

By: Seliger

S.B. No. 1634

A BILL TO BE ENTITLED

AN ACT

relating to the Texas Energy Education Council; authorizing the imposition of an assessment on producers of oil, gas, and condensate.

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

SECTION 1. Title 70, Revised Statutes, is amended by adding Article 4413(47g) to read as follows:

Art. 4413(47g). TEXAS ENERGY EDUCATION COUNCIL

PART 1. GENERAL PROVISIONS

Sec. 1.01. DEFINITIONS. In this article:

(1) "Condensate" has the meaning assigned by Section 201.001, Tax Code.

(2) "First purchaser" has the meaning assigned by Section 201.001 or 202.001, Tax Code, as applicable.

(3) "Gas" has the meaning assigned by Section 201.001, Tax Code.

(4) "Oil" has the meaning assigned by Section 202.001, Tax Code.

(5) "Person" includes an individual or group of individuals and a partnership, corporation, association, cooperative, or other legal entity.

(6) "Producer" has the meaning assigned by Section 201.001 or 202.001, Tax Code, as applicable.

PART 2. TEXAS ENERGY EDUCATION COUNCIL

Sec. 2.01. COMPOSITION OF COUNCIL. (a) The Texas Energy Education Council is composed of 15 members.

(b) The chairman of the Railroad Commission of Texas or the chairman's designee is a member of the council and shall serve as chair of the council.

(c) The commissioner of the Texas Education Agency is a member of the council and serves as vice chair of the council.

(d) The presidents of The University of Texas, Texas A&M University, Texas Tech University, and the University of Houston shall each appoint one member to the council from their faculty. To be eligible for appointment, a faculty member must teach courses in petroleum engineering, geology, math, or science.

(e) The executive officer, or a person designated by the executive officer, of each of the following organizations serves on the council:

- (1) the Texas Oil & Gas Association;
- (2) the Texas Independent Producers and Royalty Owners Association;
- (3) the Permian Basin Petroleum Association;
- (4) the Texas Alliance of Energy Producers; and
- (5) the Panhandle Producers and Royalty Owners Association.

(f) The governor shall appoint four members to serve on the council from lists of nominees provided by the organizations listed in Subsection (e) of this section.

Sec. 2.02. TERMS; VACANCIES. (a) The members of the

1 council appointed under Section 2.01(f) of this article serve for
2 staggered six-year terms, with the terms of one or two members, as
3 applicable, expiring February 1 of each odd-numbered year.

4 (b) A vacancy in an appointed position on the council shall
5 be filled for the unexpired portion of the term in the same manner
6 as the original appointment.

7 Sec. 2.03. COMPENSATION. A member of the council may not
8 receive compensation for service performed for the council. A
9 member is entitled to reimbursement for actual or necessary
10 expenses incurred in performing services as a member of the council
11 in the amount provided by the General Appropriations Act. Money
12 paid to a council member under this section shall be paid from the
13 energy education account.

14 PART 3. POWERS AND DUTIES OF COUNCIL

15 Sec. 3.01. POWERS AND DUTIES OF COUNCIL. (a) The council
16 shall:

17 (1) coordinate a program designed to:

18 (A) support educational activities at all levels
19 of public education in this state regarding the mathematic and
20 science skills needed for the exploration and production of oil and
21 gas in this state;

22 (B) support job training and public education
23 research activities regarding the exploration and production of oil
24 and gas in this state; and

25 (C) educate school children in this state in the
26 kindergarten through 12th grade levels and the general public in
27 this state on the exploration, production, refining, and

1 transportation of oil and gas;

2 (2) employ an executive director and appropriate staff
3 to implement the decisions and programs of the council; and

4 (3) implement the other provisions of this article.

5 (b) The council shall pay administrative expenses,
6 including the salaries and benefits of the executive director and
7 staff, from the energy education account. Annual administrative
8 expenses may not exceed an amount equal to 15 percent of the amount
9 deposited to the credit of the account that year.

10 PART 4. ENERGY EDUCATION ACCOUNT

11 Sec. 4.01. ENERGY EDUCATION ACCOUNT. (a) The energy
12 education account is an account in the general revenue fund. The
13 fund may be appropriated only to the council for the purposes of
14 this article.

15 (b) The energy education account consists of:

16 (1) gifts and grants;
17 (2) appropriations of money to the account by the
18 legislature; and

19 (3) assessments collected under Part 5 of this
20 article.

21 PART 5. ASSESSMENT

22 Sec. 5.01. IMPOSITION OF ASSESSMENT. (a) An assessment is
23 imposed on each producer of oil, gas, or condensate. The amount of
24 the assessment is equal to four-hundredths of one percent of the
25 market value of the oil, gas, or condensate produced and saved in
26 this state by the producer. The market value of oil, gas, or
27 condensate is the value of the oil, gas, or condensate at the mouth

1 of the well from which it is produced.

