

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5/28/11

Date

Honorable David Dewhurst
President of the Senate

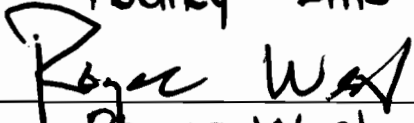
Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 3275 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.



Rodney Ellis



Royce West



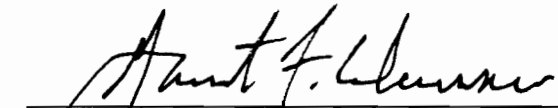
Mike Jackson

Kevin Elife

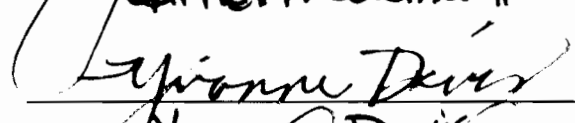


On the part of the Senate

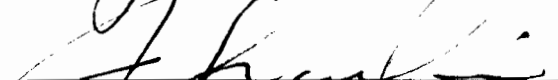
Kirk Watson



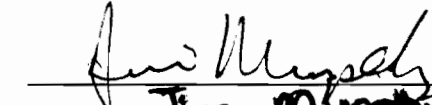
Garnett F. Coleman



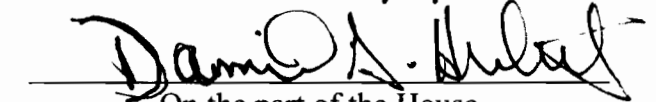
Yvonne Davis



John Davis



Jim Murphy



On the part of the House

Dan Huberty

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

H.B. No. 3275

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the operation and governance of tax increment financing
3 reinvestment zones, the creation of renewable energy reinvestment
4 zones, and the governance of certain special districts.

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

6 SECTION 1. Sections 311.006(a) and (b), Tax Code, are
7 amended to read as follows:

8 (a) A municipality may not designate ~~[create]~~ a
9 reinvestment zone if:

10 (1) more than 30 ~~[40]~~ percent of the property in the
11 proposed zone, excluding property that is publicly owned, is used
12 for residential purposes; or

13 (2) the total appraised value of taxable real property
14 in the proposed zone and in existing reinvestment zones exceeds:

15 (A) 25 ~~[20]~~ percent of the total appraised value
16 of taxable real property in the municipality and in the industrial
17 districts created by the municipality, if the municipality has a
18 population of 100,000 or more ~~[is the county seat of a county]~~

19 ~~[(i) that is adjacent to a county with a~~
20 ~~population of 3.3 million or more, and~~

21 ~~[(ii) in which a planned community is~~
22 ~~located that has 20,000 or more acres of land, that was originally~~
23 ~~established under the Urban Growth and New Community Development~~
24 ~~Act of 1970 (42 U.S.C. Section 4501 et seq.), and that is subject to~~

1 ~~restrictive covenants containing ad valorem or annual variable~~
2 ~~budget-based assessments on real property]; or~~

3 (B) 50 ~~[15]~~ percent of the total appraised value
4 of taxable real property in the municipality and in the industrial
5 districts created by the municipality, if ~~[Paragraph (A) does not~~
6 ~~apply to]~~ the municipality has a population of less than 100,000.

7 (b) A municipality may not change the boundaries of an
8 existing reinvestment zone to include property in excess of the
9 restrictions on composition of a zone described by Subsection (a)
10 ~~[more than 10 percent of which, excluding property dedicated to~~
11 ~~public use, is used for residential purposes or to include more than~~
12 ~~15 percent of the total appraised value of taxable real property in~~
13 ~~the municipality and in the industrial districts created by the~~
14 ~~municipality].~~

15 SECTION 2. Section 311.009, Tax Code, is amended by
16 amending Subsection (a) and adding Subsection (h) to read as
17 follows:

18 (a) Except as provided by Subsection (b), the board of
19 directors of a reinvestment zone consists of at least five and not
20 more than 15 members, unless more than 15 members are required to
21 satisfy the requirements of this subsection. Each taxing unit other
22 than the municipality or county that created the zone that levies
23 taxes on real property in the zone may appoint one member of the
24 board if the taxing unit has approved the payment of all or part of
25 the tax increment produced by the unit into the tax increment fund
26 for the zone. A unit may waive its right to appoint a director. The
27 governing body of the municipality or county that created the zone

1 may appoint not more than 10 directors to the board; except that if
2 there are fewer than five directors appointed by taxing units other
3 than the municipality or county, the governing body of the
4 municipality or county may appoint more than 10 members as long as
5 the total membership of the board does not exceed 15.

6 (h) Notwithstanding any other provision of this section and
7 in addition to the individuals authorized to serve on the board of
8 directors of a zone under this section, a member of the state senate
9 in whose district a zone is wholly or partly located, or a member of
10 the state house of representatives in whose district a zone is
11 wholly or partly located, may serve as an ex officio nonvoting
12 member of the board or may designate another individual to serve in
13 the member's place at the pleasure of the member. This subsection
14 does not apply to the member of the state senate and the member of
15 the state house of representatives who are members of the board as
16 provided by Subsection (b), if applicable.

