

BILL ANALYSIS

C.S.H.B. 3201
By: Darby
Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that the severance tax relief provided for wells that have been returned to active status after a specified period of inactivity should be curtailed. C.S.H.B. 3201 seeks to address this issue by reducing the duration of the tax exemption for oil and gas produced from wells previously inactive and making that exemption available only to certain wells designated as two-year inactive wells.

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

C.S.H.B. 3201 amends the Tax Code to reduce from 10 years to five years the duration of the severance tax exemption for oil and gas produced from wells previously inactive and to remove statutory provisions relating to the designation of a well as a three-year inactive well for purposes of that exemption. The bill excludes from the wells designated as two-year inactive wells for purposes of that exemption a well that is part of an enhanced oil recovery project and a well that is drilled but not completed and that does not have a record of hydrocarbon production reported to the Railroad Commission of Texas. The bill removes the prohibition against the railroad commission designating a two-year inactive well for purposes of that exemption after February 28, 2010, and requires an application for two-year inactive well certification to be made to the railroad commission to qualify for the exemption.

C.S.H.B. 3201 repeals Section 202.056(a)(3), Tax Code.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3201 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Sections 202.056, Tax Code, is amended to read as follows:

(a) In this section:

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

(2) "Hydrocarbons" means any oil or gas produced from a well, including hydrocarbon production.

~~(3) "Three-year inactive well" means any well that has not produced in more than one month in the three years prior to the date of application for severance tax exemption under this section.~~

(4) "Two-year inactive well" means a well that has not produced oil or gas in more than one month in the two years preceding the date of application for severance tax exemption under this section.

(b) Hydrocarbons produced from a well qualify for a 10-year severance tax exemption if the commission designates the well as a ~~three-year inactive well or a~~ two-year inactive well. The commission may require an applicant to provide the commission with any relevant information required to administer this section. The commission may require additional well tests to determine well capability as it deems necessary. The commission shall notify the comptroller in writing immediately if it determines that the operation of the ~~three-year inactive well or~~ two-year inactive well has been terminated or if it discovers any information that affects the taxation of the production from the designated well.

~~(c) If the commission designates a three-year inactive well under this section, it shall issue a certificate designating the well as a three year inactive well as defined by~~

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 202.056(a)(4), Tax Code, is amended to read as follows:

(See SECTION 3 below.)

(4) "Two-year inactive well" means a well that has not produced oil or gas in more than one month in the two years preceding the date of application for severance tax exemption under this section. The term does not include a well that is:

(A) part of an enhanced oil recovery project, as defined by Section 89.002, Natural Resources Code; or

(B) drilled but not completed and that does not have a record of hydrocarbon production reported to the commission.

SECTION 2. Section 202.056, Tax Code, is amended by amending Subsections (b), (c), (d), (e), (h), and (i) and adding Subsections (j) and (k) to read as follows:

(b) Hydrocarbons produced from a well qualify for a five-year ~~[10-year]~~ severance tax exemption if the commission designates the well as a ~~[three-year inactive well or a]~~ two-year inactive well. The commission may require an applicant to provide the commission with any relevant information required to administer this section. The commission may require additional well tests to determine well capability as the commission ~~[it]~~ deems necessary. The commission shall notify the comptroller in writing immediately if the commission ~~[it]~~ determines that the operation of the ~~[three-year inactive well or]~~ two-year inactive well has been terminated or if the commission ~~[it]~~ discovers any information that affects the taxation of the production from the designated well.

~~(c) [If the commission designates a three-year inactive well under this section, it shall issue a certificate designating the well as a three year inactive well as defined by~~

~~Subsection (a)(3) of this section. The commission may not designate a three-year inactive well under this section after February 29, 1996. If the commission designates a two-year inactive well under this section, it shall issue a certificate designating the well as a two-year inactive well as defined by Subsection (a)(4)(3) of this section. The commission may not designate a two-year inactive well under this section after February 28, 2010.~~

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

~~(e) The commission may revoke a certificate if information indicates that a certified well was not a three-year inactive well or a two-year inactive well, as appropriate, or if other lease production is credited to the certified well. Upon notice to the operator from the commission that the certificate for tax exemption under this section has been revoked, the tax exemption may not be applied to hydrocarbons sold from that well from the date of revocation.~~

~~(f) The commission shall adopt all necessary rules to administer this section.~~