2 (b) Notwithstanding Subsection (a) of this section, a
3 producer may not be assessed in any year an amount that exceeds
4 \$150,000. For purposes of the limitation provided by this
5 subsection on assessments imposed on a producer, assessments
6 imposed on an affiliate or subsidiary, as defined by Article 13.02,
7 Texas Business Corporation Act, of a producer are considered to
8 have been imposed on the producer and the \$150,000 limitation
9 applies in the aggregate as to the producer and the producer's
10 affiliates or subsidiaries.

11 (c) Except as otherwise provided by this article, Chapters
12 201 and 202, Tax Code, apply to the assessment imposed by this
13 article as if the assessment were a tax imposed by those chapters.

14 (d) The assessment imposed by this article is not an
15 occupation tax, and a person who does not want to pay is entitled to
16 a refund as provided by Section 5.04 of this article.

17 (e) A first purchaser or producer, as applicable, shall
18 include as a separate item in any report required by Chapter 201 or
19 202, Tax Code, any required information relating to the assessment
20 imposed by this article.

21 Sec. 5.02. DEPOSIT OF ASSESSMENT. (a) Except as provided
22 by Subsection (b) of this section, the comptroller shall deposit an
23 assessment collected under this article to the credit of the energy
24 education account.

25 (b) The comptroller shall retain a portion of an assessment
26 collected under this article to cover the cost of administering the
27 imposition and collection of the assessment. The comptroller by

1 rule shall specify the portion of the assessment to be retained.

2 Sec. 5.03. COLLECTION OF ASSESSMENT. (a) The council is
3 responsible for taking appropriate legal action to collect any
4 assessment that is not paid to the comptroller. The comptroller is
5 not responsible for collecting any assessment that is not paid to
6 the comptroller.

7 (b) The comptroller shall report to the council any
8 information the comptroller obtains regarding the failure of any
9 person to properly pay an assessment and shall provide to the
10 council any documentation the comptroller may have of that failure.

11 Sec. 5.04. REFUND OF ASSESSMENT. (a) A person is entitled
12 to a refund of an assessment paid by the person during the preceding
13 state fiscal year if the person submits a request for a refund as
14 provided by this section.

15 (b) A request for a refund must be made to the comptroller
16 not later than the third calendar month following the end of the
17 state fiscal year for which the refund is requested. The request
18 must be in the form and include the information required by the
19 comptroller.

20 (c) If the assessment was paid by the producer, the producer
21 must submit the refund request, and any refund made shall be paid to
22 the producer. If the assessment was paid by a first purchaser on
23 behalf of the producer, the first purchaser, at the request of the
24 producer, shall submit a request for a refund, and any refund made
25 shall be paid to the first purchaser. The first purchaser shall
26 refund to the producer the amount refunded not later than the 60th
27 day after the date the first purchaser receives the refund.

1 (d) The council shall give notice of the right to request a
2 refund through:

3 (1) press releases;

4 (2) paid advertisements placed in newspapers with the
5 largest circulation in each county of the state; and

6 (3) other means the council considers appropriate.

7 (e) The comptroller shall determine the validity of a
8 request for a refund. The comptroller shall perform the
9 comptroller's duties under this section in a manner that minimizes,
10 to the extent practicable and appropriate, the burden on persons
11 providing information to the comptroller.

12 (f) If the comptroller determines that a person is entitled
13 to a refund, the comptroller shall refund the amount of the
14 assessment paid during the preceding state fiscal year, together
15 with interest at a rate equal to the average rate paid over the
16 preceding calendar year on United States treasury bills with a
17 12-month maturity date.

18 (g) The comptroller shall make refunds under this section in
19 the order in which the comptroller receives requests for refunds.
20 Notwithstanding the other provisions of this section, the
21 comptroller may not make refunds in a state fiscal year in an amount
22 that, in the aggregate, exceeds 60 percent of the total amount of
23 assessments collected during the preceding state fiscal year.

24 (h) The comptroller shall adopt rules to implement this
25 section and rules to suspend all assessments under Section 5.01 of
26 this article should funds in the energy education account be
27 appropriated by the legislature for any use other than those

1 provided by this Act.

2 PART 6. EXPIRATION

3 Sec. 6.01. EXPIRATION. This article expires September 1,
4 2015.

5 SECTION 2. As soon as practicable after receiving the lists
6 described by Section 2.01(f), Article 4413(47g), Revised Statutes,
7 as added by this Act, the governor shall appoint persons to serve on
8 the Texas Energy Education Council. The governor shall designate
9 two persons to serve on the council for terms expiring February 1,
10 2007, one person to serve on the council for a term expiring
11 February 1, 2009, and one person to serve on the council for a term
12 expiring February 1, 2011.

13 SECTION 3. This Act applies only to oil, gas, and condensate
14 produced and saved on or after January 1, 2006. Oil, gas, and
15 condensate produced and saved before that date is governed by the
16 law in effect on the date the oil, gas, or condensate is produced
17 and saved, and that law is continued in effect for that purpose.

18 SECTION 4. (a) Except as provided by Subsection (b) of this
19 section, this Act takes effect September 1, 2005.

20 (b) Part 5, Article 4413(47g), Revised Statutes, as added by
21 this Act, takes effect January 1, 2006.