

BILL ANALYSIS

Senate Research Center

S.B. 533
By: Birdwell
Natural Resources & Economic Development
5/23/2019
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 533 incentivizes operators to bring inactive wells back into production by reinstating a previous program that provided a severance tax exemption. Reactivating inactive wells benefits the state through increased sales taxes, property taxes, and employment. Previously, inactive wells were eligible for a severance tax exemption if they were designated as either a "three-year inactive well" or a "two-year inactive well" through certification from the Railroad Commission of Texas (railroad commission). Per statute, the railroad commission could no longer designate wells as three-year or two-year inactive wells after 1996 and 2009, respectively. Under the previous program, wells certified as inactive were eligible for a severance tax exemption that lasted for 10 years. Currently the railroad commission is seeking funding from the legislature to allow for the plugging of abandoned wells. Despite the railroad commission's success, the abandoned well inventory continues to grow. Additionally, the average plugging cost has increased significantly in the last two years due to increased contractor costs and greater depths of newer wells.

S.B. 533 provides severance tax relief for wells that have been returned to active status, as defined by statute, after two years or more of inactivity. Statute defines a "two-year inactive well" as a well that has not produced oil or gas in more than one month in the two years preceding the date of application for severance tax exemption in this program. S.B. 533 reduces the time period for the severance tax exemption from 10 years to 5 years. The bill also clarifies that the severance tax exemption does not apply to wells used for enhanced oil recovery and wells that have been drilled but not completed and that do not have a record of production on file with the railroad commission. Providing an incentive to bring abandoned wells back online reduces the burden on the railroad commission's well program. (Original Author's/Sponsor's Statement of Intent)

S.B. 533 amends current law relating to the severance tax exemption for oil and gas produced from certain inactive wells.

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 202.056(a)(4), Tax Code, to specify that the definition of "two-year inactive well" does not include a well that is part of an enhanced oil recovery project, as defined by Section 89.002 (Definitions), Natural Resources Code, or a well that is drilled but not completed and that does not have a record of hydrocarbon production reported to the Railroad Commission of Texas (railroad commission).

SECTION 2. Amends Section 202.056, Tax Code, by amending Subsections (b), (c), (d), (e), (h), and (i) and adding Subsections (j) and (k), as follows:

- (b) Provides that hydrocarbons produced from a well qualify for a five-year severance tax exemption if the railroad commission designates the well as a two-year inactive well, rather than qualify for a 10-year severance tax exemption if the railroad commission

designates the well as a three-year inactive well or a two-year inactive well. Requires the railroad commission to immediately notify in writing the comptroller of public accounts of the State of Texas (comptroller) if the railroad commission determines that the operation of the two-year inactive well, rather than the three-year inactive well or two-year inactive well, has been terminated or if the railroad commission discovers any information that affects the taxation of the production from the designated well. Makes nonsubstantive changes to this subsection.

(c) Deletes existing text relating to prohibiting the railroad commission from designating a three-year inactive well after February 29, 1996, or designating a two-year inactive well after February 28, 2010. Makes conforming changes to this subsection.

(d) Requires that an application for two-year inactive well certification be made to the railroad commission to qualify for the tax exemption under this section (Exemption For Oil and Gas From Wells Previously Inactive). Deletes existing text requiring an application for three-year inactive well certification to be made during the period of September 1, 1993, through August 31, 1995, to qualify for the tax exemption and text requiring that an application for two-year inactive well certification be made during the period of September 1, 1997, through August 31, 2009.

(e) Authorizes the railroad commission to revoke a certificate if information indicates that a certified well was not a two-year inactive well, rather than if information indicates that a certified well was not a three-year inactive well or a two-year inactive well, as appropriate, or if other lease production is credited to the certified well.

(h) Provides that the operator is entitled to certain credit if tax is paid at the full rate provided by Sections 201.052(a) (relating to a 7.5 percent of market value rate of tax for gas) or 202.052(a) (relating to a 4.6 percent of market value rate of tax for oil), rather than at the full rate provided by Sections 201.052(a), 201.052(b) (subsection repealed by Acts 2001, 77th Legislature, Chapter 1263, Section 84(3)), 202.052(a), or 202.052(b) (relating to a 2.3 percent of market value rate of tax for certain oil projects), before the comptroller approves an application for an exemption provided for in this chapter (Oil Production Tax). Provides that to receive a credit the operator is required to apply to the comptroller for the credit before the expiration of the applicable period for filing a tax refund claim under Section 111.104 (Refunds).

(i) Makes conforming and nonsubstantive changes to this subsection.

(j) Creates this subsection from existing text and makes conforming and nonsubstantive changes throughout this subsection.

(k) Creates this subsection from existing text and authorizes the Texas attorney general to recover a penalty under Subsection (j), rather than under Subdivision (2) of this subsection, in a suit brought on behalf of the state.

SECTION 3. Repealer: Section 202.056(a)(3) (relating to the definition of "three-year inactive well"), Tax Code.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2019.