88R26130 CXP/CJC-D

By:  Slawson, Buckley, Rogers H.B. No. 1443

Substitute the following for H.B. No. 1443:

By:  Dean C.S.H.B. No. 1443

A BILL TO BE ENTITLED

AN ACT

relating to the operation of certain wind-powered devices near certain aviation facilities and the receipt of certain ad valorem tax incentives for property on which such devices are constructed or installed; authorizing an administrative penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Chapter 320, Tax Code, is amended by adding Section 320.002 to read as follows:

Sec. 320.002.  PROPERTY INELIGIBLE FOR TAX INCENTIVES. (a) In this section:

(1)  "Military aviation facility" has the meaning assigned by Section 312.0021.

(2)  "Qualifying property" means 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.

(3)  "Wind-powered energy device" has the meaning assigned by Section 11.27.

(b)  Notwithstanding any other law, an owner of qualifying property may not receive an exemption from ad valorem taxation 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 this state. The prohibition provided by this subsection applies regardless of whether the wind-powered energy device is installed or constructed at a location that is in the reinvestment zone.

SECTION 2.  Section 39.002, Utilities Code, as amended by Chapters 908 (H.B. 4492) and 950 (S.B. 1580), Acts of the 87th Legislature, Regular Session, 2021, is reenacted and amended to read as follows:

Sec. 39.002.  APPLICABILITY. This chapter, other than Sections 39.151, 39.1516, 39.155, 39.157(e), 39.159, 39.160, 39.203, 39.904, 39.9051, 39.9052, 39.9056, and 39.914(e), and Subchapters M and N, does not apply to a municipally owned utility or an electric cooperative. Sections 39.157(e), 39.203, and 39.904, however, apply only to a municipally owned utility or an electric cooperative that is offering customer choice. If there is a conflict between the specific provisions of this chapter and any other provisions of this title, except for Chapters 40 and 41, the provisions of this chapter control.

SECTION 3.  Subchapter Z, Chapter 39, Utilities Code, is amended by adding Section 39.9056 to read as follows:

Sec. 39.9056.  OPERATION OF WIND-POWERED GENERATION FACILITY NEAR JOINT-USE AIRPORT. (a) In this section, "joint-use airport" means an airport:

(1)  that is owned or operated by a United States Army mobilization force generation installation;

(2)  at which both military and civilian aircraft make shared use of the airfield; and

(3)  that provides air traffic control for all military and civilian aircraft operating within 60 nautical miles of the airport's boundaries.

(b)  A power generation company or other person required by commission rule to register with the commission before generating electricity may not operate 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 located in this state.

(c)  An electric cooperative or municipally owned utility may not operate 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 located in this state.

(d)  The commission may impose an administrative penalty under Section 15.023 on an electric cooperative or municipally owned utility that violates Subsection (c).

SECTION 4.  Section 320.002, Tax Code, as added by this Act, applies only to ad valorem taxes imposed for a tax year beginning on or after January 1, 2024.

SECTION 5.  Section 39.9056, Utilities Code, as added by this Act, applies only to a wind-powered generation facility installed on or after the effective date of this Act. A wind-powered generation facility installed before the effective date of this Act is governed by the law as it existed immediately before that date, and that law is continued in effect for that purpose.

SECTION 6.  (a) To the extent of any conflict, Section 1 of this Act prevails over another Act of the 88th Legislature, Regular Session, 2023, regardless of the relative dates of enactment.

(b)  It is the intent of the 88th Legislature, Regular Session, 2023, that the amendments made by Sections 2 and 3 of this Act be harmonized with another Act of the 88th Legislature, Regular Session, 2023, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 7.  This Act takes effect September 1, 2023.