

By: Strama

H.B. No. 3431

A BILL TO BE ENTITLED

AN ACT

relating to the capture, use, and geologic sequestration of anthropogenic carbon dioxide.

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

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

(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.

SECTION 2. Subchapter B, Chapter 202, Tax Code, is amended

1 by adding Section 202.0545 to read as follows:

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

- 10 (1) is captured from an anthropogenic source;  
11 (2) would otherwise be released into the atmosphere as  
12 industrial emission;  
13 (3) is measurable at the source of capture; and  
14 (4) is sequestered in one or more geological  
15 formations following the enhanced oil recovery process;

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

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

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

8           (1) the operator's planned sequestration program will  
9 assure that at least 99% of the carbon dioxide sequestered as  
10 required by Subsection (a)(4) will remain sequestered for at least  
11 1000 years; and

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

17       (e) The tax rate reduction shall not apply if the operator's  
18 sequestration program or the operator's monitoring and  
19 verification measures differs substantially from the planned  
20 program as described in Subsection (d), and the operator shall  
21 refund the difference between the tax paid on oil produced pursuant  
22 to this Section and the tax that would have applied in the absence  
23 of this Section.

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

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

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

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

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

20       SECTION 3. (a) Except as provided by Subsection (b) of this  
21 section, this Act takes effect September 1, 2007.

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