

## **BILL ANALYSIS**

Senate Research Center

S.B. 1458  
By: Seliger  
Economic Development  
8/6/2009  
Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In January 2008, Texas Attorney General Greg Abbott issued opinion GA-0600 in response to a question regarding whether a county commissioners court is prohibited from executing a tax abatement agreement with a wind turbine company for its fixtures and improvements located on a commissioner's real property. In addressing that issue, the opinion raised issues requiring clarification regarding the authority of a commissioners court to grant county tax abatements for fixtures and improvements owned by a lessee and located on taxable real property.

S.B. 1458 clarifies issues raised in GA-0600 regarding the eligibility of property owned by a lessee for abatement. The bill expressly grants county commissioners courts the authority to grant abatements for tangible personal property and clarifies existing law regarding the duration of an abatement granted under Chapter 312 (Property Redevelopment and Tax Abatement Act).

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Reenacts and amends Section 312.006, Tax Code, as amended by Chapters 1029 (H.B. 1449) and 1505 (H.B. 1200), Acts of the 77th Legislature, Regular Session, 2001, as follows:

Sec. 312.006. EXPIRATION DATE. Provides that this chapter expires September 1, 2019, rather than September 1, 2009, if not continued in effect.

SECTION 2. Amends Subchapter A, Chapter 312, Tax Code, by adding Section 312.007, as follows:

Sec. 312.007. DEFERRAL OF COMMENCEMENT OF ABATEMENT PERIOD. (a) Defines "abatement period" in this section.

(b) Authorizes the governing body of the taxing unit granting the abatement and the owner of the property that is the subject of the agreement, notwithstanding any other provision of this chapter, to agree to defer the commencement of the abatement period until a date that is subsequent to the date the agreement is entered into, except that the duration of an abatement period is prohibited from exceeding 10 years.

SECTION 3. Amends Section 312.402, Tax Code, by amending Subsection (a) and adding Subsections (a-1)-(a-3), as follows:

(a) Authorizes the commissioners court to execute a tax abatement agreement with the owner of tangible personal property located on real property in a reinvestment zone to exempt from taxation all or a portion of the value of the real property, all or a portion of the value of the tangible personal property located on the real property, or all or a portion of the value of both. Deletes existing text authorizing the court to execute a tax abatement agreement with the owner of a leasehold interest in tax-exempt real property or leasehold interests or improvements on tax-exempt real property that is located in a

reinvestment zone designated under this subchapter to exempt a portion of the value of tangible personal property or leasehold interests or improvements on tax-exempt real property located on the real property. Deletes existing text providing that the execution, duration, and other terms of an agreement made under this section are governed by the provisions of Sections 312.204 (Municipal Tax Abatement Agreement), 312.205 (Specific Terms of Tax Abatement Agreement), and 312.211 (Agreement by Municipality Relating to Property Subject to Voluntary Cleanup Agreement) applicable to a municipality. Deletes existing text providing that Section 312.2041 (Notice of Tax Abatement Agreement to Other Taxing Units) applies to an agreement made by a county under this section in the same manner as it applies to an agreement made by a municipality under Sections 312.204 and 312.211.

(a-1) Authorizes the commissioners court to execute a tax abatement agreement with the owner of a leasehold interest in tax-exempt real property located in a reinvestment zone designated under this subchapter to exempt all or a portion of the value of the leasehold interest in the real property. Authorizes the court to execute a tax abatement agreement with the owner of tangible personal property or an improvement located on tax-exempt real property that is located in a designated reinvestment zone to exempt all or a portion of the value of the tangible personal property or improvement located on the real property.

(a-2) Provides that the execution, duration, and other terms of an agreement entered into under this section are governed by the provisions of Sections 312.204, 312.205, and 312.211 applicable to a municipality. Provides that Section 312.2041 applies to an agreement entered into under this section in the same manner as that section applies to an agreement entered into under Section 312.204 or 312.211.

(a-3) Authorizes the commissioners court to execute a tax abatement agreement with a lessee of taxable real property located in a reinvestment zone designated under this subchapter to exempt from taxation all or a portion of the value of the fixtures, improvements, or other real property owned by the lessee and located on the property that is subject to the lease, all or a portion of the value of tangible personal property owned by the lessee and located on the real property that is the subject of the lease, or all or a portion of the value of both the fixtures, improvements, or other real property and the tangible personal property described by this subsection.

SECTION 4. Provides that Section 312.007, Tax Code, as added by this Act, is intended to clarify rather than change existing law.

SECTION 5. Provides that an ad valorem tax abatement agreement that was executed before the effective date of this Act by the commissioners court of a county and an owner of taxable real property or tangible personal property or an owner of a leasehold interest in tax-exempt real property, under Section 312.402, Tax Code, as that section existed before the effective date of this Act, that provides for an exemption from taxation of all or a portion of the value of real property, tangible personal property, or both, or of all or a portion of the value of a leasehold interest in tax-exempt real property, that is not invalid for a reason other than an inconsistency with Section 312.402, Tax Code, as that section existed before the effective date of this Act, and that is consistent with Section 312.402, Tax Code, as amended by this Act, is ratified and validated as of the date the agreement was executed.

SECTION 6. Effective date: upon passage or September 1, 2009.