

BILL ANALYSIS

C.S.H.B. 4429
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Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

State policymakers have recognized the importance of providing for the reliability and resiliency of the ERCOT power grid and have attempted to ensure there is sufficient dispatchable electricity to meet the increased electric demands of an increasing population, a growing industrial and manufacturing sector, and a flourishing oil and gas sector. C.S.H.B. 4429 seeks to continue these efforts by establishing an incentive for the construction of new dispatchable natural gas generation facilities through tax abatement agreements with public school districts.

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. 4429 amends the Tax Code to authorize the owner of a proposed electric generating facility to apply under the Property Redevelopment and Tax Abatement Act to the governing body of the public school district in which the facility is proposed to be located to exempt from taxation for school district maintenance and operations (M&O) tax purposes the portion of the appraised value of qualified property proposed to be located at the facility in excess of \$30 million. The bill defines "electric generating facility" and "qualified property" for this purpose as follows:

- an "electric generating facility" is a facility located in a reinvestment zone designated under the act that is a natural gas-fired electric generating facility that provides dispatchable electric power for the ERCOT power grid and for which a permit is required by the Texas Commission on Environmental Quality under the prevention of significant deterioration air permit program, including a facility that captures, uses, reuses, or stores carbon dioxide emissions for enhanced oil recovery, sequestration, or other commercial uses; and
- "qualified property" is any of the following property that is part of an electric generating facility and has an aggregated appraised value of \$1 billion on January 1 of the first year following the year in which the facility first furnishes electricity for the power grid:
 - a building or other improvement constructed on or after January 1, 2024; and
 - tangible personal property first placed in service in the new building or other improvement or on the land on which the new building or other improvement is located.

C.S.H.B. 4429 requires a district's governing body to approve or deny an application not later than the 60th day after the date the applicant submits the application and requires the governing body to approve the application unless the governing body determines that the proposed facility subject to the application does not meet the criteria for classification as an electric generating facility as set out by the bill. The bill requires a district whose governing body approves an application to enter into a written agreement with the owner of the proposed facility subject to the application not later than the 90th day after the date the applicant submits the application. The bill requires the agreement to provide that the owner is entitled to an exemption from taxation for school district M&O tax purposes of the portion of the appraised value of qualified property located at the facility in excess of \$30 million for a period of 10 years beginning on the first January 1 after 2027 that the facility furnishes electricity for the power grid.

C.S.H.B. 4429 authorizes a district's governing body, in the manner required for official action and for purposes of such an agreement, to designate an area entirely within the district's territory as a reinvestment zone if the governing body finds that, as a result of the designation and the granting of a tax exemption under an agreement for property located in the reinvestment zone, the designation is reasonably likely to contribute to the expansion of primary employment in the reinvestment zone or attract major investment in the reinvestment zone that would be a benefit to property in the reinvestment zone and to the district and contribute to the economic development of the region of Texas in which the district is located.

C.S.H.B. 4429 amends Government Code provisions relating to the comptroller of public accounts' study of school district property values to provide for the total dollar amount of any exemptions granted after June 1, 2023, within a reinvestment zone under agreements authorized by the Property Redevelopment and Tax Abatement Act to be deducted when calculating the total taxable value of property within a given district.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 4429 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.

Whereas the introduced required a district's governing body to executive tax abatement agreements with no application process, the substitute establishes application procedures and requires a district's governing body to take action and either approve or deny an application prior to entering into an abatement agreement. The substitute also includes a deadline for entering into an agreement after approving an application, whereas the introduced provided no timetable for entering into agreements.

With respect to the property for which district M&O taxes may be abated, the substitute replaces references to "power system reliability project" used in the introduced with references to "electric generating facility" and "qualified property," where appropriate. The definition of "power system reliability project" included, in part, that the project was an improvement to real property with an appraised value of real tangible personal property of at least \$1 billion first placed in service in Texas on or after January 1, 2024, without regard to whether the property is affixed to or incorporated into real property. The definition of "qualified property," which the substitute uses in place of that portion of the definition of "power system reliability project," is the following property that is part of an electric generating facility and has an aggregated appraised value of \$1 billion on January 1 of the first year following the year in which the facility first furnishes electricity for the power grid:

- a building or other improvement constructed on or after January 1, 2024; and

- tangible personal property first placed in service in the new building or other improvement or on the land on which the new building or other improvement is located.

The definition for the term "electric generating facility" set out in the substitute is substantially the same as the remaining portion of the definition of "power system reliability project" included in the introduced.

Whereas the introduced set the 10-year abatement period to begin on the first date of the tax year the applicable project begins to achieve commercial operation, the substitute provides instead that the 10-year abatement period begins on the first January 1 after 2027 that the facility furnishes electricity for the power grid.

The substitute omits the provision from the introduced requiring the chief appraiser of each appraisal district with a power system reliability project to deliver to the comptroller before July 1 of the year following the year in which an agreement was executed under the bill a copy of the agreement.

The substitute includes a provision not in the introduced authorizing a district to designate a reinvestment zone under the Property Redevelopment and Tax Abatement Act under certain circumstances.