

BILL ANALYSIS

Senate Research Center
85R19229 ADM-F

H.B. 2277
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Finance
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Natural gas producers pay a 7.5 percent severance tax, though some wells are eligible for a reduced tax rate if they are certified by the Railroad Commission of Texas as a high-cost natural gas well. The magnitude of the rate reduction is based in part on the median drilling and completion (D&C) costs from all high-cost gas wells in the previous fiscal year, as reported to the Texas comptroller of public accounts (comptroller).

The comptroller maintains there is confusion as to whether the D&C cost variable should be recalculated when amended reports come in after the close of the tax year.

H.B. 2277 clarifies that the comptroller's annual determination of the median drilling and completion costs used to calculate the reduced tax rate is final. H.B. 2277 addresses the deadline for submitting the drilling and completion costs for individual wells, establishing a March 1 deadline, ensuring that the median does not change.

H.B. 2277 codifies current practice of providing refunds for overpayments of tax and strikes language specific to expired tax exemptions to clean up the statute.

H.B. 2277 has been vetted by industry groups and did not receive opposition in the House.

H.B. 2277 amends current law relating to the temporary exemption or tax reduction for certain high-cost gas.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 201.057(a)(2), Tax Code, to redefine "high-cost gas."

SECTION 2. Amends Section 201.057, Tax Code, by amending Subsections (c), (e), (f), (g), and (i) and adding Subsection (g-1), as follows:

(c) Deletes existing text defining "high-cost gas" as defined in Subsection (a)(2)(A) (relating to the definition of high-cost gas).

(e) Deletes existing text authorizing the operator of any proposed or existing oil or gas well within a Railroad Commission of Texas (railroad commission) approved co-production project to apply to the railroad commission for certification that the well produces or will produce high-cost gas. Deletes existing text authorizing the application, if seeking certification as high-cost gas according to Subsection (a)(2)(A); be made at any time after the first day of production. Deletes existing text authorizing that the application be made but is not required to be made concurrently with a request for railroad commission approval of a co-production project. Provides that for purposes of the Natural Gas Policy Act of 1978 (15 U.S.C. Section 3301 et seq.), rather than according to Subsection (a)(2)(A) or a determination that gas is produced from within a railroad

commission approved co-production project, is a certification that the gas is high-cost gas for purposes of this section, and in that event additional certification is not required to qualify for the tax reduction, rather than exemption, provided by this section. Makes conforming changes.

(f) Changes references to tax deduction or tax exemption to tax reduction. Changes references to oil or gas well to well. Deletes existing text requiring the application to contain certain items if the application is for a well spudded or completed after September 1, 1995. Deletes existing text prohibiting an application to the Texas comptroller of public accounts (comptroller) for certification according to Subsection (a)(2)(B) (relating to the definition of "high-cost gas") from being filed before January 1, 1990, or after December 31, 1998.

(g) Requires the comptroller, in making a certain determination, to use the drilling and completion cost data required to be reported to the comptroller under Subsection (f). Provides that the cost is fixed on the date of the comptroller's determination under this subsection. Deletes existing text requiring the comptroller to make certain determinations from reports containing drilling and completion cost data as required on applications to the comptroller under Subsection (f).

(g-1) Prohibits the report of drilling and completion costs required under Subsection (f) from being amended after March 1 of the year following the state fiscal year in which the application was made.

(i) Provides that a person who remitted the tax, if, before certain actions occur, the tax imposed by this chapter is paid in a certain way, is entitled to a refund in a certain amount, rather than the producer or producers of the gas, if, before certain actions occur, the tax imposed by this chapter is paid in a certain way, are entitled to a credit against other taxes imposed by this chapter in a certain amount. Prohibits the total allowable refund for certain taxes from exceeding a certain amount that the comptroller approved, rather than prohibits the total allowable credit for certain taxes, if the application for certification is submitted to the railroad commission after January 1, 2004, from exceeding a certain amount. Requires the person entitled to a refund, to receive a refund, to apply to the comptroller for the refund not later than a certain date, rather than requiring one or more producers, to receive a credit, to apply to the comptroller for the credit not later than a certain date, rather than requiring one or more producers, to receive a credit, to apply the comptroller for the credit not later than a certain date. Deletes existing text providing that credit is allocated to each producer according to the producers proportionate share of the gas, entitling the producer to claim a refund under certain circumstances, and requiring nothing in this subsection to relieve a certain obligation. Makes conforming changes.

SECTION 3. Repealer: Sections 201.057(a)(3) (relating to the definition of "commission approved co-production project"), (a)(4) (relating to the definition of "high-volume water withdrawals), (a)(5) (relating to the definition of "co-production"), (b) (relating to high-cost gas produced from a well being eligible for a tax exemption), (d) (relating to requiring taxes to be due on a certain date), and (j) (relating to an application for a co-production project), Tax Code.

SECTION 4. Provides that the change in law made by this Act does not affect tax liability accruing before the effective date of this Act. Provides that liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 5. Effective date: September 1, 2017.