

By: Burnam

H.B. No. 1090

A BILL TO BE ENTITLED

AN ACT

relating to the imposition of a tax on the use of coal and to the use of the revenue from the tax to reduce the rate of the tax on natural gas; providing penalties.

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

SECTION 1. Subtitle E, Title 2, Tax Code, is amended by adding Chapter 163 to read as follows:

CHAPTER 163. COAL TAX

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 163.001. DEFINITIONS. In this chapter:

(1) "Coal" includes lignite.

(2) "Lignite" means coal commonly referred to as brown coal, of intermediate grade between peat and bituminous coal.

(3) "Use" includes storage for use in this state, but does not include the storage for use or shipment out of this state.

[Sections 163.002-163.020 reserved for expansion]

SUBCHAPTER B. IMPOSITION AND COLLECTION OF TAX

Sec. 163.021. TAX IMPOSED. (a) A tax is imposed on the purchase in this state of coal for use in this state.

(b) A tax is imposed on the use of coal in this state.

Sec. 163.022. RATE OF TAX. (a) Except as provided by Subsection (b), the rate of the taxes imposed by this chapter is 7.5 percent of the total price paid for the coal, without regard to where the purchase occurs, delivered at the site at which the coal

1 will be used, including transportation costs to that site.

2 (b) The rate of the taxes imposed by this chapter on coal
3 used in this state by a producer of coal who owns the coal in place
4 and who produces the coal for the producer's own use is 7.5 percent
5 of the fair market value of the coal, including transportation
6 costs to the site at which the coal is used.

7 Sec. 163.023. USE TAX DEDUCTION. A person may deduct from
8 the amount of tax otherwise imposed by Section 163.021(b) the
9 amount of tax reported and paid under Section 163.021(a).

10 Sec. 163.024. PAYMENT OF TAX. On or before the 25th day of
11 each month, each person on whom a tax is imposed by this chapter
12 shall send to the comptroller the amount of tax due under this
13 chapter for the preceding month.

14 Sec. 163.025. REPORTS. On or before the 25th day of each
15 month, each person on whom a tax is imposed by this chapter shall
16 file with the comptroller a report stating:

17 (1) the amount of coal purchased by the person for use
18 in this state and used in this state during the preceding month and
19 the total price of that coal;

20 (2) the amount of coal used in this state by a producer
21 of coal who owns the coal in place and who produces the coal for the
22 producer's own use, and the total market value of that coal; and

23 (3) any other information required by the comptroller.

24 Sec. 163.026. RECORDS. A person on whom a tax is imposed by
25 this chapter shall keep a complete record of:

26 (1) the amount of coal purchased by the person for use
27 in this state;

1 (2) the use of coal in this state by the person; and

2 (3) any other information required by the comptroller.

3 [Sections 163.027-163.050 reserved for expansion]

4 SUBCHAPTER C. PENALTIES AND OFFENSES

5 Sec. 163.051. INTEREST ON DELINQUENT TAX. A tax imposed by
6 this chapter that is delinquent draws interest as provided by
7 Section 111.060.

8 Sec. 163.052. PENALTY. (a) A person on whom a tax is
9 imposed by this chapter and who fails to file a report as required
10 by this chapter or does not pay the tax when it is due forfeits to
11 the state a penalty of 12 percent of the amount of tax delinquent.

12 (b) If a report required by this chapter is not filed or a
13 tax imposed by this chapter is not paid within 30 days after it is
14 due, the person on whom the tax is imposed forfeits to the state a
15 penalty of an additional 12 percent of the amount of tax delinquent.

16 (c) The minimum penalty under this section is \$1.

17 Sec. 163.053. CRIMINAL PENALTY. (a) A person who violates
18 this chapter commits an offense.

19 (b) An offense under this section is a Class C misdemeanor.

20 [Sections 163.054-163.070 reserved for expansion]

21 SUBCHAPTER D. ALLOCATION AND USE

22 Sec. 163.071. ALLOCATION OF TAX REVENUE. All of the
23 revenue from the tax imposed by this chapter shall be deposited to
24 the credit of the general revenue fund.

25 SECTION 2. Section 201.052, Tax Code, is amended to read as
26 follows:

27 Sec. 201.052. RATE OF TAX. [~~(a)~~] The tax imposed by this

1 chapter is at the rate of 6.7 [~~7.5~~] percent of the market value of
2 gas produced and saved in this state by the producer.

3 SECTION 3. Subchapter I, Chapter 201, Tax Code, is amended
4 by adding Section 201.405 to read as follows:

5 Sec. 201.405. TRANSFER TO ECONOMIC STABILIZATION FUND. Not
6 later than the 90th day of each fiscal year, the comptroller shall
7 transfer from the general revenue fund to the economic
8 stabilization fund an amount equal to the amount the comptroller
9 would have transferred to that fund under Section 49-g(e), Article
10 III, Texas Constitution, if the rate of the tax imposed under this
11 chapter were equal to the rate at which the tax was imposed on
12 August 31, 2005.

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

19 SECTION 5. This Act takes effect September 1, 2005.