17 SECTION 3. Section 311.0091, Tax Code, is amended by
18 amending Subsection (f) and adding Subsections (i) and (j) to read
19 as follows:

20 (f) Except as provided by Subsection (i), to ~~to~~ be
21 eligible for appointment to the board, an individual must:

- 22 (1) be a qualified voter of the municipality; or
23 (2) be at least 18 years of age and own real property
24 in the zone or be an employee or agent of a person that owns real
25 property in the zone.

26 (i) The eligibility criteria for appointment to the board
27 specified by Subsection (f) do not apply to an individual appointed

1 by a conservation and reclamation district:

2 (1) created under Section 59, Article XVI, Texas
3 Constitution; and

4 (2) the jurisdiction of which covers four counties.

5 (j) Notwithstanding any other provision of this section and
6 in addition to the individuals authorized to serve on the board of
7 directors of a zone under this section, a member of the state senate
8 in whose district a zone is wholly or partly located, or a member of
9 the state house of representatives in whose district a zone is
10 wholly or partly located, may serve as an ex officio nonvoting
11 member of the board or may designate another individual to serve in
12 the member's place at the pleasure of the member. This subsection
13 does not apply to the member of the state senate and the member of
14 the state house of representatives who are members of the board as
15 provided by Subsection (c), if applicable.

16 SECTION 4. Section 311.013(1), Tax Code, is amended to read
17 as follows:

18 (1) The governing body of a municipality or county that
19 designates an area as a reinvestment zone may determine, in the
20 designating ordinance or order adopted under Section 311.003 or in
21 the ordinance or order adopted under Section 311.011 approving the
22 reinvestment zone financing plan for the zone, the portion of the
23 tax increment produced by the municipality or county that the
24 municipality or county is required to pay into the tax increment
25 fund for the zone. If a municipality or county does not determine
26 the portion of the tax increment produced by the municipality or
27 county that the municipality or county is required to pay into the

1 tax increment fund for a reinvestment zone, the municipality or
2 county is required to pay into the fund for the zone the entire tax
3 increment produced by the municipality or county, except as
4 provided by Subsection (b)(1).

5 SECTION 5. Section 311.016(a), Tax Code, is amended to read
6 as follows:

7 (a) On or before the 150th [~~90th~~] day following the end of
8 the fiscal year of the municipality or county, the governing body of
9 a municipality or county shall submit to the chief executive
10 officer of each taxing unit that levies property taxes on real
11 property in a reinvestment zone created by the municipality or
12 county a report on the status of the zone. The report must include:

13 (1) the amount and source of revenue in the tax
14 increment fund established for the zone;

15 (2) the amount and purpose of expenditures from the
16 fund;

17 (3) the amount of principal and interest due on
18 outstanding bonded indebtedness;

19 (4) the tax increment base and current captured
20 appraised value retained by the zone; and

21 (5) the captured appraised value shared by the
22 municipality or county and other taxing units, the total amount of
23 tax increments received, and any additional information necessary
24 to demonstrate compliance with the tax increment financing plan
25 adopted by the governing body of the municipality or county.

26 SECTION 6. Subtitle B, Title 3, Tax Code, is amended by
27 adding Chapter 314 to read as follows:

1 CHAPTER 314. RENEWABLE ENERGY REINVESTMENT ZONES

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

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

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

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

11 (3) does not contain within its corporate limits:

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

14 or

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

17 Sec. 314.003. DEFINITION. In this chapter, "renewable
18 energy company" means a business organization that manufactures,
19 assembles, sells, maintains, or conducts research on renewable
20 energy and renewable energy efficient products, including:

21 (1) solar energy;

22 (2) wind energy;

23 (3) biomass energy;

24 (4) geothermal energy;

25 (5) battery technology;

26 (6) electric vehicles;

27 (7) lighting using light-emitting diodes;

- 1 (8) fuel cells;
- 2 (9) energy generated from agricultural sources;
- 3 (10) nuclear energy;
- 4 (11) clean coal technology; and
- 5 (12) water-saving devices.

6 Sec. 314.004. ELIGIBILITY OF MUNICIPALITY TO PARTICIPATE IN

7 TAX ABATEMENT. (a) A municipality may not enter into a tax
8 abatement agreement under this chapter and the governing body of a
9 municipality may not designate an area as a renewable energy
10 reinvestment zone unless the governing body adopts a resolution
11 stating that the municipality elects to become eligible to
12 participate in tax abatement and establishes guidelines and
13 criteria governing tax abatement agreements by the municipality.
14 The guidelines and criteria applicable to property must provide for
15 the availability of tax abatement only for new facilities or
16 structures.

