SUBJECT: Allowing limitations on appraised value for nuclear and IGCC plants

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 5 ayes — Keffer, Ritter, Otto, Bonnen, Pena

0 nays

4 absent — Y. Davis, Flores, Paxton, Pitts

WITNESSES: For — DC Dunham, Bay City CDC; David Greeson, Brad Porlier, Glen Rosenbaum, NRG Energy; Richard Knapik, City of Bay City; Nate McDonald, County of Matagorda; Kevin Richards, NRG/STPNOC; Mitch Thames, Bay City Chamber of Commerce and Agriculture (*Registered, but did not testify*: Walt Baum, James LeBas, Association of Electric Companies of Texas; Jack Erskine, Exelon Corp.; John Kroll, Kasner and Associates)

Against — None

BACKGROUND: In 2001, the 77th Legislature enacted HB 1200 by Brimer, known as the Texas Economic Development Act, which authorized school districts to negotiate limitations on the appraised value of property for maintenance and operation (M&O) property taxation with corporations and limited liability companies that would use the property for manufacturing, research and development, or renewable energy electric generation. Districts negotiating their appraised values through such agreements are held harmless by the state for purposes of state education aid.

In 2005, the 79th Legislature enacted HB 2201 by Hughes, which added clean-coal projects and coal and biomass gasification projects to the list of projects eligible for appraised value limitations.

DIGEST: Effective January 1, 2008, CSHB 2994 would add nuclear power generation and electric power generation using integrated gasification combined cycle (IGCC) technology to the list of projects eligible for limitations on the appraised value of property for school district M&O property taxation.

The bill would define "integrated gasification combined cycle technology" as technology used to produce electricity in a combined combustion turbine and steam turbine application using synthetic gas, another product produced from coal gasification, or another carbon-based feedstock. This definition would include related activities such as materials-handling and gasification of coal or another carbon-based feedstock.

"Nuclear electric power generation" would have the same definition that it has in the 2002 North American Industry Classification System.

The bill would define as a "qualified investment" tangible personal property used in connection with the operation of a nuclear electric power generation facility, including:

- property used to produce nuclear electric power, including pressure vessels, pumps turbines, generators, and condensers; and
- property and systems necessary to control radioactive contamination.

The bill would define as a qualified investment tangible personal property used in connection with operating an IGCC electric generation facility, including:

- property used to produce electric power by a combined combustion turbine and steam turbine application using synthetic gas, another product produced by coal gasification, or another carbon-based feedstock; or
- property used in handling materials used as feedstock or used in the gasification process to produce synthetic gas or another carbon-based feedstock used in the production of electric power.

Tangible personal property defined as a qualified investment would have to be first placed in service during an applicable time period beginning on or after January 1, 2002, without regard to whether the property was affixed to or incorporated into real property.

The bill would allow the owner of a nuclear electric power generation facility by agreement with a taxing unit to defer the effective date of an abatement up to seven years after the agreement was made. An agreement including such a deferral could have a term of no more than 10 years after the effective date of the agreement.

For a nuclear electric power generation facility, the bill would define as a "qualifying time period" the first seven years beginning on or after the year anniversary of the date the property owner's application for a limitation on appraised value was approved by a school district. A shorter time period could be agreed to by the governing body of the school district and property owner.

The bill would specify that certain sections of Tax Code, ch. 313 would apply to property used in the production of nuclear electric power owned by an entity which was subject to the revised franchise tax enacted under HB 3 by Keffer, 79th Legislature, third called session on and after January 1, 2008. This would include sections governing:

- limitation on appraised value of certain property used to create jobs;
- limitation on appraised value of property in certain rural school districts; and
- school tax credits.

The bill would validate the actions of a taxing unit or school district that considered an abatement agreement before the bill's effective date.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

SUPPORTERS SAY:

CSHB 2994 would build on the success of the Texas Economic Development Act by extending eligibility to nuclear and IGCC power plants. Property tax credits granted by school districts through the Economic Development Act have been a useful tool for local governments to encourage business expansion throughout the state. Allowing tax credits for nuclear and IGCC plants would benefit the local economy in communities in which a plant was located and would increase Texas energy production with a low-emissions alternative to pulverized coal plants.

By adding nuclear electric power generation and IGCC facilities to the Texas Economic Development Act, CSHB 2994 would put Texas at the cutting edge of developing clean, reliable, and efficient power solutions for Texas consumers.

Nuclear energy offers great promise for meeting the rising demand for electricity with low cost, zero emissions power. Nuclear plants produce no controlled air pollutants such as sulfur and particulates or greenhouse gases. Once a plant has been constructed, the production cost of nuclear power is less than coal and a fraction of natural gas. The are 103 operating nuclear units in the United States that provide 20 percent of the country's electricity, second only to coal among fuel sources in the United States. Nuclear power is an essential part of the solution to the complex problems of global climate change, air pollution, and energy independence.

Nuclear energy is a safe, reliable energy option. Only two accidents have occurred in 12,000 cumulative reactor-years of commercial operation in 32 countries, and only Chernobyl released harmful radiation. Although some are vocal in their opposition to nuclear power, those critics provide no guidance about what else can viably be done to address the growing demand for energy. Coal is too dirty, natural gas is limited in supply and expensive, and wind and solar power are unreliable and unrealistic as a large scale solution. Nuclear power is an essential component of a multi-part strategy to address Texas' growing need for energy.

