

By: Geren

H.B. No. 3321

A BILL TO BE ENTITLED

AN ACT

relating to a severance tax credit for gas produced from certain wells that use an onsite flare mitigation system.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 201, Tax Code, is amended by adding Section 201.061 to read as follows:

Sec. 201.061. TAX CREDIT FOR GAS PRODUCED FROM WELL USING ONSITE FLARE MITIGATION SYSTEM. (a) In this section:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Flare mitigation" means the quantity of British thermal units of heat content of gas used by a qualifying onsite flare mitigation system. The term does not include the heat content of any gas flared from a well before, during, or after intake by an onsite flare mitigation system.

(3) "Marginal well" has the meaning assigned by Section 85.121, Natural Resources Code.

(4) "Qualifying onsite flare mitigation system" means a system that:

(A) is installed at a well site on or after May 29, 2023;

(B) takes in gas and natural gas liquids from the well;

(C) separates and collects or uses over 50

1 percent of the propane and heavier hydrocarbons taken in from the
2 well;

3 (D) reduces flared thermal intensity:

4 (i) by compressing or liquefying gas for
5 use as fuel or for transport to a processing facility; or

6 (ii) as a result of gas or natural gas
7 liquids being:

8 (a) used to produce petrochemicals or
9 fertilizer;

10 (b) converted into liquid fuels;

11 (c) used to generate electricity for
12 onsite use or supply to the electrical grid;

13 (d) used to produce computational
14 power; or

15 (e) used in another beneficial
16 process approved by the commission;

17 (E) is not installed on:

18 (i) a marginal well; or

19 (ii) a well that is connected to a pipeline
20 with available takeaway capacity or that may be connected to such a
21 pipeline in a technically and commercially feasible manner; and

22 (F) is not a:

23 (i) system that supports the normal
24 production operations of a well;

25 (ii) system that consumes gas as part of the
26 normal production operations of a well, such as a heater treater, a
27 separator, or a method of electrical dissipation through a load

1 bank; or

2 (iii) system or application traditionally
3 considered an on-pad use.

4 (5) "Qualifying well" means a well:

5 (A) that is:

6 (i) connected to a pipeline on which
7 pipeline takeaway capacity is unavailable;

8 (ii) not connected to a pipeline and for
9 which connection to a pipeline is technically or commercially
10 unfeasible but is operated by a well operator who has contractually
11 dedicated the well, the gas produced from the well, or the land or
12 lease on which the well is located to a pipeline operator; or

13 (iii) not connected to a pipeline and is
14 operated by a well operator who has not contractually dedicated the
15 well, the gas produced from the well, or the land or lease on which
16 the well is located to a pipeline operator; and

17 (B) on which a qualifying onsite flare mitigation
18 system is installed.

19 (6) "Sour gas" has the meaning assigned by Section
20 86.002, Natural Resources Code.

21 (b) The person responsible for paying the tax imposed by
22 this chapter on gas produced from a qualifying well is entitled to a
23 credit against that tax. Subject to Subsection (i), the amount of
24 the credit to which the person is entitled is:

25 (1) \$1 per million British thermal units of flare
26 mitigation that results from the operation of the qualifying onsite
27 flare mitigation system installed on the qualifying well; or

1 (2) if the qualifying well produces sour gas, \$2 per
2 million British thermal units of flare mitigation that results from
3 the operation of the qualifying onsite flare mitigation system
4 installed on the qualifying well.

5 (c) A well operator and a pipeline operator, as applicable,
6 may apply to the commission in the manner provided by Subsection
7 (d), (e), or (f) for certification that a well is a qualifying well
8 and, if applicable, that the well produces sour gas.

9 (d) An application that relates to a well described by
10 Subsection (a)(5)(A)(i) must:

- 11 (1) attest to the lack of pipeline takeaway capacity;
12 (2) if applicable, attest that the well produces sour
13 gas; and
14 (3) be submitted jointly by the well operator and the
15 pipeline operator.

16 (e) An application that relates to a well described by
17 Subsection (a)(5)(A)(ii) must:

- 18 (1) attest that:
19 (A) the well is not connected to a pipeline; and
20 (B) it is technically or commercially unfeasible
21 to connect the well to a pipeline;
22 (2) if applicable, attest that the well produces sour
23 gas; and
24 (3) be submitted jointly by the well operator and the
25 pipeline operator.

26 (f) An application that relates to a well described by
27 Subsection (a)(5)(A)(iii) must:

1 (1) attest that the well:

2 (A) is not connected to a pipeline; and

3 (B) is operated by a well operator who has not
4 contractually dedicated the well, the gas produced from the well,
5 or the land or lease on which the well is located to a pipeline
6 operator;

7 (2) if applicable, attest that the well produces sour
8 gas; and

9 (3) be submitted by the well operator.

10 (g) The commission may require an applicant described by
11 Subsection (c) to provide the commission with any information the
12 commission determines is relevant to determining whether a well is
13 a qualifying well and, if applicable, whether the well produces
14 sour gas. If the commission approves an application submitted
15 under Subsection (c), the commission shall issue a certificate
16 designating the well as a qualifying well and, if applicable,
17 indicate on the certificate that the well produces sour gas.

18 (h) To qualify for the credit provided by this section, the
19 person responsible for paying the tax imposed by this chapter must
20 apply to the comptroller. The application must contain the
21 certificate issued by the commission under Subsection (g). The
22 comptroller may require a person applying for the credit to provide
23 any additional information the comptroller determines is relevant
24 to determining whether the person is eligible to receive the
25 credit.

26 (i) A person may not claim an amount of credit on a report
27 that exceeds the amount of tax due on the report.

1 (j) The commission, well operator, or pipeline operator
2 shall notify the comptroller in writing immediately if a well
3 certified under this section is no longer a qualifying well.

4 (k) The commission and the comptroller may adopt rules
5 necessary to implement and administer this section.

6 SECTION 2. The change in law made by this Act does not
7 affect tax liability accruing before the effective date of this
8 Act. That liability continues in effect as if this Act had not been
9 enacted, and the former law is continued in effect for the
10 collection of taxes due and for civil and criminal enforcement of
11 the liability for those taxes.

12 SECTION 3. This Act takes effect September 1, 2023.