17 (b) The governing body of a municipality may not enter into
18 a tax abatement agreement under this chapter unless it finds that
19 the terms of the agreement and the property subject to the agreement
20 meet the applicable guidelines and criteria adopted by the
21 governing body under this section.

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

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

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

3 (2) limit the discretion of the governing body to
4 delegate to its employees the authority to determine whether or not
5 the governing body should consider a particular application or
6 request for tax abatement; or

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

10 Sec. 314.005. DESIGNATION OF ZONE. (a) The governing body
11 of a municipality by ordinance may designate as a renewable energy
12 reinvestment zone an area in the taxing jurisdiction or
13 extraterritorial jurisdiction of the municipality that the
14 governing body finds satisfies the requirements of Section 314.006.

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

16 (c) The governing body may not adopt an ordinance
17 designating an area as a renewable energy reinvestment zone until
18 the governing body has held a public hearing on the designation and
19 has found that the improvements sought are feasible and practical
20 and would be a benefit to the land to be included in the zone and to
21 the municipality after the expiration of an agreement entered into
22 under Section 314.008. At the hearing, interested persons are
23 entitled to speak and present evidence for or against the
24 designation. Not later than the seventh day before the date of the
25 hearing, notice of the hearing must be:

26 (1) published in a newspaper having general
27 circulation in the municipality; and

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

5 (d) A notice made under Subsection (c)(2) is presumed
6 delivered when placed in the mail postage prepaid and properly
7 addressed to the appropriate presiding officer. A notice properly
8 addressed and sent by registered or certified mail for which a
9 return receipt is received by the sender is considered to have been
10 delivered to the addressee.

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

- 14 (1) the area must be at least 100 acres in size;
15 (2) at the time of the designation of the area as a
16 zone, at least 75 percent of the land in the area must be owned by
17 the municipality designating the area or by a municipal development
18 corporation created under Chapter 379A, Local Government Code; and
19 (3) the area must be zoned for commercial purposes.

20 Sec. 314.007. EXPIRATION OF REINVESTMENT ZONE. The
21 designation of a renewable energy reinvestment zone for tax
22 abatement expires five years after the date of the designation and
23 may be renewed for periods not to exceed five years. The expiration
24 of the designation does not affect an existing tax abatement
25 agreement made under this chapter.

26 Sec. 314.008. MUNICIPAL TAX ABATEMENT AGREEMENT. (a) The
27 governing body of a municipality eligible to enter into tax

1 abatement agreements under Section 314.004 may agree in writing
2 with a renewable energy company that owns taxable real property
3 that is located in a renewable energy reinvestment zone, but that is
4 not located in an improvement project financed by tax increment
5 bonds, to exempt from taxation 50 percent of the value of the real
6 property and of tangible personal property located on the real
7 property for a period of 15 years, on the condition that the company
8 construct a facility on the property to be used in connection with
9 the company's operations as specified by the agreement. The
10 governing body of an eligible municipality may agree in writing
11 with a renewable energy company that owns a leasehold interest in
12 tax-exempt real property that is located in a renewable energy
13 reinvestment zone, but that is not located in an improvement
14 project financed by tax increment bonds, to exempt 50 percent of the
15 value of property subject to ad valorem taxation, including the
16 leasehold interest, improvements, and tangible personal property
17 located on the real property, for a period of 15 years, on the
18 condition that the company construct a facility on the property to
19 be used in connection with the company's operations as specified by
20 the agreement. A tax abatement agreement under this section is
21 subject to the rights of holders of outstanding bonds of the
22 municipality. In a municipality that has a comprehensive zoning
23 ordinance, an improvement, development, or redevelopment taking
24 place under an agreement under this section must conform to the
25 comprehensive zoning ordinance.

26 (b) The property subject to an agreement made under this
27 section may be located in the extraterritorial jurisdiction of the

1 municipality. In that event, the agreement applies to taxes of the
2 municipality if the municipality annexes the property during the
3 period specified in the agreement.

4 (c) Except as otherwise provided by this subsection,
5 property that is in a renewable energy reinvestment zone and that is
6 owned or leased by a person who is a member of the governing body of
7 the municipality or a member of a zoning or planning board or
8 commission of the municipality is excluded from property tax
9 abatement. Property owned or leased by a person that is subject to
10 a tax abatement agreement in effect when the person becomes a member
11 of the governing body or of the zoning or planning board or
12 commission does not cease to be eligible for property tax abatement
13 under that agreement because of the person's membership on the
14 governing body, board, or commission.

15 Sec. 314.009. NOTICE OF TAX ABATEMENT AGREEMENT TO COUNTIES
16 AND SCHOOL DISTRICTS. (a) Not later than the seventh day before the
17 date on which a municipality enters into an agreement under Section
18 314.008, the governing body of the municipality or a designated
19 officer or employee of the municipality shall deliver to the
20 presiding officer of the governing body of each county and school
21 district in which the property to be subject to the agreement is
22 located a written notice that the municipality intends to enter
23 into the agreement. The notice must include a copy of the proposed
24 agreement.

