

Amend CSHB 3732 as follows:

(1) Strike page 6, lines 1 and 2, and substitute the following:

SECTION 4. Section 11.31, Tax Code, is amended by amending Subsection (b) and adding Subsections (k), (l), and (m) to read as follows:

(2) Insert the following on page 6 between lines 2 and 3:

(b) In this section, "facility, device, or method for the control of air, water, or land pollution" means land that is acquired after January 1, 1994, or any structure, building, installation, excavation, machinery, equipment, or device, and any attachment or addition to or reconstruction, replacement, or improvement of that property, that is used, constructed, acquired, or installed wholly or partly to meet or exceed rules or regulations adopted by any environmental protection agency of the United States, this state, or a political subdivision of this state for the prevention, monitoring, control, or reduction of air, water, or land pollution. Whether or not carbon dioxide is considered a pollutant, the term includes property that is used, constructed, acquired, or installed wholly or partly to capture carbon dioxide from an anthropogenic source that is used in an enhanced recovery project for which a producer of oil receives a severance tax exemption under Section 202.0545, or that is geologically sequestered. This section does not apply to a motor vehicle.

(3) Insert the following appropriately numbered SECTIONS to the bill:

SECTION _____. Subchapter B, Chapter 202, Tax Code, is amended by adding Section 202.0545 to read as follows:

Sec. 202.0545. TAX EXEMPTION FOR ENHANCED RECOVERY PROJECTS USING ANTHROPOGENIC CARBON DIOXIDE. (a) Subject to the limitations provided by this section, the producer of oil recovered through an enhanced oil recovery project that qualifies under Section 202.054 for the recovered oil tax rate provided by Section 202.052(b) is entitled to an additional 50 percent reduction in that tax rate if in the recovery of the oil the enhanced oil recovery project uses carbon dioxide that:

(1) is captured from an anthropogenic source;

(2) would otherwise be released into the atmosphere as industrial emission;

(3) is measurable at the source of capture; and

(4) is sequestered in one or more geological formations following the enhanced oil recovery process;

(b) In the event that a portion of the carbon dioxide used in the enhanced oil recovery project is anthropogenic carbon dioxide that satisfies the criteria of Subsection (a) and a portion of the carbon dioxide used in the project fails to satisfy the criteria of Subsection (a) because it is not anthropogenic, the tax reduction provided by Subsection (a) shall be reduced to reflect the proportion of the carbon dioxide used in the project that satisfies the criteria of Subsection (a).

(c) To qualify for the tax rate reduction under this section, the operator must apply to the comptroller for the reduction and include with the application any information and documentation that the comptroller may require.

(d) To qualify for the tax rate reduction under this Section, the operator must apply for a certification from the agency or agencies responsible, under the federal Safe Drinking Water Act, for the regulation of underground injection of the carbon dioxide to be sequestered pursuant to Subsection (a)(4). The agency or agencies must certify, based on substantial evidence, that there is a reasonable expectation that:

(1) the operator's planned sequestration program will assure that at least 99% of the carbon dioxide sequestered as required by Subsection (a)(4) will remain sequestered for at least 1000 years; and

(2) the operator's planned sequestration program will include appropriately designed monitoring and verification measures that will be employed for a period of time sufficient to demonstrate whether or not the sequestration program is performing as expected.

(e) The tax rate reduction shall not apply if the operator's sequestration program or the operator's monitoring and verification measures differs substantially from the planned program as described in Subsection (d), and the operator shall

refund the difference between the tax paid on oil produced pursuant to this Section and the tax that would have applied in the absence of this Section.

(f) The comptroller shall approve the application if the operator submits the certification or certifications required by Subsection (d) and if the comptroller determines that the oil is otherwise eligible under this section.

(g) If, before the comptroller approves an application for the tax rate reduction under this section, the tax imposed by this chapter is paid at the rate provided by Section 202.052(a) or (b) on oil that qualifies under this section, the producer or producers of the oil are entitled to a credit against taxes imposed by this chapter in an amount equal to the difference between the tax paid on the oil and the tax due on the oil after the rate reduction under this section is applied. The credit is allowed to each producer according to the producer's proportionate share in the oil. To receive a credit, one or more of the producers of the oil must apply to the comptroller for the credit not later than the first anniversary of the date the oil is produced.

(h) The comptroller may enact rules and establish procedures to implement and administer this section.

(i) The Railroad Commission may enact rules and establish procedures to implement and administer this section.

(j) The Texas Commission on Environmental Quality may enact rules and establish procedures to implement and administer this section.

SECTION _____. The amendment made by this Act to Section 11.31(b), Tax Code, takes effect January 1, 2008.