

SUBJECT: Prohibiting certain property tax incentives near military aviation facilities

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 6 ayes — D. Bonnen, Bohac, Darby, Murr, Raymond, Springer

5 nays — Y. Davis, E. Johnson, Murphy, Shine, Stephenson

SENATE VOTE: On final passage, April 19 — 22-9 (Birdwell, Creighton, Garcia, Huffines, Perry, Rodríguez, Seliger, Watson, Zaffirini)

WITNESSES: *On House companion bill, HB 445:*

For — Tom Tagliabue, City of Corpus Christi; Dick Messbarger, City of Kingsville; Stephen Santellana, City of Wichita Falls; Gregory Maisel, South Texas Military Facilities Task Force, Corpus Christi Chamber of Commerce; Carine Martinez-Gouhier, Texas Public Policy Foundation; (*Registered, but did not testify:* Guadalupe Cuellar, City of El Paso; Christine Wright, City of San Antonio; Joe Guzman, South Texas Military Facilities Task Force; Mark Mendez, Tarrant County; Ginny Cross, United Corpus Christi Chamber of Commerce; Michele Haralson)

Against — David Belote and Mark Stover, Apex Clean Energy; Patrick Woodson, E. On Climate and Renewables; Cyrus Reed, Lone Star Chapter Sierra Club; Jeffrey Clark, the Wind Coalition; (*Registered, but did not testify:* Suzi McClellan, AES Generation; Hugo Berlanga, APEX Wind Energy; Janis Carter, Avangrid; Paula Barnett, BP; Adam Cahn, Cahnman's Musings; David Foster, Clean Water Action; Andrew Dickson, Duke Energy; Lynnae Willette, EDF-RE; Vanessa Tutos, EDP Renewables; Michael Jewell, Environmental Defense Fund, Pattern Energy; Ron Lewis, General Electric; Eric Wright, EDPR, Lincoln Clean Energy; Suzanne Bertin, Texas Advanced Energy Business Alliance; Elizabeth Doyel, Texas League of Conservation Voters; Colby Nichols, Texas Schools for Economic Development, Texas Rural Education Association; Thomas Ratliff, Tri-Global Energy; Kaiba White, Public Citizen)

On — Warren Lasher, Electric Reliability Council of Texas (ERCOT); Matt Manning, Sheppard AFB, US Air Force; Mike Branum, US Navy, Texas Commanders Council; (*Registered, but did not testify*: Robert Wood, Comptroller; Keith Graf, Office of the Governor; Brian Lloyd, Public Utility Commission)

BACKGROUND: Tax Code, sec. 313.024(b) lists the types of property eligible to receive limitations on appraised value. Property used for renewable energy electric generation or an advanced clean energy project is eligible for a limitation on appraised value.

DIGEST: CSSB 277 would make certain property on which a wind-powered energy device was installed within 25 miles of a military aviation facility ineligible to receive tax abatements or limitations on appraised value. This property would include a parcel of real property, a new building constructed on the parcel, a new improvement on the parcel, or tangible personal property on the parcel.

The bill would define "military aviation facility" to mean a base, station, fort, or camp where fixed wing aviation operations or training is conducted by the U.S. Air Force or Air Force Reserve, U.S. Army or Army Reserve, U.S. Navy or Navy Reserve, U.S. Marine Corps or Marine Corps Reserve, U.S. Coast Guard or Coast Guard Reserve, or the Texas National Guard.

The bill would take effect September 1, 2017, and would apply only to an agreement that was entered into or pending on or after that date.

SUPPORTERS SAY: CSSB 277 would reduce the safety hazards posed to military aviation facilities by wind turbines by eliminating tax incentives near military air facilities for these projects. Wind turbines create false interference on military radars, which can obscure aircraft altogether or impede the military's ability to distinguish between military and civilian aircraft. Providing incentives to locate wind farms elsewhere would bolster the military's ability to effectively train pilots and conduct exercises.

The bill would protect military communities from the potential economic ramifications of having wind turbines nearby. The next round of Base Realignment and Closure (BRAC) will occur in 2019, and base closure or loss of missions resulting from wind turbine interference would significantly damage the economies of military communities, which depend on bases to provide much of their tax revenue.

The bill would not damage the alternative energy industry, because wind farmers could respond either by relocating or foregoing the abatement or limitation. Additionally, the cost to the state of potentially losing a military base would far outweigh a minor hindrance to the wind industry.

Existing U.S. Department of Defense review processes are not sufficient to protect the economic livelihood of Texas military bases because the department does not favor any particular state.

OPPONENTS
SAY:

CSSB 277 could harm Texas's alternative energy industry by making wind farm owners ineligible to receive the property tax exemptions that they currently receive. Chapter 313 agreements pertaining to wind farms should not be prevented, as they provide jobs and ensure Texas is competitive in the alternative energy industry.

Existing review processes by the U.S. Department of Defense already guarantee that wind farms and bases can coexist, and wind companies are already investing in improvements to radar systems. The bill would unnecessarily infringe upon the operation and development of wind-powered energy systems.

NOTES:

CSSB 277 differs from the Senate-passed version by removing the section on legislative findings, making the bill applicable to tax abatement agreements pending at the time of the effective date, and changing the effective date from January 1, 2018 to September 1, 2017.

According to the Legislative Budget Board, to the extent that wind farm owners who were subject to the bill were no longer eligible to receive a property tax abatement or limitation, related costs to the Foundation

School Fund could be decreased through the operation of the school finance formulas.

A companion bill, HB 445 by Frank, was reported favorably as substituted from the House Ways and Means Committee on May 3 and placed on the General State Calendar for May 11.