25 (b) A notice is presumed delivered when placed in the mail
26 postage paid and properly addressed to the appropriate presiding
27 officer. A notice properly addressed and sent by registered or

1 certified mail for which a return receipt is received by the sender
2 is considered to have been delivered to the addressee.

3 (c) Failure to deliver the notice does not affect the
4 validity of the agreement.

5 Sec. 314.010. SPECIFIC TERMS OF TAX ABATEMENT AGREEMENT.

6 An agreement made under Section 314.008 must:

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

9 (2) provide access to and authorize inspection of the
10 property by municipal employees and by employees of each county and
11 school district that approves the agreement to ensure that the
12 improvements are made according to the specifications and
13 conditions of the agreement;

14 (3) limit the uses of the property consistent with the
15 general purpose of encouraging development or redevelopment of the
16 renewable energy reinvestment zone during the period that property
17 tax exemptions are in effect;

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

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

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

27 (7) provide that the governing body of the

1 municipality may cancel or modify the agreement if the property
2 owner fails to comply with the agreement.

3 Sec. 314.011. APPROVAL OF AGREEMENT BY GOVERNING BODY OF
4 MUNICIPALITY. (a) To be effective, an agreement made under this
5 chapter by a municipality must be approved by the affirmative vote
6 of a majority of the members of the governing body of the
7 municipality at a regularly scheduled meeting of the governing
8 body.

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

12 Sec. 314.012. MODIFICATION OR TERMINATION OF AGREEMENT.
13 (a) At any time before the expiration of an agreement made under
14 this chapter, the agreement may be modified by the parties to the
15 agreement to include other provisions that could have been included
16 in the original agreement or to delete provisions that were not
17 necessary to the original agreement. The modification must be made
18 by the same procedure by which the original agreement was approved
19 and executed. The original agreement may not be modified to extend
20 beyond 15 years from the date of the original agreement.

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

24 Sec. 314.013. TAX ABATEMENT BY COUNTY AND SCHOOL DISTRICT.
25 (a) If municipal property taxes on property located in the taxing
26 jurisdiction of a municipality are abated under an agreement under
27 Section 314.008, the agreement also applies to the taxation of the

1 property by a county or school district in which the property is
2 located if the governing body of the county or school district
3 approves the agreement by the affirmative vote of a majority of the
4 members of the governing body at a regularly scheduled meeting of
5 the governing body.

6 (b) A county or school district may not approve a municipal
7 tax abatement agreement under this chapter unless the governing
8 body of the county or school district adopts a resolution stating
9 that the county or school district elects to become eligible to
10 participate in tax abatement and establishes guidelines and
11 criteria governing the approval by the county or school district of
12 municipal tax abatement agreements. The provisions of Section
13 314.004 governing guidelines and criteria for the entry by a
14 municipality into a tax abatement agreement apply to guidelines and
15 criteria established by a county or school district for approval of
16 a municipal tax abatement agreement to the extent those provisions
17 can be made applicable.

18 SECTION 7. Section 11.28, Tax Code, is amended to read as
19 follows:

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

26 (b) The owner of property to which an agreement made by an
27 incorporated city or town under Chapter 314 applies is entitled to

1 exemption from taxation by the incorporated city or town and from
2 taxation by a county or school district that has approved the
3 agreement of part of the value of the property as provided by the
4 agreement.

5 SECTION 8. Section 3815.051(a), Special District Local Laws
6 Code, is amended to read as follows:

7 (a) The district is governed by a board of 17 [~~21~~] directors
8 who serve staggered terms of four years, with eight [~~10~~] directors'
9 terms expiring June 1 of an odd-numbered year and nine [~~11~~]
10 directors' terms expiring June 1 of the following odd-numbered
11 year.

12 SECTION 9. Subchapter B, Chapter 3815, Special District
13 Local Laws Code, is amended by adding Section 3815.055 to read as
14 follows:

15 Sec. 3815.055. INTERIM DIRECTORS. (a) The board serving on
16 September 1, 2011, is abolished and is replaced by an interim board
17 consisting of the following directors:

	<u>Pos. No.</u>	<u>Name of Director</u>
18		
19	<u>1</u>	<u>Alan D. Bergeron</u>
20	<u>2</u>	<u>Sharone Mayberry</u>
21	<u>3</u>	<u>James Donatto Sr.</u>
22	<u>4</u>	<u>Hexser J. Holliday II</u>
23	<u>5</u>	<u>Osama Abdullatif</u>
24	<u>6</u>	<u>Skye Thompson</u>
25	<u>7</u>	<u>Asmara Tekle Johnson</u>
26	<u>8</u>	<u>Jaa St. Julien</u>
27	<u>9</u>	<u>Jimmy Arnold</u>

- 1 10 Cyeoni Miles
- 2 11 Zinetta A. Burney
- 3 12 Chris Hageney
- 4 13 Teddy A. McDavid
- 5 14 Brian G. Smith
- 6 15 Robert S. Muhammad
- 7 16 Robert C. Combre
- 8 17 Janice M. Sibley-Reid

9 (b) The terms of the interim directors expire June 1, 2015.

