

By: Strama

H.B. No. 3254

A BILL TO BE ENTITLED

AN ACT

relating to the creation of renewable energy reinvestment zones and the abatement of ad valorem taxes on property of a renewable energy company located in such a zone.

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

SECTION 1. Subtitle B, Title 3, Tax Code, is amended by adding Chapter 314 to read as follows:

CHAPTER 314. RENEWABLE ENERGY REINVESTMENT ZONES

Sec. 314.001. SHORT TITLE. This chapter may be cited as the Renewable Energy Reinvestment Zone Act.

Sec. 314.002. APPLICABILITY. The provisions of this chapter applicable to a municipality apply only to a municipality that:

(1) has a population of at least 45,000 but not more than 60,000;

(2) is located in a county with a population of at least one million; and

(3) does not contain within its corporate limits:

(A) more than two school districts that are categorized as category II school districts under Section 313.022;

or

(B) any school districts to which Subchapter C, Chapter 313, applies.

Sec. 314.003. DEFINITION. In this chapter, "renewable

1 energy company" means a business organization that manufactures,
2 assembles, sells, maintains, or conducts research on renewable
3 energy and renewable energy efficient products, including:

4 (A) solar energy;

5 (B) wind energy;

6 (C) biomass energy;

7 (D) geothermal energy;

8 (E) battery technology;

9 (F) electric vehicles;

10 (G) lighting using light-emitting diodes;

11 (H) fuel cells;

12 (I) energy generated from agricultural sources;

13 (J) nuclear energy;

14 (K) clean coal technology; and

15 (L) water-saving devices.

16 Sec. 314.004. ELIGIBILITY OF MUNICIPALITY TO PARTICIPATE IN
17 TAX ABATEMENT. (a) A municipality may not enter into a tax
18 abatement agreement under this chapter and the governing body of a
19 municipality may not designate an area as a renewable energy
20 reinvestment zone unless the governing body adopts a resolution
21 stating that the municipality elects to become eligible to
22 participate in tax abatement and establishes guidelines and
23 criteria governing tax abatement agreements by the municipality.
24 The guidelines and criteria applicable to property must provide for
25 the availability of tax abatement only for new facilities or
26 structures.

27 (b) The governing body of a municipality may not enter into

1 a tax abatement agreement under this chapter unless it finds that
2 the terms of the agreement and the property subject to the agreement
3 meet the applicable guidelines and criteria adopted by the
4 governing body under this section.

5 (c) The guidelines and criteria adopted under this section
6 are effective for two years from the date adopted. During that
7 period, the guidelines and criteria may be amended or repealed only
8 by a vote of three-fourths of the members of the governing body.

9 (d) The adoption of the guidelines and criteria by the
10 governing body of a municipality does not:

11 (1) limit the discretion of the governing body to
12 decide whether to enter into a specific tax abatement agreement;

13 (2) limit the discretion of the governing body to
14 delegate to its employees the authority to determine whether or not
15 the governing body should consider a particular application or
16 request for tax abatement; or

17 (3) create any property, contract, or other legal
18 right in any person to have the governing body consider or grant a
19 specific application or request for tax abatement.

20 Sec. 314.005. DESIGNATION OF ZONE. (a) The governing body
21 of a municipality by ordinance may designate as a renewable energy
22 reinvestment zone an area in the taxing jurisdiction or
23 extraterritorial jurisdiction of the municipality that the
24 governing body finds satisfies the requirements of Section 314.006.

25 (b) The ordinance must describe the boundaries of the zone.

26 (c) The governing body may not adopt an ordinance
27 designating an area as a renewable energy reinvestment zone until

1 the governing body has held a public hearing on the designation and
2 has found that the improvements sought are feasible and practical
3 and would be a benefit to the land to be included in the zone and to
4 the municipality after the expiration of an agreement entered into
5 under Section 314.008. At the hearing, interested persons are
6 entitled to speak and present evidence for or against the
7 designation. Not later than the seventh day before the date of the
8 hearing, notice of the hearing must be:

9 (1) published in a newspaper having general
10 circulation in the municipality; and

11 (2) delivered in writing to the presiding officer of
12 the governing body of each county and school district that includes
13 in its boundaries real property that is to be included in the
14 proposed renewable energy reinvestment zone.

