

SENATE AMENDMENTS

2nd Printing

By: Rodriguez

H.B. No. 4433

A BILL TO BE ENTITLED

AN ACT

1
2 relating to an exemption from the severance tax for certain gas and
3 oil produced.

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

5 SECTION 1. Section 202.056, Tax Code, is amended by
6 amending Subsections (c) and (d) and adding Subsection (d-1) to
7 read as follows:

8 (c) If the commission designates a three-year inactive well
9 under this section, it shall issue a certificate designating the
10 well as a three-year inactive well as defined by Subsection (a)(3)
11 of this section. The commission may not designate a three-year
12 inactive well under this section after February 29, 1996. If the
13 commission designates a two-year inactive well under this section,
14 it shall issue a certificate designating the well as a two-year
15 inactive well as defined by Subsection (a)(4) of this section. The
16 commission may not designate a two-year inactive well under this
17 section after February 28, 2020 [~~2010~~].

18 (d) An application for three-year inactive well
19 certification shall be made during the period of September 1, 1993,
20 through August 31, 1995, to qualify for the tax exemption under this
21 section. An application for two-year inactive well certification
22 shall be made during the period September 1, 1997, through August
23 31, 2019 [~~2009~~], to qualify for the tax exemption under this
24 section. Hydrocarbons sold after the date of certification are

1 eligible for the tax exemption.

2 (d-1) The comptroller shall certify the first date on which
3 the prices of oil and gas have been at or below the respective
4 prices described by Section 171.1011(s) for three continuous
5 months. The commission may issue a certificate under Subsection
6 (c) only if the application for certification is received by the
7 commission not later than the 90th day after the date the
8 comptroller makes the certification under this subsection.

9 SECTION 2. Subchapter B, Chapter 201, Tax Code, is amended
10 by adding Section 201.060 to read as follows:

11 Sec. 201.060. EXEMPTION FOR GAS INCIDENTALLY PRODUCED IN
12 PRODUCTION OF GEOTHERMAL ENERGY. Gas incidentally produced in the
13 production of geothermal energy is exempt from the severance tax
14 imposed by this chapter.

15 SECTION 3. Subchapter B, Chapter 202, Tax Code, is amended
16 by adding Section 202.062 to read as follows:

17 Sec. 202.062. EXEMPTION FOR OIL INCIDENTALLY PRODUCED IN
18 PRODUCTION OF GEOTHERMAL ENERGY. Oil incidentally produced in the
19 production of geothermal energy is exempt from the severance tax
20 imposed by this chapter.

21 SECTION 4. For purposes of making a certification under
22 Section 202.056(d-1), Tax Code, as added by this Act, the
23 comptroller may not consider the price of oil on dates before
24 October 1, 2009.

25 SECTION 5. Sections 201.060 and 202.062, Tax Code, as added
26 by this Act, apply only to gas or oil produced on or after the
27 effective date of this Act. Gas or oil produced before the

1 effective date of this Act is governed by the law in effect when the
2 gas or oil was produced, and the former law is continued in effect
3 for that purpose.

4 SECTION 6. This Act takes effect September 1, 2009.

ADOPTED

MAY 27 2009

Atty. Gen.
Secretary of the Senate

By: *Seliger*

H..B. No. 4433

Substitute the following for H..B. No. 4433:

By: *Seliger*

C.S. H..B. No. 4433

A BILL TO BE ENTITLED

1 AN ACT

2 relating to an exemption from oil and gas severance taxes for
3 oil and gas produced in association with the production of
4 geothermal energy.

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

6 SECTION 1. Subchapter B, Chapter 201, Tax Code, is
7 amended by adding Section 201.060 to read as follows:

8 Sec. 201.060. EXEMPTION OF GAS INCIDENTALLY PRODUCED IN
9 ASSOCIATION WITH THE PRODUCTION OF GEOTHERMAL ENERGY. Gas
10 incidentally produced in association with the production of
11 geothermal energy is not subject to the tax imposed by this
12 chapter.

13 SECTION 2. Subchapter B, Chapter 202, Tax Code, is amended
14 by adding Section 202.063 to read as follows:

15 Sec. 202.063. EXEMPTION OF OIL INCIDENTALLY PRODUCED IN
16 ASSOCIATION WITH THE PRODUCTION OF GEOTHERMAL ENERGY. Oil
17 incidentally produced in association with the production of
18 geothermal energy is not subject to the tax imposed by this
19 chapter.

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1 SECTION 3. This Act takes effect September 1, 2009.

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LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 28, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB4433 by Rodriguez (Relating to an exemption from oil and gas severance taxes for oil and gas produced in association with the production of geothermal energy.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Tax Code by adding Sections 201.060 and 202.063 to exempt oil and gas incidentally produced in association with the production of geothermal energy from severance taxes.

According to Southern Methodist University's Geothermal Laboratory, although Texas has five major potential geothermal energy production regions associated with oil and gas wells, there are no commercial projects in Texas, and the timeline of any potential operations is unknown at this time.

The bill would take effect September 1, 2009.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, SZ, MN, SD, KK

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 24, 2009

TO: Honorable Steve Ogden, Chair, Senate Committee on Finance

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB4433 by Rodriguez (Relating to an exemption from oil and gas severance taxes for oil and gas produced in association with the production of geothermal energy.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Tax Code by adding Sections 201.060 and 202.063 to exempt oil and gas incidentally produced in association with the production of geothermal energy from severance taxes.

According to Southern Methodist University's Geothermal Laboratory, although Texas has five major potential geothermal energy production regions associated with oil and gas wells, there are no commercial projects in Texas, and the timeline of any potential operations is unknown at this time.