10 (c) The mayor and the members of the governing body of the
11 City of Houston shall appoint successor directors not later than
12 June 1, 2015, and shall stagger the terms of the directors, with
13 eight of the directors' terms expiring June 1, 2017, and the
14 remaining directors' terms expiring June 1, 2019.

15 (d) This section expires September 1, 2015.

16 SECTION 10. Notwithstanding H.B. No. 2853, Acts of the 82nd
17 Legislature, Regular Session, 2011, Section 311.011(h), Tax Code,
18 as added by that Act, does not take effect. This section prevails
19 over H.B. No. 2853, Acts of the 82nd Legislature, Regular Session,
20 2011, or any other conflicting Act of the 82nd Legislature, Regular
21 Session, 2011, regardless of the relative dates of enactment.

22 SECTION 11. This Act takes effect September 1, 2011.

House Bill 3275
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

SENATE VERSION (IE)

No equivalent provision.

CONFERENCE

SECTION 1. Sections 311.006(a) and (b), Tax Code, are amended as follows:

(a) A municipality may not designate ~~[create]~~ a reinvestment zone if:

(1) more than 30 ~~[40]~~ percent of the property in the proposed zone, excluding property that is publicly owned, is used for residential purposes; or

(2) the total appraised value of taxable real property in the proposed zone and in existing reinvestment zones exceeds:

(A) 25 ~~[20]~~ percent of the total appraised value of taxable real property in the municipality and in the industrial districts created by the municipality, if the municipality has a population of 100,000 or more ~~[is the county seat of a county:~~

~~(i) that is adjacent to a county with a population of 3.3 million or more; and~~

~~[(ii) in which a planned community is located that has 20,000 or more acres of land, that was originally established under the Urban Growth and New Community Development Act of 1970 (42 U.S.C. Section 4501 et seq.), and that is subject to restrictive covenants containing ad valorem or annual variable budget based assessments on real property]; or~~

(B) 50 ~~[45]~~ percent of the total appraised value of taxable real property in the municipality and in the industrial districts created by the municipality, if ~~[Paragraph (A) does not apply to]~~ the municipality has a population of less than 100,000.

(b) A municipality may not change the boundaries of an existing reinvestment zone to include property in excess of the restrictions on composition of a zone described by Subsection (a) ~~[more than 10 percent of which, excluding property dedicated to public use, is used for residential purposes or to include more than 15 percent of the total appraised value of taxable real property in the municipality and in the industrial~~

House Bill 3275
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

SECTION 1. Section 311.009(a), Tax Code, relating to the composition of the board of directors of a reinvestment zone, is amended.

SECTION 2. Section 311.0091, Tax Code, relating to the composition of the board of directors of certain reinvestment zones is amended by amending Subsection (f) and adding Subsection (i).

SECTION 1. Same as House version except adds (h) as follows:

(h) Notwithstanding any other provision of this section and in addition to the individuals authorized to serve on the board of directors of a zone under this section, a member of the state senate in whose district a zone is wholly or partly located, or a member of the state house of representatives in whose district a zone is wholly or partly located, may serve as an ex officio nonvoting member of the board or may designate another individual to serve in the member's place at the pleasure of the member. This subsection does not apply to the member of the state senate and the member of the state house of representatives who are members of the board as provided by Subsection (b), if applicable. [FA1(1),(2)]

SECTION 2. Same as House version except adds (j) as follows:

(j) Notwithstanding any other provision of this section and in addition to the individuals authorized to serve on the board of directors of a zone under this section, a member of the state senate in whose district a zone is wholly or partly located, or a member of the state house of representatives in whose district a zone is wholly or partly located, may serve as an ex officio nonvoting member of the board or may designate another individual to serve in the member's place at the pleasure of the member. This subsection does not apply to the member of the

~~districts created by the municipality].~~

[The conference committee may have exceeded the limitations imposed on its jurisdiction, but only the presiding officer can make the final determination on this issue.]

SECTION 2. Same as Senate version.

SECTION 3. Same as Senate version.

House Bill 3275
Conference Committee Report
Section-by-Section Analysis

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state senate and the member of the state house of representatives who are members of the board as provided by Subsection (c), if applicable. [FA1(3),(4)]

SECTION 3. Amends Section 311.013(l), Tax Code.

SECTION 3. Same as House version.

SECTION 4. Same as House version.

SECTION 4. Amends Section 311.016(a), Tax Code.

SECTION 4. Same as House version.

SECTION 5. Same as House version.

No equivalent provision.

SECTION __. 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 energy company" means a business organization that manufactures, assembles, sells, maintains, or conducts research on renewable energy and renewable energy efficient products, including:

(A) solar energy;

SECTION 6. Substantially the same as Senate version.