15 (d) A notice made under Subsection (c)(2) is presumed
16 delivered when placed in the mail postage prepaid and properly
17 addressed to the appropriate presiding officer. A notice properly
18 addressed and sent by registered or certified mail for which a
19 return receipt is received by the sender is considered to have been
20 delivered to the addressee.

21 Sec. 314.006. CRITERIA FOR RENEWABLE ENERGY REINVESTMENT
22 ZONE. To be designated as a renewable energy reinvestment zone
23 under this chapter, an area must meet the following requirements:

24 (1) the area must be at least 100 acres in size;

25 (2) at the time of the designation of the area as a
26 zone, at least 75 percent of the land in the area must be owned by
27 the municipality designating the area or by a municipal development

1 corporation created under Chapter 379A, Local Government Code; and

2 (3) the area must be zoned for commercial purposes.

3 Sec. 314.007. EXPIRATION OF REINVESTMENT ZONE. The
4 designation of a renewable energy reinvestment zone for tax
5 abatement expires five years after the date of the designation and
6 may be renewed for periods not to exceed five years. The expiration
7 of the designation does not affect an existing tax abatement
8 agreement made under this chapter.

9 Sec. 314.008. MUNICIPAL TAX ABATEMENT AGREEMENT. (a) The
10 governing body of a municipality eligible to enter into tax
11 abatement agreements under Section 314.004 may agree in writing
12 with a renewable energy company that owns taxable real property
13 that is located in a renewable energy reinvestment zone, but that is
14 not located in an improvement project financed by tax increment
15 bonds, to exempt from taxation 50 percent of the value of the real
16 property and of tangible personal property located on the real
17 property for a period of 15 years, on the condition that the company
18 construct a facility on the property to be used in connection with
19 the company's operations as specified by the agreement. The
20 governing body of an eligible municipality may agree in writing
21 with a renewable energy company that owns a leasehold interest in
22 tax-exempt real property that is located in a renewable energy
23 reinvestment zone, but that is not located in an improvement
24 project financed by tax increment bonds, to exempt 50 percent of the
25 value of property subject to ad valorem taxation, including the
26 leasehold interest, improvements, and tangible personal property
27 located on the real property, for a period of 15 years, on the

1 condition that the company construct a facility on the property to
2 be used in connection with the company's operations as specified by
3 the agreement. A tax abatement agreement under this section is
4 subject to the rights of holders of outstanding bonds of the
5 municipality. In a municipality that has a comprehensive zoning
6 ordinance, an improvement, development, or redevelopment taking
7 place under an agreement under this section must conform to the
8 comprehensive zoning ordinance.

9 (b) The property subject to an agreement made under this
10 section may be located in the extraterritorial jurisdiction of the
11 municipality. In that event, the agreement applies to taxes of the
12 municipality if the municipality annexes the property during the
13 period specified in the agreement.

14 (c) Except as otherwise provided by this subsection,
15 property that is in a renewable energy reinvestment zone and that is
16 owned or leased by a person who is a member of the governing body of
17 the municipality or a member of a zoning or planning board or
18 commission of the municipality is excluded from property tax
19 abatement. Property owned or leased by a person that is subject to
20 a tax abatement agreement in effect when the person becomes a member
21 of the governing body or of the zoning or planning board or
22 commission does not cease to be eligible for property tax abatement
23 under that agreement because of the person's membership on the
24 governing body, board, or commission.

25 Sec. 314.009. NOTICE OF TAX ABATEMENT AGREEMENT TO COUNTIES
26 AND SCHOOL DISTRICTS. (a) Not later than the seventh day before the
27 date on which a municipality enters into an agreement under Section

1 314.008, the governing body of the municipality or a designated
2 officer or employee of the municipality shall deliver to the
3 presiding officer of the governing body of each county and school
4 district in which the property to be subject to the agreement is
5 located a written notice that the municipality intends to enter
6 into the agreement. The notice must include a copy of the proposed
7 agreement.

8 (b) A notice is presumed delivered when placed in the mail
9 postage paid and properly addressed to the appropriate presiding
10 officer. A notice properly addressed and sent by registered or
11 certified mail for which a return receipt is received by the sender
12 is considered to have been delivered to the addressee.

