

BILL ANALYSIS

Senate Research Center

S.B. 1685
By: Zaffirini
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

After the Deepwater Horizon/Macondo oil spill and the subsequent moratorium of Gulf drilling, 10 oil companies joined together to form Marine Well Containment Company (company). The company organized to acquire and provide rapid containment response expertise, training, and capabilities, including subsea equipment such as risers, dispersant and hydraulic manifolds, and a capping stack in the event of a blowout or other loss of well control resulting in an underwater oil spill in the Gulf of Mexico. While current law authorizes property tax exemptions for pollution control equipment, the statute may not cover equipment held for a future event and by an entity that provides multiple member companies access to the equipment to meet federal pollution control rules.

S.B. 1685 seeks to ensure that the company and the new technology for underwater pollution containment can be located in Texas and exempt from property taxes and sales tax as authorized by the Texas Constitution.

As proposed, S.B. 1685 amends current law relating to exemptions from property taxation and sales and use taxation for certain offshore spill response and well containment property used to control pollution.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the executive director of the Texas Commission on Environmental Quality is modified in SECTION 1 (Section 11.31, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 11.31, Tax Code, by amending Subsections (a), (b), (c), (d), and (m) and adding Subsections (o) and (p), as follows:

(a) Entitles a person 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. Provides that 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, except as provided in Subsection (o). Provides that property used for residential purposes, or for recreational, park, or scenic uses as defined by Section 23.81 (Definitions), is ineligible for an exemption under this section.

(b) Defines, in this section, "facility, device, or method for the control of air, water, or land pollution" to mean 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 and includes property described in Subsection

(o). Provides that, in this section, "pollution control property" includes property described in Subsection (o). Provides that this section does not apply to a motor vehicle.

(c) Requires a person seeking the exemption, in applying for an exemption under this section, to present in a permit application or permit exemption request to the executive director of the Texas Commission on Environmental Quality (TCEQ) (executive director) 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.

Requires the person seeking the exemption, if the installation includes property that is not used wholly for the control of air, water, or land pollution or described in Subsection (o), to 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.

(d) Requires the executive director, following submission of the information required by Subsection (c), 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. Requires the executive director, as soon as practicable, to send notice by regular mail or by electronic means 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. Requires the executive director to issue a letter to the person stating the executive director's determination of whether the facility, device, or method is used wholly or partly to control pollution or as property described in Subsection (o) and, if applicable, the proportion of the property that is pollution control property. Requires the executive director to send a copy of the letter by regular mail or by electronic means to the chief appraiser of the appraisal district for the county in which the property is located.

(m) Requires the executive director, notwithstanding the other provisions of this section, if the facility, device, or method for the control of air, water, or land pollution described in an application for an exemption under this section is a facility, device, or method included on the list adopted under Subsection (k) (relating to requiring TCEQ to adopt rules establishing a nonexclusive list of facilities, devices, or methods for the control of air, water, or land pollution which is required to include certain items) or property described in Subsection (o), not later than the 30th day after the date of receipt of the information required by Subsections (c)(2) and (3) and without regard to whether the information required by Subsection (c)(1) has been submitted, to determine that the facility, device, or method described in the application is used wholly or partly as a facility, device, or method for the control of air, water, or land pollution and to take the actions that are required by Subsection (d) in the event such a determination is made.

(o) Entitles a person, notwithstanding any other provision in this section, to an exemption from taxation of all or part of real and personal property that the person owns or leases and that is used, constructed, acquired, stored, or installed primarily as part of an offshore spill response containment system. Requires that property described in this subsection, for purposes of this section, be treated as used wholly as a facility, device, or method for the control of air, water, or land pollution.

(p) Defines in Subsection (o) "offshore spill response containment system," "environmental protection agency of the United States," and "rules or regulations adopted by any environmental protection agency of the United States."

SECTION 2. Amends Chapter 151, Tax Code, is amended by adding Section 151.356, as follows:

Sec. 151.356 OFFSHORE SPILL RESPONSE AND WELL CONTAINMENT PROPERTY. (a) Entitles a person described in Section 11.31(o), Tax Code, to an exemption from the taxes imposed by this chapter for the purchase, sale, lease, rental, storage, use or consumption of property described in Section 11.31(o), Tax Code.

(b) Exempts a service performed on property described in Section 11.31(o), Tax Code, from the taxes imposed by this chapter.

SECTION 3. Effective date: upon passage or September 1, 2013.