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- (B) wind energy;
- (C) biomass energy;
- (D) geothermal energy;
- (E) battery technology;
- (F) electric vehicles;
- (G) lighting using light-emitting diodes;
- (H) fuel cells;
- (I) energy generated from agricultural sources;
- (J) nuclear energy;
- (K) clean coal technology; and
- (L) water-saving devices.

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

(b) The governing body of a municipality may not enter into a tax abatement agreement under this chapter unless it finds that the terms of the agreement and the property subject to the agreement meet the applicable guidelines and criteria adopted by the governing body under this section.

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

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governing body.

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

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

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

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

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

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

(c) The governing body may not adopt an ordinance designating an area as a renewable energy reinvestment zone until the governing body has held a public hearing on the designation and has found that the improvements sought are feasible and practical and would be a benefit to the land to be included in the zone and to the municipality after the expiration of an agreement entered into under Section 314.008. At the hearing, interested persons are entitled to speak and present evidence for or against the designation. Not later than the seventh day before the date of the hearing, notice of the hearing must be:

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

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

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

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

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

(2) at the time of the designation of the area as a zone, at least 75 percent of the land in the area must be owned by the municipality designating the area or by a municipal development corporation created under Chapter 379A, Local Government Code; and

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

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

Sec. 314.008. MUNICIPAL TAX ABATEMENT AGREEMENT. (a) The governing body of a municipality eligible to enter into tax abatement agreements under Section 314.004 may agree in writing with a renewable energy company that owns taxable real property that is located in a

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renewable energy reinvestment zone, but that is not located in an improvement project financed by tax increment bonds, to exempt from taxation 50 percent of the value of the real property and of tangible personal property located on the real property for a period of 15 years, on the condition that the company construct a facility on the property to be used in connection with the company's operations as specified by the agreement. The governing body of an eligible municipality may agree in writing with a renewable energy company that owns a leasehold interest in tax-exempt real property that is located in a renewable energy reinvestment zone, but that is not located in an improvement project financed by tax increment bonds, to exempt 50 percent of the value of property subject to ad valorem taxation, including the leasehold interest, improvements, and tangible personal property located on the real property, for a period of 15 years, on the condition that the company construct a facility on the property to be used in connection with the company's operations as specified by the agreement. A tax abatement agreement under this section is subject to the rights of holders of outstanding bonds of the municipality. In a municipality that has a comprehensive zoning ordinance, an improvement, development, or redevelopment taking place under an agreement under this section must conform to the comprehensive zoning ordinance.

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

(c) Except as otherwise provided by this subsection, property that is in a renewable energy reinvestment zone and that is

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owned or leased by a person who is a member of the governing body of the municipality or a member of a zoning or planning board or commission of the municipality is excluded from property tax abatement. Property owned or leased by a person that is subject to a tax abatement agreement in effect when the person becomes a member of the governing body or of the zoning or planning board or commission does not cease to be eligible for property tax abatement under that agreement because of the person's membership on the governing body, board, or commission.

Sec. 314.009. NOTICE OF TAX ABATEMENT AGREEMENT TO COUNTIES AND SCHOOL DISTRICTS. (a) Not later than the seventh day before the date on which a municipality enters into an agreement under Section 314.008, the governing body of the municipality or a designated officer or employee of the municipality shall deliver to the presiding officer of the governing body of each county and school district in which the property to be subject to the agreement is located a written notice that the municipality intends to enter into the agreement. The notice must include a copy of the proposed agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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Sec. 314.012. MODIFICATION OR TERMINATION OF AGREEMENT. (a) At any time before the expiration of an agreement made under this chapter, the agreement may be modified by the parties to the agreement to include other provisions that could have been included in the original agreement or to delete provisions that were not necessary to the original agreement. The modification must be made by the same procedure by which the original agreement was approved and executed. The original agreement may not be modified to extend beyond 15 years from the date of the original agreement.

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

Sec. 314.013. TAX ABATEMENT BY COUNTY AND SCHOOL DISTRICT. (a) If municipal property taxes on property located in the taxing jurisdiction of a municipality are abated under an agreement under Section 314.008, the agreement also applies to the taxation of the property by a county or school district in which the property is located if the governing body of the county or school district approves the agreement by the affirmative vote of a majority of the members of the governing body at a regularly scheduled meeting of the governing body.

(b) A county or school district may not approve a municipal tax abatement agreement under this chapter unless the governing body of the county or school district adopts a resolution stating that the county or school district elects to become eligible to participate in tax abatement and establishes guidelines and criteria governing the approval by the county or school district of municipal tax abatement agreements. The provisions of Section 314.004 governing guidelines and

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criteria for the entry by a municipality into a tax abatement agreement apply to guidelines and criteria established by a county or school district for approval of a municipal tax abatement agreement to the extent those provisions can be made applicable. [FA2]

No equivalent provision.