~~(g) To qualify for the tax exemption provided by this section, the person responsible for paying the tax must apply to the comptroller. The comptroller shall approve the application of a person who demonstrates that the hydrocarbon production is eligible for a tax exemption. The comptroller may require a person applying for the tax exemption to provide any relevant information necessary to administer this section. The comptroller shall have the power to establish procedures in order to comply with this section.~~

~~(h) If the tax is paid at the full rate provided by Section 201.052(a), 201.052(b), 202.052(a), or 202.052(b) before the comptroller approves an application for an exemption provided for in this chapter, the~~

~~Subsection (a)(3) of this section. The commission may not designate a three-year inactive well under this section after February 29, 1996.] If the commission designates a two-year inactive well under this section, the commission [##] shall issue a certificate designating the well as a two-year inactive well [as defined by Subsection (a)(4) of this section. The commission may not designate a two-year inactive well under this section after February 28, 2010].~~

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

~~(e) The commission may revoke a certificate if information indicates that a certified well was not a [three-year inactive well or a] two-year inactive well[, as appropriate,] or if other lease production is credited to the certified well. Upon notice to the operator from the commission that the certificate for tax exemption under this section has been revoked, the tax exemption may not be applied to hydrocarbons sold from that well from the date of revocation.~~

~~(h) If the tax is paid at the full rate provided by Section 201.052(a) or [201.052(b);] 202.052(a)[, or 202.052(b)] before the comptroller approves an application for an exemption provided for in this chapter, the~~

operator is entitled to a credit against taxes imposed by this chapter in an amount equal to the tax paid. To receive a credit, the operator must apply to the comptroller for the credit before the expiration of the applicable period for filing a tax refund claim under Section 111.104.

(i) Penalties

(1) Any person who makes or subscribes any application, report, or other document and submits it to the commission to form the basis for an application for a tax exemption under this section, knowing that the application, report, or other document is false or untrue in a material fact, may be subject to the penalties imposed by Chapters 85 and 91, Natural Resources Code.

(2) Upon notice from the commission that the certification for a ~~three-year inactive well or a~~ two-year inactive well has been revoked, the tax exemption shall not apply to oil or gas production sold after the date of notification. Any person who violates this subsection is liable to the state for a civil penalty if the person applies or attempts to apply the tax exemption allowed by this chapter after the certification for a ~~three-year inactive well or a~~ two-year inactive well is revoked. The amount of the penalty may not exceed the sum of:

(A) \$10,000; and

(B) the difference between the amount of taxes paid or attempted to be paid and the amount of taxes due.

(3) The attorney general may recover a penalty under Subdivision (2) of this subsection in a suit brought on behalf of the state. Venue for the suit is in Travis County.

(See SECTION 1, Section 202.056(a)(3) above.)

No equivalent provision.

operator is entitled to a credit against taxes imposed by this chapter in an amount equal to the tax paid. To receive a credit, the operator must apply to the comptroller for the credit before the expiration of the applicable period for filing a tax refund claim under Section 111.104.

(i) A [Penalties

~~(1) Any~~ person who makes or subscribes any application, report, or other document and submits the application, report, or other document [~~it~~] to the commission to form the basis for an application for a tax exemption under this section, knowing that the application, report, or other document is false or untrue in a material fact, may be subject to the penalties imposed by Chapters 85 and 91, Natural Resources Code.

(j) On [~~(2) Upon~~] notice from the commission that the certification for a [~~three-year inactive well or a~~] two-year inactive well has been revoked, the tax exemption shall not apply to oil or gas production sold after the date of notification. A [~~Any~~] person who violates this subsection is liable to the state for a civil penalty if the person applies or attempts to apply the tax exemption allowed by this chapter after the certification for a [~~three-year inactive well or a~~] two-year inactive well is revoked. The amount of the penalty may not exceed the sum of:

(1) [~~(A)~~] \$10,000; and

(2) [~~(B)~~] the difference between the amount of taxes paid or attempted to be paid and the amount of taxes due.

(k) [~~(3)~~] The attorney general may recover a penalty under Subsection (j) [~~Subdivision (2) of this subsection~~] in a suit brought on behalf of the state. Venue for the suit is in Travis County.

SECTION 3. Section 202.056(a)(3), Tax Code, is repealed.

SECTION 4. The changes in law made by this Act apply only to an oil or gas well designated by the Railroad Commission of Texas as a two-year inactive well on or after the effective date of this Act. An oil or gas well designated by the Railroad Commission of Texas as a two-year inactive well, or as a three-year inactive well, before the effective date of this Act is governed by the law in effect immediately before that

date, and the former law is continued in effect for that purpose.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.

SECTION 5. This Act takes effect September 1, 2017.