

1-1 By: Seliger S.B. No. 1634
1-2 (In the Senate - Filed March 11, 2005; March 23, 2005, read
1-3 first time and referred to Committee on Natural Resources;
1-4 April 18, 2005, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 18, 2005,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1634 By: Seliger

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the Texas Energy Education Council; authorizing the
1-11 imposition of an assessment on producers of oil, gas, and
1-12 condensate.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Title 70, Revised Statutes, is amended by adding
1-15 Article 4413(47g) to read as follows:

1-16 Art. 4413(47g). TEXAS ENERGY EDUCATION COUNCIL

1-17 PART 1. GENERAL PROVISIONS

1-18 Sec. 1.01. DEFINITIONS. In this article:

1-19 (1) "Condensate" has the meaning assigned by Section
1-20 201.001, Tax Code.

1-21 (2) "First purchaser" has the meaning assigned by
1-22 Section 201.001 or 202.001, Tax Code, as applicable.

1-23 (3) "Gas" has the meaning assigned by Section 201.001,
1-24 Tax Code.

1-25 (4) "Oil" has the meaning assigned by Section 202.001,
1-26 Tax Code.

1-27 (5) "Person" includes an individual or group of
1-28 individuals and a partnership, corporation, association,
1-29 cooperative, or other legal entity.

1-30 (6) "Producer" has the meaning assigned by Section
1-31 201.001 or 202.001, Tax Code, as applicable, except that the term
1-32 does not include a person whose only interest is a royalty interest
1-33 in the oil or gas or its value.

1-34 PART 2. TEXAS ENERGY EDUCATION COUNCIL

1-35 Sec. 2.01. COMPOSITION OF COUNCIL. (a) The Texas Energy
1-36 Education Council is composed of 15 members.

1-37 (b) The Railroad Commission of Texas shall select a member
1-38 of the commission to serve on the council as the chair of the
1-39 council.

1-40 (c) The commissioner of the Texas Education Agency is a
1-41 member of the council and serves as vice chair of the council.

1-42 (d) The governor shall appoint to the council:

1-43 (1) one faculty member from each of the following
1-44 universities:

1-45 (A) The University of Texas System;

1-46 (B) The Texas A&M University System;

1-47 (C) the Texas Tech University System;

1-48 (D) the University of Houston System; and

1-49 (E) the Texas State University System; and

1-50 (2) eight members representing the interests of the
1-51 oil and gas industry.

1-52 (e) To be eligible for appointment under Subsection (d)(1)
1-53 of this section, a faculty member must teach courses in petroleum
1-54 engineering, geology, mathematics, or science.

1-55 (f) In making appointments under Subsection (d)(2) of this
1-56 section, the governor should consider individuals recommended by
1-57 Texas oil and gas industry trade associations actively
1-58 participating in the program coordinated by the council.

1-59 Sec. 2.02. TERMS; VACANCIES. (a) The members of the
1-60 council appointed under Section 2.01(d) of this article serve for
1-61 staggered six-year terms, with the terms of four or five members, as
1-62 applicable, expiring February 1 of each odd-numbered year.

1-63 (b) A vacancy in an appointed position on the council shall

be filled for the unexpired portion of the term in the same manner as the original appointment.

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

PART 3. POWERS AND DUTIES OF COUNCIL

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

(1) coordinate a program designed to:

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

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

(C) educate schoolchildren in this state in the kindergarten through 12th grade levels and the general public in this state on the exploration, production, refining, and transportation of oil and gas;

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

(3) implement the other provisions of this article.

(b) The executive director and staff shall function independently of and be located separately from any state agency.

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

PART 4. ENERGY EDUCATION ACCOUNT

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

(b) The energy education account consists of:

(1) gifts and grants;

(2) appropriations of money to the account by the legislature;

(3) assessments collected under Part 5 of this article; and

(4) matching funds obtained through coordination of efforts with relevant federal programs.

PART 5. ASSESSMENT

Sec. 5.01. IMPOSITION OF ASSESSMENT. (a) An assessment is imposed on each producer of oil, gas, or condensate. The amount of the assessment is equal to two-hundredths of one percent of the market value of the oil, gas, or condensate produced and saved in this state by the producer. The market value of oil, gas, or condensate is the value of the oil, gas, or condensate at the mouth of the well from which it is produced after the royalty interest is computed.

(b) Notwithstanding Subsection (a) of this section, a producer may not be assessed in any state fiscal year an amount that exceeds \$150,000. If a producer contributes more than \$150,000 in a state fiscal year, the comptroller shall, at the end of that state fiscal year, automatically refund to that producer the amount that exceeds \$150,000. For purposes of the limitation provided by this subsection on assessments imposed on a producer, assessments imposed on an affiliate or subsidiary, as defined by Article 13.02, Texas Business Corporation Act, of a producer are considered to have been imposed on the producer and the \$150,000 limitation applies in the aggregate as to the producer and the producer's affiliates or subsidiaries. If a producer determines that the producer's total contributions to the fund in a state fiscal year

probably or definitely will total at least \$150,000, the producer may elect to remit the producer's contributions to the fund in 12 payments of \$12,500 that are due not later than the 15th day of each month. A producer that elects to make the contribution in installments must notify the comptroller of this election not later than September 30 of the state fiscal year in which the contribution is due and make the first payment not later than October 15 of that year.

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

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

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

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

(b) The comptroller shall retain a portion of an assessment collected under this article to cover the cost of administering the imposition and collection of the assessment. The comptroller by rule shall specify the portion of the assessment to be retained.

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

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

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

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

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

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

- (1) press releases;
- (2) paid advertisements placed in newspapers with the largest circulation in each county of the state; and
- (3) other means the council considers appropriate.

(e) The comptroller shall determine the validity of a request for a refund. In determining the validity of a request for a refund, the comptroller may consider only whether the applicant provided the proper documentation to support the request and whether the application was timely. The comptroller shall perform the comptroller's duties under this section in a manner that minimizes, to the extent practicable and appropriate, the burden on persons providing information to the comptroller.

(f) If the comptroller determines that a person is entitled to a refund, the comptroller shall refund the amount of the assessment paid during the preceding state fiscal year, together

with interest at a rate equal to the average rate paid over the preceding calendar year on United States treasury bills with a 12-month maturity date.

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

PART 6. REVIEW AND EXPIRATION

Sec. 6.01. REVIEW BY COMPTROLLER. (a) If, in any state fiscal year, at least 40 percent of producers eligible to contribute to the fund request refunds of their contributions, the comptroller shall conduct a review to determine whether the council and the programs administered by the council are viable and should continue.

(b) The comptroller shall report to the legislature on the results of the review. The report must include a recommendation on whether the council and the programs administered by the council should:

- (1) continue without change;
- (2) continue but with recommended changes; or
- (3) be discontinued and this article repealed.

Sec. 6.02. EXPIRATION. This article expires September 1, 2015.

SECTION 2. As soon as practicable after receiving the recommendations described by Subsection (f), Section 2.01, Article 4413(47g), Revised Statutes, as added by this Act, the governor shall appoint persons to serve on the Texas Energy Education Council. The governor shall designate five persons to serve on the council for terms expiring February 1, 2007, four persons to serve on the council for terms expiring February 1, 2009, and four persons to serve on the council for terms expiring February 1, 2011.

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

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

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

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