BILL ANALYSIS

Senate Research Center | H.B. 3431
80R13767 DAK-D | By: Strama et al. (Averitt)
Natural Resources
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

When an oil field reaches the tertiary stage of its productive life, more oil can be recovered by pumping carbon dioxide into injection wells, in a process known as enhanced oil recovery (EOR). Currently, producers in West Texas mostly use carbon dioxide that is mined from natural deposits in Colorado and imported by pipeline.

H.B. 3431 offers tax incentives to EOR projects that use anthropogenic (or man-made) carbon dioxide, and to producers of anthropogenic carbon dioxide that capture the gas for use in EOR and for sequestration. This would boost the economy in an environmentally sound way by helping to develop the growing carbon capture and storage industry while encouraging more enhanced oil recovery.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 2 (Section 202.0545, Tax Code) of this bill.

Rulemaking authority is expressly granted to the Railroad Commission of Texas in SECTION 2 (Section 202.0545, Tax Code) of this bill.

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 2 (Section 202.0545, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 11.31(b), Tax Code, as follows:

(b) Redefines "facility, device, or method for the control of air, water, or land pollution." Provides that without regard to whether 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 (Producer to Pay Tax on Oil Not Sold), or that is geologically sequestered.

SECTION 2. Amends Subchapter B, Chapter 202, Tax Code, by adding Section 202.0545, as follows:

Sec. 202.0545. TAX EXEMPTION FOR ENHANCED RECOVERY PROJECTS USING ANTHROPOGENIC CARBON DIOXIDE. (a) Entitles the producer of oil recovered through an enhanced oil recovery project that qualifies under Section 202.054 (Qualification of Oil From New or Expanded Enhanced Recovery Project For Special Tax Rate) for the recovered oil tax rate provided by Section 202.052(b) (regarding the rate of the tax imposed for oil produced in this state from a new or expanded enhanced recovery project), subject to the limitations provided by this section, 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 is captured from an anthropogenic source; would otherwise be released into the atmosphere as industrial emission; is measurable at the source of capture; and is sequestered in one or more geological formations following the enhanced oil recovery process.

(b) Provides that if a portion of the carbon dioxide used in the project does not satisfy the criteria of Subsection (a) because it is not anthropogenic, the tax reduction provided by Subsection (a) is reduced to reflect the proportion of the carbon dioxide used in the project that satisfies the criteria of Subsection (a).

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

(d) Sets forth the conditions under which the operator is required to apply for a certification from certain agencies.

(e) Authorizes an agency to which an operator applies for a certification under Subsection (d) to issue the certification only if the agency finds that, based on substantial evidence, there is a reasonable expectation that the operator's planned sequestration program will ensure that at least 99 percent of the carbon dioxide sequestered as required by Subsection (a)(4) will remain sequestered for at least 1,000 years; and the operator's planned sequestration program will include appropriately designed monitoring and verification measures that will be employed for a period sufficient to demonstrate whether the sequestration program is performing as expected.

(f) Provides that the tax rate reduction does not apply if the operator's sequestration program or the operator's monitoring and verification measures differ substantially from the planned program described by Subsection (e). Requires the operator to refund the difference between the amount of the tax paid under this section and the amount that would have been imposed in the absence of this section.

(g) Requires the comptroller to approve the application if the operator submits each certification required by Subsection (d) and if the comptroller determines that the oil is otherwise eligible under this section.

(h) Entitles the producer and producers of oil that qualifies under this section, if, before the comptroller approves an application for the tax rate reduction under this section, the tax imposed by this chapter is paid at a certain rate, to a credit against taxes imposed by this chapter in an amount equal to the difference between the amount of the tax paid on the oil and the tax due on the oil after the rate reduction under this section is applied. Provides that the credit is allowed to each producer according to the producer's proportionate share in the oil. Requires one or more of the producers of the oil, to receive a credit, to apply to the comptroller for the credit not later than the first anniversary of the date the oil is produced.

(i) Authorizes the comptroller to enact rules and establish procedures to implement and administer this section.

(j) Authorizes the Railroad Commission of Texas to enact rules and establish procedures to implement and administer this section.

(k) Authorizes the Texas Commission on Environmental Quality to enact rules and establish procedures to implement and administer this section.

SECTION 3. (a) Expiration date, except as provided by Subsection (b) of this section: September 1, 2007.

(b) Provides that Section 1 of this Act takes effect January 1, 2008.