

SUBJECT: Exempting public energy aggregators from the franchise tax

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 7 ayes — Hilderbran, Otto, Bohac, Button, Eiland, N. Gonzalez, Strama
0 nays
2 absent — Martinez Fischer, Ritter

WITNESSES: For — (*Registered, but did not testify:* John Greytok, City of Missouri City; Donald Lee, Texas Conference of Urban Counties; Randolph “Randy” Moravec, Texas Coalition for Affordable Power)
Against — None
On — Teresa Bostick and Ed Warren, State Comptroller's Office

BACKGROUND: Local Government Code, sec. 304.001 establishes a process by which a county, municipality, school district, hospital district, or any political subdivision receiving electric service from an entity that has implemented customer choice may join with another to form a corporation to negotiate the purchase of electricity. Each political subdivision entering into such an agreement must first approve articles of incorporation by ordinance or other order.

DIGEST: HB 2684 would exempt from the franchise tax a corporation formed by political subdivisions to purchase electricity.
The bill would take effect January 1, 2014, and would only apply to a franchise tax report due on or after that date.

SUPPORTERS SAY: HB 2684 would be a good governance measure that would reduce unnecessary reporting. Political subdivisions that form a corporation to purchase electricity currently do not pay the franchise tax, as they have no IRS-reportable income under federal law. The comptroller’s franchise tax data files show no instances of such political subdivisions that owed the tax.

Because there is no specific language in statute exempting these corporations from franchise tax requirements, they are required to file a report each year showing that no taxes are due. By expressly exempting them from the franchise tax, HB 2684 would ensure that the entities no longer had to file the unnecessary report.

Only tax-exempt political subdivisions are eligible to form these corporations. As a result, the bill would not provide a tax shelter for corporations that otherwise would be liable for the tax.

**OPPONENTS
SAY:**

No apparent opposition.

NOTES:

The identical Senate companion, SB 1580 by Hinojosa, has been referred to the Senate Finance subcommittee on Fiscal Matters.