SECTION __. Section 11.28, Tax Code, is amended as follows:

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

(b) The owner of property to which an agreement made by an incorporated city or town under Chapter 314 applies is entitled to exemption from taxation by the incorporated city or town and from taxation by a county or school district that has approved the agreement of part of the value of the property as provided by the agreement. [FA2]

No equivalent provision.

No equivalent provision.

SECTION 7. Same as Senate version.

SECTION 8. Section 3815.051(a), Special District Local Laws Code, is amended as follows:

(a) The district is governed by a board of 17 [24] directors who serve staggered terms of four years, with eight [10] directors' terms expiring June 1 of an odd-numbered year and nine [11] directors' terms expiring June 1 of the following odd-numbered year.

[The conference committee may have exceeded the limitations

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No equivalent provision.

No equivalent provision.

imposed on its jurisdiction, but only the presiding officer can make the final determination on this issue.]

SECTION 9. Subchapter B, Chapter 3815, Special District Local Laws Code, is amended by adding Section 3815.055 as follows:

Sec. 3815.055. INTERIM DIRECTORS. (a) The board serving on September 1, 2011, is abolished and is replaced by an interim board consisting of the following directors:

<u>Pos. No.</u>	<u>Name of Director</u>
<u>1</u>	<u>Alan D. Bergeron</u>
<u>2</u>	<u>Sharone Mayberry</u>
<u>3</u>	<u>James Donatto Sr.</u>
<u>4</u>	<u>Hexser J. Holliday II</u>
<u>5</u>	<u>Osama Abdullatif</u>
<u>6</u>	<u>Skye Thompson</u>
<u>7</u>	<u>Asmara Tekle Johnson</u>
<u>8</u>	<u>Jaa St. Julien</u>
<u>9</u>	<u>Jimmy Arnold</u>
<u>10</u>	<u>Cyeoni Miles</u>
<u>11</u>	<u>Zinetta A. Burney</u>
<u>12</u>	<u>Chris Hageney</u>
<u>13</u>	<u>Teddy A. McDavid</u>
<u>14</u>	<u>Brian G. Smith</u>
<u>15</u>	<u>Robert S. Muhammad</u>
<u>16</u>	<u>Robert C. Combre</u>
<u>17</u>	<u>Janice M. Sibley-Reid</u>

(b) The terms of the interim directors expire June 1, 2015.

(c) The mayor and the members of the governing body of the City of Houston shall appoint successor directors not later than June 1, 2015, and shall stagger the terms of the directors, with eight of the directors' terms expiring June 1, 2017, and

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No equivalent provision.

No equivalent provision.

SECTION 5. This Act takes effect September 1, 2011.

SECTION 5. Same as House version.

the remaining directors' terms expiring June 1, 2019.
(d) This section expires September 1, 2015.

[The conference committee may have exceeded the limitations imposed on its jurisdiction, but only the presiding officer can make the final determination on this issue.]

SECTION 10. Notwithstanding H.B. No. 2853, Acts of the 82nd Legislature, Regular Session, 2011, Section 311.011(h), Tax Code, as added by that Act, does not take effect. This section prevails over H.B. No. 2853, Acts of the 82nd Legislature, Regular Session, 2011, or any other conflicting Act of the 82nd Legislature, Regular Session, 2011, regardless of the relative dates of enactment.

[The conference committee may have exceeded the limitations imposed on its jurisdiction, but only the presiding officer can make the final determination on this issue.]

SECTION 11. Same as House version.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 28, 2011

TO: Honorable David Dewhurst, Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB3275 by Coleman (Relating to the operation and governance of tax increment financing reinvestment zones, the creation of renewable energy reinvestment zones, and the governance of certain special districts.), **Conference Committee Report**

No fiscal implication to the State is anticipated.

The bill would amend Chapter 311 of the Tax Code to disallow the designation of a reinvestment zone by a city if the percentage of residential property in the proposed reinvestment zone is above 30 percent, rather than 10 percent. For a city with a population of 100,000 or more, a zone designation would be disallowed if the total appraised value of taxable real property in the city and in the industrial districts created by the city exceeds 25 percent. For a city with a population of less than 100,000, a zone designation would be disallowed if the total appraised value of taxable real property in the city and in the industrial districts created by the city exceeds 50 percent, rather than 15 percent. Cities would not be permitted to change the boundaries of an existing reinvestment zone to include property in excess of the restrictions described.

The bill would amend Chapter 311 of the Tax Code to provide that for a taxing unit (other than a municipality or county that created a reinvestment zone) that levies taxes on real property in a reinvestment zone to appoint a member on the reinvestment zone's board of directors, the taxing unit must approve the payment of all or part of the tax increment produced by the unit into the tax increment fund for the zone. The bill would provide that certain eligibility requirements for board members do not apply to an individual appointed by certain conservation and reclamation districts with a jurisdiction which covers four counties.

