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H.B. No. 3431

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the use of anthropogenic carbon dioxide in the recovery
3 of oil.

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

5 SECTION 1. Section 11.31(b), Tax Code, is amended to read as
6 follows:

7 (b) In this section, "facility, device, or method for the
8 control of air, water, or land pollution" means land that is
9 acquired after January 1, 1994, or any structure, building,
10 installation, excavation, machinery, equipment, or device, and any
11 attachment or addition to or reconstruction, replacement, or
12 improvement of that property, that is used, constructed, acquired,
13 or installed wholly or partly to meet or exceed rules or regulations
14 adopted by any environmental protection agency of the United
15 States, this state, or a political subdivision of this state for the
16 prevention, monitoring, control, or reduction of air, water, or
17 land pollution. Without regard to whether carbon dioxide is
18 considered a pollutant, the term includes property that is used,
19 constructed, acquired, or installed wholly or partly to capture
20 carbon dioxide from an anthropogenic source that is used in an
21 enhanced recovery project for which a producer of oil receives a
22 severance tax exemption under Section 202.0545, or that is
23 geologically sequestered. This section does not apply to a motor
24 vehicle.

1 SECTION 2. Subchapter B, Chapter 202, Tax Code, is amended
2 by adding Section 202.0545 to read as follows:

3 Sec. 202.0545. TAX EXEMPTION FOR ENHANCED RECOVERY PROJECTS
4 USING ANTHROPOGENIC CARBON DIOXIDE. (a) Subject to the
5 limitations provided by this section, the producer of oil recovered
6 through an enhanced oil recovery project that qualifies under
7 Section 202.054 for the recovered oil tax rate provided by Section
8 202.052(b) is entitled to an additional 50 percent reduction in
9 that tax rate if in the recovery of the oil the enhanced oil
10 recovery project uses carbon dioxide that:

11 (1) is captured from an anthropogenic source;

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

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

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

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

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

26 (d) To qualify for the tax rate reduction under this
27 section, the operator must apply for a certification from:

1 (1) the Railroad Commission of Texas, if carbon
2 dioxide used in the project is to be sequestered in a reservoir
3 productive of oil or natural gas;

4 (2) the Texas Commission on Environmental Quality, if
5 carbon dioxide used in the project is to be sequestered in a
6 geological formation other than a reservoir productive of oil or
7 natural gas; or

8 (3) both the Railroad Commission of Texas and the
9 Texas Commission on Environmental Quality if both Subdivisions (1)
10 and (2) apply.

11 (e) An agency to which an operator applies for a
12 certification under Subsection (d) may issue the certification only
13 if the agency finds that, based on substantial evidence, there is a
14 reasonable expectation that:

15 (1) the operator's planned sequestration program will
16 ensure that at least 99 percent of the carbon dioxide sequestered as
17 required by Subsection (a)(4) will remain sequestered for at least
18 1,000 years; and

19 (2) the operator's planned sequestration program will
20 include appropriately designed monitoring and verification
21 measures that will be employed for a period sufficient to
22 demonstrate whether the sequestration program is performing as
23 expected.

24 (f) The tax rate reduction does not apply if the operator's
25 sequestration program or the operator's monitoring and
26 verification measures differ substantially from the planned
27 program described by Subsection (e), and the operator shall refund

1 the difference between the amount of the tax paid under this section
2 and the amount that would have been imposed in the absence of this
3 section.

4 (g) The comptroller shall approve the application if the
5 operator submits each certification required by Subsection (d) and
6 if the comptroller determines that the oil is otherwise eligible
7 under this section.

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

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

22 (j) The Railroad Commission of Texas may enact rules and
23 establish procedures to implement and administer this section.

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

27 SECTION 3. (a) Except as provided by Subsection (b) of this

1 section, this Act takes effect September 1, 2007.

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