in any tax year beginning on or after January 1, 2024.

With respect to the bill's provisions relating to the operation of a wind-powered generation facility near a joint-use airport, the substitute revises the provision in the introduced defining "joint-use airport" by replacing as a condition that must be satisfied to qualify as such that the airport is owned or operated by a federal defense agency with the condition that the airport is owned or operated by a U.S. army mobilization force generation installation.

The substitute includes a provision absent from the introduced authorizing the PUC to impose an administrative penalty on an electric cooperative or municipally owned utility for an applicable violation.

Whereas the introduced included a provision stating that the bill's Utilities Code provisions prevail over another act of the 88th Legislature, Regular Session, 2023, relating to nonsubstantive additions to and corrections in enacted codes, the substitute includes a provision that instead establishes that it is the legislature's intent that the provisions be harmonized with any other such act.