While nuclear power is an affordable source of energy once a facility is on-line, the permitting and construction process is very expensive. For this reason, tax incentives are required to make new nuclear plants economically viable. The process to obtain a license from the Nuclear Regulatory Commission takes years and can cost up to $100 million. The total cost of a nuclear project is estimated between $2.5 and $3 billion. Without abatements such as those authorized under CSHB 2994, it is unlikely that any additional nuclear capacity will be brought on-line in Texas.

In the past, the cost to a utility of constructing a plant could be passed on to ratepayers. This was the case with the two existing nuclear plants in Texas, The South Texas Project owned by NRG and Comanche Peak owned by TXU. However, with electric deregulation, a nuclear power plant developer faces a much greater financial risk, as investors must assume the risk and the developer must find a willing buyer for power generated at the facility. For these reasons, in order to make additional nuclear power development viable it has become necessary for the state to minimize the cost of building and operating a plant by authorizing limitations on the appraised value of such a plant.

CSHB 2994 also would include IGCC plants among the list of projects available for appraised value limitations. IGCC plants hold the promise of helping Texas meet a growing demand for energy while preserving the environment. The technology employed in an IGCC plant can minimize the environmental impact of coal, one of the most inexpensive and abundant energy sources on the planet.

A new nuclear or IGCC plant would provide a significant economic benefit to any community in which it was located. For this reason, these projects clearly fall under the intent of the Economic Development Act. In particular, the proposed addition of two new units to the South Texas Nuclear Project in Matagorda County would create an estimated 3,000 jobs at peak construction of the $5.2 billion unit. It is estimated that the project would lead to 800 to 1,000 high paying, highly skilled permanent jobs.

The appraised value limitations authorized under CSHB 2994 would be entirely voluntary for a school district. Nothing under the bill would force a district to agree to these limitations if it determined that it did not want to incentivize a new nuclear or IGCC plant in the district.

Taking into account the long permitting and construction horizon associated with nuclear power plant construction, CSHB 2994 would allow a school district to defer by up to seven years the date at which appraised value limitations would begin. This option would allow a district to receive tax revenue while the plant is being constructed, and allow the plant owner to realize benefits of the abatements from the time the plant goes on-line and energy is available for sale.

OPPONENTS SAY:

CSHB 2994 would allow public subsidies for the construction of costly and dangerous nuclear power plants in Texas. Nuclear power is economically unfeasible without taxpayer subsidies like those in this bill. Nuclear plants take years to construct and require millions of dollars in public subsidies, making nuclear power an unrealistic way of addressing pollution and climate change. Texas instead should focus public subsidies to support IGCC plants like the ones included under HB 2994, in addition to renewable energy such as wind and solar power. Further, Texas should focus on reducing demand through energy efficiency and conservation.

The nuclear power industry has not settled the issue of disposal of radioactive waste produced in the generation process. High and low-level

radioactive waste remains dangerous for several hundred thousand years. Transportation and storage of high level radioactive waste is an unsettled issue, with the Yucca Mountain waste disposal project in Nevada mired in controversy and unlikely to open any time soon. On-site waste storage remains the most likely option at existing and future nuclear power plants, a non-permanent solution that poses its own risks.

Security and safety at nuclear plants in a serious concern. A terrorist attack at a nuclear facility similar to the 9/11 attacks would be catastrophic. The South Texas Project nuclear plant, site of two proposed additional new nuclear facilities, was the subject of a report by the Union of Concerned Scientists that highlighted deficient security protocols at the existing plant. In addition, the possibility of a leak or failure at a plant could contaminate ground or surface water or the land close to a plant. The public safety concerns associated with nuclear power are simply too great to encourage the construction of additional nuclear plants.

In addition to problems linked directly to the plants, the nuclear power has several unacceptable consequences. Uranium mining is a dangerous process resulting in risks to the environment and public health. Nuclear power also increases the risks of nuclear proliferation, as nuclear materials become more susceptible to theft. For reasons both environmental and social, nuclear energy is a technology that Texas simply should not pursue.

CSHB 2994 could represent a very large cost to the state for nuclear power projects that are already being planned and might be built even without this bill. If the value of a $2.5 billion nuclear electric generation facility was limited at $10 million, the state could be required to contribute approximately $25 million per year to hold the local school district harmless. The cost to the state of a more expensive plant would be even greater. Local school districts would be held harmless by the state under CSHB 2994, and would have no reason to avoid this type of agreement, allowing a local school board to enter into an agreement which ultimately could cost state taxpayers hundreds of millions of dollars over the life of the agreement.

NOTES:

The committee substitute specified that certain sections of Tax Code ch. 313 would apply to property used in the production of nuclear electric power that was owned by an entity subject to the revised franchise tax on and after January 1, 2008.

According to the Legislative Budget Board, CSHB 1952 could result in the reduction of taxable property values at the expense of the Foundation School Fund.

HB 1952 by Anderson, which would add electric generation projects using IGCC technology to the list of projects eligible for limitations on the appraised value of property for school district M&O property taxation, passed the House on April 12 by 144-0 and has been referred to the Senate Subcommittee on Emerging Technology and Economic Development.