

CHAPTER 285

H.B. No. 1920

AN ACT

relating to an exemption of certain pollution control property from property taxation and adjustment of the property tax rollback rate.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Chapter 11, Tax Code, is amended by adding Section 11.31 to read as follows:

Sec. 11.31. POLLUTION CONTROL PROPERTY. (a) A person is entitled to an exemption from taxation of all or part of real and personal property that the person owns and that is used wholly or partly as a facility, device, or method for the control of air, water, or land pollution. A person is not entitled to an exemption from taxation under this section solely on the basis that the person manufactures or produces a product or provides a service that prevents, monitors, controls, or reduces air, water, or land pollution. Property used for

residential purposes, or for recreational, park, or scenic uses as defined by Section 23.81, is ineligible for an exemption under this section.

(b) In this section, "facility, device, or method for the control of air, water, or land pollution" means land that is acquired after January 1, 1994, or any structure, building, installation, excavation, machinery, equipment, or device, and any attachment or addition to or reconstruction, replacement, or improvement of that property, that is used, constructed, acquired, or installed wholly or partly to meet or exceed rules or regulations adopted by any environmental protection agency of the United States, this state, or a political subdivision of this state for the prevention, monitoring, control, or reduction of air, water, or land pollution. This section does not apply to a motor vehicle.

(c) In applying for an exemption under this section, a person seeking the exemption shall present in a permit application or permit exemption request to the executive director of the Texas Natural Resource Conservation Commission information detailing:

(1) the anticipated environmental benefits from the installation of the facility, device, or method for the control of air, water, or land pollution;

(2) the estimated cost of the pollution control facility, device, or method; and

(3) the purpose of the installation of such facility, device, or method, and the proportion of the installation that is pollution control property.

If the installation includes property that is not used wholly for the control of air, water, or land pollution, the person seeking the exemption shall also present such financial or other data as the executive director requires by rule for the determination of the proportion of the installation that is pollution control property.

(d) Following submission of the information required by Subsection (c), the executive director of the Texas Natural Resource Conservation Commission shall 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. As soon as practicable, the executive director shall send notice by regular mail to the chief appraiser of the appraisal district for the county in which the property is located that the person has applied for a determination under this subsection. If the executive director determines that the facility, device, or method is used wholly or partly to control pollution, the director shall issue a letter to the person stating that determination and the proportion of the installation that is pollution control property.

(e) The Texas Natural Resource Conservation Commission may charge a person seeking a determination that property is pollution control property an additional fee not to exceed its administrative costs for processing the information, making the determination, and issuing the letter required by this section. The commission may adopt rules to implement this section.

(f) A person seeking an exemption under this section shall provide to the chief appraiser a copy of the letter issued by the executive director of the Texas Natural Resource Conservation Commission under Subsection (d). The chief appraiser shall accept the copy of the letter from the executive director as conclusive evidence that the facility, device, or method is used wholly or partly as pollution control property.

(g) This section does not apply to a facility, device, or method for the control of air, water, or land pollution that was subject to a tax abatement agreement executed before January 1, 1994.

SECTION 2. Section 11.43(c), Tax Code, is amended to read as follows:

(c) An exemption provided by Section 11.13, 11.17, 11.18, 11.19, 11.20, 11.21, 11.22, 11.29, [or] 11.30, or 11.31 of this code, once allowed, need not be claimed in subsequent years, and except as otherwise provided by Subsection (e) of this section, the exemption applies to the property until it changes ownership or the person's qualification for the exemption changes. However, the chief appraiser may require a person allowed one of the exemptions in a prior year to file a new application to confirm his current qualification for the exemption by delivering a written notice that a new application is required, accompanied by an appropriate application form, to the person previously allowed the exemption.

SECTION 3. Section 26.012(6), Tax Code, is amended to read as follows:

(6) "Current total value" means the total taxable value of property listed on the appraisal roll for the current year, including all appraisal roll supplements and corrections as of the date of the calculation, *less the taxable value of property exempted for the current tax year for the first time under Section 11.31*, except that the current total value for a school district excludes the total value of homesteads that qualify for a tax limitation as provided by Section 11.26 [of this code].

SECTION 4. Chapter 26, Tax Code, is amended by adding Section 26.045 to read as follows:

Sec. 26.045. ROLLBACK RELIEF FOR POLLUTION CONTROL REQUIREMENTS.

(a) *The rollback tax rate for a political subdivision of this state is increased by the rate that, if applied to the total current value, would impose an amount of taxes equal to the amount the political subdivision will spend out of its maintenance and operation funds under Section 26.012(16), Tax Code, to pay for a facility, device, or method for the control of air, water, or land pollution that is necessary to meet the requirements of a permit issued by the Texas Natural Resource Conservation Commission.*

(b) *In this section, "facility, device, or method for control of air, water, or land pollution" means any land, structure, building, installation, excavation, machinery, equipment, or device, and any attachment or addition to or reconstruction, replacement, or improvement of that property, that is used, constructed, acquired, or installed wholly or partly to meet or exceed rules or regulations adopted by any environmental protection agency of the United States or this state for the prevention, monitoring, control, or reduction of air, water, or land pollution.*

(c) *To receive an adjustment to the rollback tax rate under this section, a political subdivision shall present information to the executive director of the Texas Natural Resource Conservation Commission in a permit application or in a request for any exemption from a permit that would otherwise be required detailing:*

- (1) *the anticipated environmental benefits from the installation of the facility, device, or method for the control of air, water, or land pollution;*
- (2) *the estimated cost of the pollution control facility, device, or method; and*
- (3) *the purpose of the installation of the facility, device, or method, and the proportion of the installation that is pollution control property.*

(d) *Following submission of the information required by Subsection (c), the executive director of the Texas Natural Resource Conservation Commission shall 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. If the executive director determines that the facility, device, or method is used wholly or partly to control pollution, the director shall issue a letter to the political subdivision stating that determination and the portion of the cost of the installation that is pollution control property.*

(e) *The Texas Natural Resource Conservation Commission may charge a political subdivision seeking a determination that property is pollution control property an additional fee not to exceed its administrative costs for processing the information, making the determination, and issuing the letter required by this section. The commission may adopt rules to implement this section.*

(f) *A political subdivision of the state seeking an adjustment in its rollback tax rate under this section shall provide to its tax assessor a copy of the letter issued by the executive director of the Texas Natural Resource Conservation Commission under Subsection (d). The tax assessor shall accept the copy of the letter from the executive director as conclusive evidence that the facility, device, or method is used wholly or partly as pollution control property and shall adjust the rollback tax rate for the political subdivision as provided for by Subsection (a).*

SECTION 5. (a) Sections 1 and 2 of this Act take effect January 1, 1994, but only if the constitutional amendment proposed by the 73rd Legislature, Regular Session, 1993, authorizing the exemption from ad valorem taxation of real and personal property used for the control of air, water, or land pollution is approved by the voters. If that amendment is not approved by the voters, Sections 1 and 2 of this Act have no effect.

(b) Sections 1 and 2 of this Act apply only to pollution control property that is constructed, acquired, or installed after January 1, 1994.

(c) The change in law made by this Act does not affect a contract executed prior to January 1, 1994, pursuant to Section 42.044 or Section 43.136, Local Government Code.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on April 21, 1993, by a non-record vote; the House concurred in Senate amendments to H.B. No. 1920 on May 10, 1993, by a non-record vote; passed by the Senate, with amendments, on April 30, 1993: Yeas 28, Nays 0.

Approved May 25, 1993.

Effective Aug. 30, 1993, 90 days after date of adjournment, except §§ 1 and 2 effective as provided in § 5(a).