13 (c) Failure to deliver the notice does not affect the
14 validity of the agreement.

15 Sec. 314.010. SPECIFIC TERMS OF TAX ABATEMENT AGREEMENT.
16 An agreement made under Section 314.008 must:

17 (1) list the kind, number, and location of all
18 proposed improvements of the property;

19 (2) provide access to and authorize inspection of the
20 property by municipal employees and by employees of each county and
21 school district that approves the agreement to ensure that the
22 improvements are made according to the specifications and
23 conditions of the agreement;

24 (3) limit the uses of the property consistent with the
25 general purpose of encouraging development or redevelopment of the
26 renewable energy reinvestment zone during the period that property
27 tax exemptions are in effect;

1 (4) provide for recapturing property tax revenue lost
2 as a result of the agreement if the owner of the property fails to
3 make the improvements as provided by the agreement;

4 (5) contain each term agreed to by the owner of the
5 property;

6 (6) require the owner of the property to certify
7 annually to the governing body of the municipality and each county
8 and school district that approves the agreement that the owner is in
9 compliance with each applicable term of the agreement; and

10 (7) provide that the governing body of the
11 municipality may cancel or modify the agreement if the property
12 owner fails to comply with the agreement.

13 Sec. 314.011. APPROVAL OF AGREEMENT BY GOVERNING BODY OF
14 MUNICIPALITY. (a) To be effective, an agreement made under this
15 chapter by a municipality must be approved by the affirmative vote
16 of a majority of the members of the governing body of the
17 municipality at a regularly scheduled meeting of the governing
18 body.

19 (b) On approval by the governing body, an agreement may be
20 executed in the same manner as other contracts made by the
21 municipality.

22 Sec. 314.012. MODIFICATION OR TERMINATION OF AGREEMENT.
23 (a) At any time before the expiration of an agreement made under
24 this chapter, the agreement may be modified by the parties to the
25 agreement to include other provisions that could have been included
26 in the original agreement or to delete provisions that were not
27 necessary to the original agreement. The modification must be made

1 by the same procedure by which the original agreement was approved
2 and executed. The original agreement may not be modified to extend
3 beyond 15 years from the date of the original agreement.

4 (b) An agreement made under this chapter may be terminated
5 by the mutual consent of the parties in the same manner that the
6 agreement was approved and executed.

7 Sec. 314.013. TAX ABATEMENT BY COUNTY AND SCHOOL DISTRICT.

8 (a) If municipal property taxes on property located in the taxing
9 jurisdiction of a municipality are abated under an agreement under
10 Section 314.008, the agreement also applies to the taxation of the
11 property by a county or school district in which the property is
12 located if the governing body of the county or school district
13 approves the agreement by the affirmative vote of a majority of the
14 members of the governing body at a regularly scheduled meeting of
15 the governing body.

16 (b) A county or school district may not approve a municipal
17 tax abatement agreement under this chapter unless the governing
18 body of the county or school district adopts a resolution stating
19 that the county or school district elects to become eligible to
20 participate in tax abatement and establishes guidelines and
21 criteria governing the approval by the county or school district of
22 municipal tax abatement agreements. The provisions of Section
23 314.004 governing guidelines and criteria for the entry by a
24 municipality into a tax abatement agreement apply to guidelines and
25 criteria established by a county or school district for approval of
26 a municipal tax abatement agreement to the extent those provisions
27 can be made applicable.

1 SECTION 2. Section 11.28, Tax Code, is amended to read as
2 follows:

3 Sec. 11.28. PROPERTY EXEMPTED FROM [~~CITY~~] TAXATION BY
4 AGREEMENT. (a) The owner of property to which an agreement made
5 under Chapter 312 [~~the Property Redevelopment and Tax Abatement Act~~
6 ~~(Chapter 312 of this code)~~] applies is entitled to exemption from
7 taxation by an incorporated city or town or other taxing unit of all
8 or part of the value of the property as provided by the agreement.

9 (b) The owner of property to which an agreement made by an
10 incorporated city or town under Chapter 314 applies is entitled to
11 exemption from taxation by the incorporated city or town and from
12 taxation by a county or school district that has approved the
13 agreement of part of the value of the property as provided by the
14 agreement.

15 SECTION 3. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2011.