

By: Dale

H.B. No. 3554

Substitute the following for H.B. No. 3554:

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C.S.H.B. No. 3554

A BILL TO BE ENTITLED

AN ACT

relating to an oil and gas severance tax credit for the use of incremental production increase techniques.

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

SECTION 1. Subtitle I, Title 2, Tax Code, is amended by adding Chapter 205 to read as follows:

CHAPTER 205. TAX CREDIT FOR OIL AND GAS PRODUCED USING INCREMENTAL
PRODUCTION INCREASE TECHNIQUE

Sec. 205.001. DEFINITIONS. In this chapter:

(1) "Baseline production" means:

(A) for an existing gas well, the average monthly production from that well for the four highest months of production during the calendar year preceding the year in which an incremental production increase technique is implemented; and

(B) for an oil well, the average monthly production from the lease on which that well is located for the four highest months of production during the calendar year preceding the year in which an incremental production increase technique is implemented.

(2) "Commission" means the Railroad Commission of Texas.

(3) "Enhanced incremental production increase" means an incremental production increase from an oil or gas well or lease that constitutes an increase in production of at least 25 percent

over baseline production from that well or lease each month for a period of at least four months and that results from the implementation of an incremental production increase technique.

(4) "Incremental production increase" means production from an oil or gas well or lease in excess of baseline production.

(5) "Incremental production increase technique" means a chemical, mechanical, or operational addition to a fracture stimulation, acidization, or any other recognized well completion process that has a cost of at least \$50,000, as determined by the commission, and that results in an incremental production increase from an oil or gas well or lease.

(6) "Operator" means the person responsible for the actual physical operation of an oil or gas well or lease.

Sec. 205.002. CERTIFICATION OF ENHANCED INCREMENTAL PRODUCTION INCREASE BY COMMISSION. (a) Subject to Subsection (d), an operator may request that the commission certify:

(1) that an incremental production increase technique implemented by the operator has resulted in an enhanced incremental production increase from the oil or gas well or lease; and

(2) the cost to the operator to implement the incremental production increase technique described by Subdivision (1).

(b) The commission may require an operator seeking certification by the commission under this section to provide to the commission any information the commission considers necessary to make the certification under Subsection (a).

1 (c) Subject to Subsection (e), the commission shall issue a
2 certificate to the operator of an oil or gas well or lease if the
3 commission determines that an incremental production increase
4 technique implemented by the operator has resulted in an enhanced
5 incremental production increase from the oil or gas well or lease.
6 The certificate must state the amount of the enhanced incremental
7 production increase attributable to the incremental production
8 increase technique and the cost to the operator to implement the
9 incremental production increase technique.

10 (d) An operator may not request a certificate under this
11 section before the first anniversary of the date on which the period
12 of the enhanced incremental production increase for which the
13 operator is seeking certification ends.

14 (e) The commission may not issue a certificate under this
15 section until 18 months have elapsed after the date on which the
16 period of the enhanced incremental production increase for which
17 the operator is seeking certification ends.

18 (f) A determination made by the commission under this
19 section is final and not appealable.

20 Sec. 205.003. TAX CREDIT. (a) Subject to Subsection (d),
21 the operator of an oil or gas well who is issued a certificate under
22 Section 205.002 is entitled to a credit against the tax imposed
23 under Chapter 201 or 202, as applicable, on oil or gas produced from
24 that well.

25 (b) Subject to Subsection (c), the total amount of the
26 credit to which an operator is entitled under this chapter is equal
27 to the lesser of:

1 (1) an amount equal to 50 percent of the taxes paid by
2 the operator on the amount of the enhanced incremental production
3 increase stated in the certificate issued to the operator by the
4 commission, at the rate provided by Section 201.052 or 202.052, as
5 applicable;

6 (2) \$100,000; or

7 (3) the operator's total cost of implementation of an
8 incremental production increase technique for which the operator
9 has been issued a certificate under Section 205.002.

10 (c) An operator may not claim an amount of the credit on a
11 report that exceeds the amount of tax due on the report. Any unused
12 amount of the credit may be carried forward and claimed on
13 subsequent reports until the credit amount is exhausted.

14 (d) The total amount of tax credits that the comptroller may
15 award under this section in a state fiscal year is \$10 million. The
16 comptroller by rule shall prescribe procedures by which the
17 comptroller may allocate credits under this chapter. The
18 procedures must provide that credits are allocated on a first-come,
19 first-served basis, based on the date of an operator's
20 certification under Section 205.002.

21 Sec. 205.004. APPLICATION. (a) To qualify for the credit
22 provided under this chapter, the person responsible for paying the
23 tax must apply to the comptroller. The application must be filed
24 not later than the first anniversary of the date the commission
25 issues a certificate to an operator under Section 205.002.

26 (b) The application must include a copy of the certificate
27 issued by the commission under Section 205.002 and any other

1 information required by the comptroller.

2 SECTION 2. The comptroller of public accounts and the
3 Railroad Commission of Texas shall adopt rules necessary to
4 administer Chapter 205, Tax Code, as added by this Act, not later
5 than December 31, 2015.

6 SECTION 3. The credit authorized by Chapter 205, Tax Code,
7 as added by this Act, applies only to oil or gas produced on or after
8 the effective date of this Act. Oil or gas produced before the
9 effective date of this Act is subject to the law in effect when the
10 oil or gas was produced, and that law is continued in effect for
11 that purpose.

12 SECTION 4. The change in law made by this Act does not
13 affect tax liability accruing before the effective date of this
14 Act. That liability continues in effect as if this Act had not been
15 enacted, and the former law is continued in effect for the
16 collection of taxes due and for civil and criminal enforcement of
17 the liability for those taxes.

18 SECTION 5. (a) Except as provided by Subsection (b) of this
19 section, this Act takes effect January 1, 2016.

20 (b) Section 2 of this Act takes effect immediately if this
21 Act receives a vote of two-thirds of all the members elected to each
22 house, as provided by Section 39, Article III, Texas Constitution.
23 If this Act does not receive the vote necessary for immediate
24 effect, Section 2 of this Act takes effect September 1, 2015.