The bill would take effect September 1, 2009.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, MN, SD, KK

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 21, 2009

TO: Honorable Steve Ogden, Chair, Senate Committee on Finance

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB4433** by Rodriguez (Relating to an exemption from the severance tax for certain gas and oil produced.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB4433, As Engrossed: a negative impact of (\$1,404,000) through the biennium ending August 31, 2011.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	(\$474,000)
2011	(\$930,000)
2012	(\$993,000)
2013	(\$1,009,000)
2014	(\$1,015,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from <i>Foundation School Fund</i> 193	Probable Revenue (Loss) from <i>Economic Stabilization Fund</i> 599
2010	(\$474,000)	(\$1,422,000)
2011	(\$930,000)	(\$2,790,000)
2012	(\$993,000)	(\$2,979,000)
2013	(\$1,009,000)	(\$3,027,000)
2014	(\$1,015,000)	(\$3,046,000)

Fiscal Analysis

The bill would amend Section 202.056 of the Tax Code, relating to the two-year inactive well exemption from oil and natural gas severance taxes.

The bill would extend the two-year inactive well exemption program for an additional ten years by moving the application and certification deadlines to August 31, 2019 and February 28, 2020, respectively. The bill would subject the tax incentive to a three month average price condition described by Section 171.1011(s) of the Tax Code as certified by the Comptroller. Applications for incentive certification would have to be received by the Railroad Commission (RRC) by the 90th day after the date the Comptroller certifies the price condition has been met. For purposes of this certification, the Comptroller could not consider the price of crude oil on or before October 1, 2009.

The bill would add new Sections 201.060 and 202.062 to the Tax Code, to exempt oil and natural gas incidentally produced in the production of geothermal energy from taxation.

The bill would take effect on September 1, 2009.

Methodology

The price of oil must be at or below \$40 per barrel for West Texas Intermediate (WTI) crude oil, or the price of natural gas must be at or below \$5 per million British thermal units (MMBtu), for three consecutive months in order to activate the 90 day application period for RRC certification. WTI crude oil prices are forecasted to remain above \$40 per barrel through the forecast period. The price of natural gas, however, is expected to be below the \$5 threshold for three consecutive months, as measured immediately after the bill's effective date. Shortly thereafter, there is not expected to be any blocks of three consecutive months below the \$5 threshold through the end of the forecast period.

The estimated revenue loss was based on information extracted from the Comptroller's oil and natural gas tax data and the *2010-11 Biennial Revenue Estimate*. The fiscal impact reflects the growing loss of tax revenues to the state as qualified inactive oil and natural gas wells continue to populate for the next ten years beginning March 2010.

According to Southern Methodist University's Geothermal Laboratory, although Texas has five major potential geothermal energy production regions associated with oil and natural gas wells, there are no commercial projects in Texas, and the timeline of any potential operations is unknown at this time. Therefore, the fiscal impact from the Section of the bill relating to the severance tax exemption for gas and oil incidentally produced in association with geothermal energy production cannot be determined.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 455 Railroad Commission

LBB Staff: JOB, MN, SD, KK

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 4, 2009

TO: Honorable Rene Oliveira, Chair, House Committee on Ways & Means

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB4433 by Rodriguez (Relating to an exemption from the severance tax for gas and oil incidentally produced in the production of geothermal energy.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Tax Code by adding Sections 201.060 and 202.063 to exempt oil and gas incidentally produced in association with the production of geothermal energy from severance taxes. Oil or gas is considered "incidentally produced" if the amount of oil or gas produced is less than or equal to the amount produced by a marginal oil or gas well.

According to Southern Methodist University's Geothermal Laboratory, although Texas has five major potential geothermal energy production regions associated with oil and gas wells, there are no commercial projects in Texas, and the timeline of any potential operations is unknown at this time.

The bill would take effect September 1, 2009.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, MN, SD, KK

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 26, 2009

TO: Honorable Rene Oliveira, Chair, House Committee on Ways & Means

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB4433 by Rodriguez (Relating to an exemption from oil and gas severance taxes for oil and gas produced in association with the production of geothermal energy.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Tax Code by adding Sections 201.060 and 202.063 to exempt oil and gas incidentally produced in association with the production of geothermal energy from severance taxes.

According to Southern Methodist University's Geothermal Laboratory, although Texas has five major potential geothermal energy production regions associated with oil and gas wells, there are no commercial projects in Texas, and the timeline of any potential operations is unknown at this time.

The bill would take effect September 1, 2009.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, MN, SD, KK

LEGISLATIVE BUDGET BOARD
Austin, Texas

TAX/FEE EQUITY NOTE

81ST LEGISLATIVE REGULAR SESSION

May 4, 2009

TO: Honorable Rene Oliveira, Chair, House Committee on Ways & Means

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB4433 by Rodriguez (Relating to an exemption from the severance tax for gas and oil incidentally produced in the production of geothermal energy.), **Committee Report 1st House, Substituted**

No statistically significant impact on the overall distribution of a state tax or fee burden among individuals and businesses is anticipated from the provisions of this bill.

Source Agencies:

LBB Staff: JOB, MN

LEGISLATIVE BUDGET BOARD
Austin, Texas

TAX/FEE EQUITY NOTE

81ST LEGISLATIVE REGULAR SESSION

April 26, 2009

TO: Honorable Rene Oliveira, Chair, House Committee on Ways & Means

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB4433 by Rodriguez (Relating to an exemption from oil and gas severance taxes for oil and gas produced in association with the production of geothermal energy.), **As Introduced**

No statistically significant impact on the overall distribution of a state tax or fee burden among individuals and businesses is anticipated from the provisions of this bill.

Source Agencies:

LBB Staff: JOB, MN