The bill provides for a county that designates a zone to determine the portion of the tax increment that is required to be paid into the tax increment fund and that a municipality or county can make such a designation in an ordinance or an order, rather than only in an ordinance. The bill would modify the due date of the reinvestment zone status report that a municipality or county must send to each taxing unit in the zone, from on or before the 90th day to on or before the 150th day following the end of the fiscal year.

The bill would create new Chapter 314 of the Tax Code regarding property tax abatement in a renewable energy reinvestment zone. The bill would apply only to a city that has a population of at least 45,000, but not more than 60,000, and that is located in a county with a population of at least one million, and that does not contain within its corporate limits more than two school districts that are categorized as category II school districts under Section 313.022 of the Tax Code or any school districts to which Subchapter C, Chapter 313 of the Tax Code applies.

The bill would define renewable energy company and allow a city to establish a renewable energy reinvestment zone. The city would be required to hold a public hearing, to designate the reinvestment zone with specified boundaries by ordinance, and to establish guidelines and criteria governing tax abatements in the zone. Only areas that are at least 100 acres, at least 75 percent owned by the city designating the zone or owned by a municipal development corporation, and zoned for commercial purposes would be eligible for designation as a renewable energy reinvestment zone.

The city would be permitted to abate 50 percent of the value of the real and personal property owned by a renewable energy company in the zone for 15 years on the condition that the company construct a facility on the property to be used in connection with the company's operations as specified by the abatement agreement. The specific terms of a tax abatement agreement would be required to (among other conditions) provide for recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the agreed improvements. A tax abatement agreement could be terminated or modified by agreement of the parties, but not to extend the term beyond the original 15 years.

Counties and school districts would be permitted to participate in the tax abatement agreement.

The bill would modify the board of directors of reinvestment zones, the designation process of tax increments into a tax increment fund, and the due date of reports regarding zones. This modification would not change taxable values, tax rates or any other variable directly affecting property tax revenues and, consequently, would not create a fiscal impact to the state or units of local government.

To the extent that cities, counties and school districts participate in property tax abatements in renewable energy reinvestment zones under the bill, the bill would create a cost to these units of local government. The future tax abatement participation by these units of local government cannot be predicted so the fiscal impact on units of local government cannot be estimated. There would be no fiscal impact to the state through the operation of the school funding formula because no value would be deducted in the Comptroller's property value study for the abated value in school districts that choose to participate.

The bill would take effect September 1, 2011.

Local Government Impact

To the extent that provisions of the bill result in the inclusion of more property in tax increment financing agreements the provisions would create a cost to local taxing units. To the extent that cities, counties and school districts participate in property tax abatements in renewable energy reinvestment zones under the bill, the bill would create a cost to these units of local government.

Source Agencies: 304 Comptroller of Public Accounts, 701 Central Education Agency

LBB Staff: JOB, AG, KK, SD, SJS, JGM, TP, JSp

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

TAX/FEE EQUITY NOTE

82ND LEGISLATIVE REGULAR SESSION

May 28, 2011

TO: Honorable David Dewhurst, Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB3275 by Coleman (Relating to the operation and governance of tax increment financing reinvestment zones, the creation of renewable energy reinvestment zones, and the governance of certain special districts.), **Conference Committee Report**

Because the bill would not create or impact a state tax or fee, no comment from this office is required by the rules of the House as to the general effects of the proposal on the distribution of tax and fee burdens among individuals and businesses.

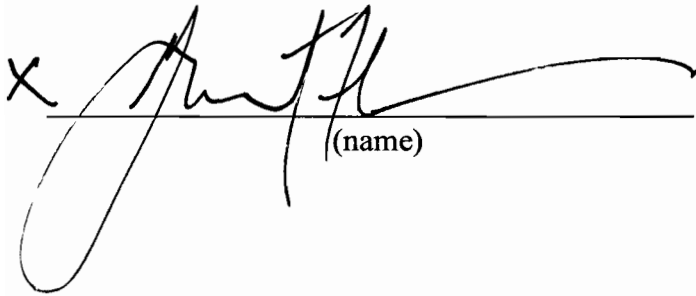
Source Agencies:

LBB Staff: JOB, KK

Certification of Compliance with Rule 13, Section 6(b), House Rules of Procedure

Rule 13, Section 6(b), House Rules of Procedure, requires that a copy of a conference committee report signed by a majority of each committee of the conference must be furnished to each member of the committee in person or if unable to deliver in person by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Section 10(a) of this rule. The paper copies of the report submitted to the chief clerk under Section 10(b) of this rule must contain a certificate that the requirement of this subsection has been satisfied, and that certificate must be attached to the printed copy of the report furnished to each member under Section 10(d) of this rule. Failure to comply with this subsection is not a sustainable point of order under this rule.

I certify that a copy of the conference committee report on H. B. 3275 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Section 10(b), Rule 13, House Rules of Procedure.

x 

(name)

5/29/11

(date)