

- SUBJECT:** Providing a tax benefit for oil produced through CO<sub>2</sub> sequestration
- COMMITTEE:** Ways and Means — committee substitute recommended
- VOTE:** 8 ayes — Keffer, Ritter, Bonnen, Y. Davis, Flores, Paxton, Pena, Pitts  
0 nays  
1 absent — Otto
- WITNESSES:** For — Scott Anderson, Environmental Defense; Ben Sebree, Texas Oil and Gas Association; Donna Warndorf, Texas Independent Producers and Royalty Owners; (*Registered, but did not testify:* Adrian Acevedo, Anadarko Petroleum Corp.; Walt Baum, Association of Electric Companies of Texas; Gloria Leal, Texas Alliance of Energy Producers; Steve Perry, Chevron USA; Cyrus Reed, Lone Star Chapter of the Sierra Club; Tom Sellers, Conoco Phillips; Eric Woomer, Xcel Energy)  
  
Against — None  
  
On — Mark H. Holtz, The University of Texas - Austin Bureau of Economic Geology (*Registered, but did not testify:* John Tintera, Railroad Commission of Texas)
- BACKGROUND:** Under Tax Code, sec. 11.31, a person is entitled to an exemption from ad valorem taxation of real and personal property used for the control of air, water, or land pollution.  
  
Tax Code sec. 202.052 imposes a tax at the rate of 4.6 percent of the market value of oil produced or 4.6 percent for each barrel of 42 standard gallons of oil produced, whichever is greater. Oil produced from a new or expanded enhanced recovery project for the displacement of oil from the earth, the rate of the tax is 2.3 percent.
- DIGEST:** Under CSHB 3431, the producer of oil that was recovered through a new or expanded enhanced oil recovery project would be entitled to an additional 50 percent reduction in its tax rate on the oil produced if the project used carbon dioxide (CO<sub>2</sub>) that:

- was captured from an anthropogenic (i.e., human-made) source;
- would otherwise be released into the atmosphere;
- was measurable at the source of capture; and
- was sequestered in a geologic formation following the enhanced oil recovery process.

If a portion of the CO<sub>2</sub> was not from an anthropogenic source, the 50 percent tax reduction would be reduced by an amount proportional to the amount of CO<sub>2</sub> that was from an anthropogenic source.

The operator would have to apply for the rate from the comptroller, who would base the determination upon certification of the operator from:

- the Texas Railroad Commission (RRC), if CO<sub>2</sub> was used to be sequestered in a reservoir productive of oil or natural gas;
- the Texas Commission on Environmental Quality (TCEQ), if the CO<sub>2</sub> was to be sequestered in a geologic formation other than a reservoir productive of oil or natural gas; or
- both RRC and TCEQ, if both circumstances applied.

RRC and TCEQ only could issue certification if the agency determined that it was reasonable to expect that:

- the planned sequestration program would retain at least 99 percent of the CO<sub>2</sub> sequestered for at least 1,000 years; and
- the sequestration program would include a monitoring and verification measure to demonstrate the effectiveness of the program.

If the program failed, the operator would have to refund the difference in the amount paid under the tax rate reduction and the amount that would have been paid without the rate reduction.

A producer would be entitled to credit against taxes imposed if, before the comptroller had approved an application, the producer had paid taxes at a rate that did not take into account the credit offered under the bill on oil that qualified under the bill. To receive credit, a producer would have to apply within a year of the date that the oil was produced.

The bill also would provide an exemption from ad valorem taxation for property that was used to capture carbon dioxide from an anthropogenic

source that was geologically sequestered or was used for an enhanced recovery project authorized for a tax rate reduction under the bill.

The ad valorem tax exemption for property used in the sequestration of anthropogenic CO<sub>2</sub> would take effect January 1, 2008.

The bill would take effect September 1, 2007.

**NOTES:**

The House adopted an amendment by Rep. Strama with the almost identical text of HB 3431 during consideration of HB 3732 by Hardcastle, which passed the House by 141-2 on April 26 and has been referred to the Senate Natural Resources Committee.