BILL ANALYSIS

H.B. 2691
By: King, Tracy O.
Ways & Means
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Certain parties note that incentivizing the use of alternative fracking fluids could help the oil and gas industry reduce its reliance on water. The parties contend that this would be beneficial for oil and gas areas of Texas, which often lack abundant water resources. The parties further note that there is evidence suggesting alternative fluids can maximize well efficiency and productivity, leading to more oil and gas produced from fewer wells using less water. H.B. 2691 seeks to incentivize the use of alternative base fluids in oil and gas production.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 2691 amends the Tax Code to exempt from the state sales and use tax the sale, use, or other consumption of alternative base fluids used in connection with an energized fracturing operation in an oil or gas well and tangible personal property specifically used to process, reuse, or recycle alternative base fluids that will be used in energized fracturing work performed at an oil or gas well.

H.B. 2691 entitles the operator of an oil or gas well to a severance tax credit for oil and gas produced using alternative base fluids if the volume of alternative base fluids the operator uses as a substitution for water to produce the oil or gas in an energized fracturing operation is equal to at least 20 percent of the total volume of fluid used in the fracturing operation. The bill establishes that the amount of severance tax credit to which an operator is entitled is an amount equal to a percentage of the gas production taxes or oil production taxes imposed in the absence of the credit but after any other applicable tax credits or exemptions. The bill establishes that the percentage is equal to the lesser of the percentage of the total volume of the base fluids used in the fracturing operation that is alternative base fluids or 50 percent. The bill establishes that the severance tax credit is allocated to each person who bears the oil production tax or gas production tax, as applicable, according to the person's proportionate share in the oil or gas produced.

H.B. 2691 requires the person responsible for paying the tax to apply to the comptroller of public accounts to qualify for the severance tax credit. The bill requires the application to include any information required by the comptroller and the FracFocus.org Hydraulic Fracturing Fluid Product Component Information Disclosure report documenting the Maximum Ingredient

Concentration in HF Fluid (% by Mass) converted to volume of the alternative base fluids for energized fracturing operations for oil and gas production. The bill establishes that the volume of alternative base fluids is calculated according to the normal volume that the base fluids would occupy as measured at the temperature and pressure conditions at the ground surface before injection into the well bore.

H.B. 2691 makes a person liable to the state for a civil penalty if the person makes or subscribes an application, report, or other document that forms the basis for a severance tax credit application and submits it to the comptroller knowing that it contains false or untrue material fact. The bill caps the amount of the civil penalty at the sum of $10,000 and the amount of severance tax credit claimed and authorizes the attorney general to recover such a civil penalty in a suit brought on behalf of the state, with venue for the suit being in Travis County.

H.B. 2691, effective immediately on passage of the bill, or if the bill does not receive the necessary vote, effective September 1, 2015, requires the comptroller to adopt rules necessary to administer the severance tax credit not later than December 31, 2015.

EFFECTIVE DATE

Except as otherwise provided, January 1, 2016.