

By: West

H.B. No. 1202

Substitute the following for H.B. No. 1202:

By: Gonzalez Toureilles

C.S.H.B. No. 1202

A BILL TO BE ENTITLED

AN ACT

relating to severance tax credits for continued production from certain low-producing gas wells and oil leases.

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

SECTION 1. Subchapter B, Chapter 201, Tax Code, is amended by adding Section 201.059 to read as follows:

Sec. 201.059. CREDITS FOR QUALIFYING LOW-PRODUCING WELLS.

(a) In this section:

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

(2) "Mcf" means 1,000 cubic feet of gas as measured in accordance with Section 91.052, Natural Resources Code.

(3) "Qualifying low-producing well" means a commission-designated gas well whose production during a three-month period is no more than 90 mcf per day, excluding gas flared pursuant to the rules of the commission. For purposes of qualifying a gas well, production per well per day is determined by computing the average daily production from the well using the "P-2" monthly well production report made to the commission. The commission shall certify to the comptroller a list of qualifying wells.

(b) Each month, the comptroller shall certify the average taxable price of gas, adjusted to 2005 dollars, during the previous three months based on various price indices available to producers,

1 including prices reported by Henry Hub, Houston Ship Channel,
2 Mississippi Barge Transport, New York Mercantile Exchange, or other
3 spot prices, as applicable. The comptroller shall publish
4 certifications under this subsection in the Texas Register.

5 (c) An operator of a qualifying low-producing well is
6 entitled to a 25 percent credit on the tax otherwise due on gas
7 produced and saved from that well during a month if the average
8 taxable price of gas certified by the comptroller under Subsection
9 (b) for the previous three-month period is more than \$3 per mcf but
10 not more than \$3.50 per mcf.

11 (d) An operator of a qualifying low-producing well is
12 entitled to a 50 percent credit on the tax otherwise due on gas
13 produced and saved from that well during a month if the average
14 taxable price of gas certified by the comptroller under Subsection
15 (b) for the previous three-month period is more than \$2.50 per mcf
16 but not more than \$3 per mcf.

17 (e) An operator of a qualifying low-producing well is
18 entitled to a 100 percent credit on the tax otherwise due on gas
19 produced and saved from that well during a month if the average
20 taxable price of gas certified by the comptroller under Subsection
21 (b) for the previous three-month period is not more than \$2.50 per
22 mcf.

23 (f) If the tax is paid on gas at the full rate provided by
24 Section 201.052, the person paying the tax is entitled to a credit
25 against taxes imposed by this chapter or Chapter 202 on the amount
26 overpaid. To receive the credit, the person must apply to the
27 comptroller for the credit not later than the expiration of the

1 applicable period for filing a tax refund under Section 111.104.

2 SECTION 2. Subchapter B, Chapter 202, Tax Code, is amended
3 by adding Section 202.058 to read as follows:

4 Sec. 202.058. CREDITS FOR QUALIFYING LOW-PRODUCING OIL
5 LEASES. (a) In this section:

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

8 (2) "Qualifying low-producing oil lease" means a well
9 classified as an oil well that is part of a lease whose production
10 during a 90-day period is less than:

11 (A) 15 barrels of oil per day of production; or

12 (B) five percent recoverable oil per barrel of
13 produced water.

14 (b) For purposes of qualifying a lease, production per well
15 per day is determined by computing the average daily per well
16 production from the lease using the "P-1" monthly lease production
17 report made to the commission. For purposes of qualifying a lease,
18 production per well per day is measured by dividing the sum of lease
19 production during the three-month period by the sum of the number of
20 well-days, where a well-day is one well producing for one day. The
21 commission shall certify to the comptroller a list of qualifying
22 leases. The operator of a lease that is eligible for a credit under
23 this section only on the basis of Subsection (a)(2)(B) must pay to
24 the comptroller a filing fee of \$100 before the comptroller may
25 authorize the credit.

26 (c) Each month, the comptroller shall certify the average
27 taxable price of oil, adjusted to 2005 dollars, during the previous

1 three months based on various price indices available to producers,
2 including the reported Texas Panhandle Spot Price, West Texas
3 Intermediate Crude Spot Price, New York Mercantile Exchange, or
4 other spot prices, as applicable. The comptroller shall publish
5 certifications under this subsection in the Texas Register.

6 (d) An operator of a qualifying low-producing lease is
7 entitled to a 25 percent credit on the tax otherwise due on oil
8 produced from that lease during a month if the average taxable price
9 of oil certified by the comptroller under Subsection (c) for the
10 previous three-month period is more than \$25 per barrel but not more
11 than \$30 per barrel.

12 (e) An operator of a qualifying low-producing lease is
13 entitled to a 50 percent credit on the tax otherwise due on oil
14 produced from that lease during a month if the average taxable price
15 of oil certified by the comptroller under Subsection (c) for the
16 previous three-month period is more than \$22 per barrel but not more
17 than \$25 per barrel.

18 (f) An operator of a qualifying low-producing lease is
19 entitled to a 100 percent credit on the tax otherwise due on oil
20 produced from that lease during a month if the average taxable price
21 of oil certified by the comptroller under Subsection (c) for the
22 previous three-month period is not more than \$22 per barrel.

23 (g) If the tax is paid on oil at the full rate provided by
24 Section 202.052, the person paying the tax is entitled to a credit
25 against taxes imposed by this chapter or Chapter 201 on the amount
26 overpaid. To receive the credit, the person must apply to the
27 comptroller for the credit not later than the expiration of the

1 applicable period for filing a tax refund under Section 111.104.

2 SECTION 3. (a) This Act applies to gas and oil produced on
3 or after the effective date of this Act. Gas and oil produced
4 before the effective date of this Act are governed by the law in
5 effect on the date the gas and oil were produced, and that law is
6 continued in effect for that purpose.

7 (b) As soon as practicable after the effective date of this
8 Act, the comptroller shall perform the initial certification
9 determination required by Sections 201.059 and 202.058, Tax Code,
10 as added by this Act. The initial certification determination must
11 cover the three-month period beginning on June 1, 2005.

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

18 SECTION 4. This Act takes effect September 1, 2005.