

BILL ANALYSIS

Senate Research Center

H.B. 1897
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Approximately 20 years ago, voters approved an amendment to the Texas Constitution that allowed the legislature to grant a property tax exemption for pollution control property, which is real or personal property used or installed wholly or partly to meet or exceed environmental regulations for addressing air, water, or land pollution.

By law, the applicant must obtain a determination of qualified pollution control property by the Texas Commission on Environmental Quality (TCEQ) and file an exemption application with the chief appraiser of the applicant's local appraisal district. Because of the complexity of the facilities, devices, and methods involved, the TCEQ typically works directly with the applicant to ensure the pollution control calculation is correct. This process can potentially take years as a result of objections and requests for more data. The lengthy determination process has raised concerns that a positive TCEQ determination on a long-pending application could result in a property owner demanding a significant refund from their local taxing entity

H.B. 1897 seeks to address this issue by, among other provisions, prohibiting a chief appraiser from accepting an application for a pollution control property tax exemption until the property owner provides a copy of the letter issued by the executive director of TCEQ determining that the property is in fact pollution control property. H.B. 1897 also makes it clear that taxing entities may not recover taxes for exemptions erroneously granted prior to the effective date of the bill, thereby protecting taxpayers in those cases where TCEQ made an initial positive determination and subsequently reversed their decision.

H.B. 1897 amends current law relating to the exemption from ad valorem taxation of pollution control property.

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. Amends Section 11.31(i), Tax Code, as follows:

- (i) Requires a person seeking an exemption under this section to provide to the chief appraiser at the time an application for the exemption is filed in accordance with Section 11.43 (Application for Exemption) a copy of the letter issued by the executive director of the Texas Commission on Environmental Quality (executive director) (TCEQ) under Subsection (d) (relating to requiring the executive director to determine if the facility, device, or method is used wholly or partly as a facility, device, or method for the control of air, water, or land pollution, to send notice by regular mail or by electronic means to the chief appraiser of the appraisal district, and issue a letter to the person stating the executive director's determination), or a copy of the final letter issued by the executive director under Subsection (e) (relating to authorizing the person seeking the exemption or the chief appraiser to appeal the executive director's decision to TCEQ after receiving the letter issued under Subsection (d)) if the determination is appealed under that subsection, determining that the facility, device, or method is used wholly or partly as pollution

control property. Requires the chief appraiser to accept a final determination by the executive director as conclusive evidence that the facility, device, or method is used wholly or partly as pollution control property. Provides that a property owner, notwithstanding Section 41.41(a)(4) (relating to entitling a property owner to protest before the appraisal review board the denial to the property owner in whole or in part of a partial exemption), is not entitled to a remedy for the denial of an exemption for pollution control property, in whole or in part, and is not entitled to an exemption for any period that precedes the property owner's compliance with the requirements of this subsection.

SECTION 2. Provides that the changes in law made by this Act apply to any determination under Section 11.31 (Pollution Control Property), Tax Code, that becomes final on or after the effective date of this Act. Provides that a determination that becomes final before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. Provides that the changes in law made by this Act do not permit a taxing unit to recover taxes not assessed and collected because of an exemption granted under Section 11.31, Tax Code, before the effective date of this Act.

SECTION 4. Effective date: upon passage or September 1, 2013.