

By: Darby

H.B. No. 2277

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the temporary exemption or tax reduction for certain
3 high-cost gas.

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

5 SECTION 1. Section 201.057(a)(2), Tax Code, is amended to
6 read as follows:

7 (2) "High-cost gas" means[+
8 [~~(A)~~] high-cost natural gas as described by
9 Section 107, Natural Gas Policy Act of 1978 (15 U.S.C. Section
10 3317), as that section existed [~~exists~~] on January 1, 1989, without
11 regard to whether that section is in effect or whether a
12 determination has been made that the gas is high-cost natural gas
13 for purposes of that Act[~~, or~~

14 [~~(B) all gas produced from oil wells or gas wells~~
15 ~~within a commission approved co-production project]~~.

16 SECTION 2. Section 201.057, Tax Code, is amended by
17 amending Subsections (c), (e), (f), (g), and (i) and adding
18 Subsection (g-1) to read as follows:

19 (c) High-cost gas [~~as defined in Subsection (a)(2)(A)]
20 produced from a well that is spudded or completed after August 31,
21 1996, is entitled to a reduction of the tax imposed by this chapter
22 for the first 120 consecutive calendar months beginning on the
23 first day of production, or until the cumulative value of the tax
24 reduction equals 50 percent of the drilling and completion costs~~

1 incurred for the well, whichever occurs first. The amount of tax
2 reduction shall be computed by subtracting from the tax rate
3 imposed by Section 201.052 the product of that tax rate times the
4 ratio of drilling and completion costs incurred for the well to
5 twice the median drilling and completion costs for high-cost wells
6 ~~[as defined in Subsection (a)(2)(A)]~~ spudded or completed during
7 the previous state fiscal year, except that the effective rate of
8 tax may not be reduced below zero.

9 (e) The operator of a proposed or existing gas well,
10 including a gas well that has not been completed, ~~[or the operator~~
11 ~~of any proposed or existing oil or gas well within a commission~~
12 ~~approved co-production project,~~] may apply to the commission for
13 certification that the well produces or will produce high-cost gas.
14 The [Such] application~~[, if seeking certification as high-cost gas~~
15 ~~according to Subsection (a)(2)(A),]~~ may be made at any time after
16 the first day of production. The application may be made but is not
17 required to be made concurrently with a request for a determination
18 that gas produced from the well is high-cost natural gas for
19 purposes of the Natural Gas Policy Act of 1978 (15 U.S.C. Section
20 3301 et seq.) ~~[or with a request for commission approval of a~~
21 ~~co-production project]~~. The commission may require an applicant to
22 provide the commission with any relevant information required to
23 administer this section. For purposes of this section, a
24 determination that gas is high-cost natural gas for purposes of the
25 Natural Gas Policy Act of 1978 (15 U.S.C. Section 3301 et seq.)
26 ~~[according to Subsection (a)(2)(A) or a determination that gas is~~
27 ~~produced from within a commission approved co-production project]~~

1 is a certification that the gas is high-cost gas for purposes of
2 this section, and in that event additional certification is not
3 required to qualify for the ~~[exemption or]~~ tax reduction provided
4 by this section.

5 (f) To qualify for the ~~[exemption or]~~ tax reduction provided
6 by this section, the person responsible for paying the tax must
7 apply to the comptroller. The application must contain the
8 certification of the commission that the well produces high-cost
9 gas and~~[, if the application is for a well spudded or completed~~
10 ~~after September 1, 1995,]~~ must contain a report of drilling and
11 completion costs incurred for each well on a form and in the detail
12 as determined by the comptroller. Drilling and completion costs
13 for a recompletion shall only include current and contemporaneous
14 costs associated with the recompletion. Notwithstanding any other
15 provision of this section, to obtain the maximum ~~[tax exemption or]~~
16 tax reduction ~~[deduction]~~, an application to the comptroller for
17 certification according to Subsection (a)(2) ~~[(a)(2)(A)]~~ must be
18 filed with the comptroller at the later of the 180th day after the
19 date of first production or the 45th day after the date of approval
20 by the commission. If the application is not filed by the
21 applicable deadline, the ~~[tax exemption or]~~ tax reduction
22 ~~[deduction]~~ is reduced by 10 percent for the period beginning on the
23 180th day after the first day of production and ending on the date
24 on which the application is filed with the comptroller. ~~[An~~
25 ~~application to the comptroller for certification according to~~
26 ~~Subsection (a)(2)(B) may not be filed before January 1, 1990, or~~
27 ~~after December 31, 1998.]~~ The comptroller shall approve the

1 application of a person who demonstrates that the gas is eligible
2 for the [~~exemption or~~] tax reduction. The comptroller may require a
3 person applying for the [~~exemption or~~] tax reduction to provide any
4 relevant information in the person's monthly report that the
5 comptroller considers necessary to administer this section. The
6 commission shall notify the comptroller in writing immediately if
7 it determines that a [~~an oil or gas~~] well previously certified as
8 producing high-cost gas does not produce high-cost gas or if it
9 takes any action or discovers any information that affects the
10 eligibility of gas for a [~~an exemption or~~] tax reduction under this
11 section.

12 (g) As soon as practicable after March 1 of each year, the
13 comptroller shall determine [~~from reports containing drilling and~~
14 ~~completion cost data as required on applications to the comptroller~~
15 ~~under Subsection (f),~~] the median drilling and completion cost for
16 all high-cost wells [~~as defined in Subsection (a)(2)(A)] for which
17 an application for a tax reduction [~~exemption or reduced tax~~] was
18 made during the previous state fiscal year. In making the
19 determination, the comptroller shall use the drilling and
20 completion cost data required to be reported to the comptroller
21 under Subsection (f). The [~~These~~] median drilling and completion
22 cost [~~costs~~] shall be used to compute the reduced tax under
23 Subsection (c) and is fixed on the date of the comptroller's
24 determination under this subsection.~~

25 (g-1) The report of drilling and completion costs required
26 under Subsection (f) may not be amended after March 1 of the year
27 following the state fiscal year in which the application was made.

1 (i) If, before the commission certifies that a well produces
2 high-cost gas or before the comptroller approves an application for
3 a ~~[an exemption or]~~ tax reduction under this section, the tax
4 imposed by this chapter is paid on high-cost gas that otherwise
5 qualifies for the ~~[exemption or]~~ tax reduction provided by this
6 section, the person who remitted the tax is ~~[producer or producers~~
7 ~~of the gas are]~~ entitled to a refund ~~[credit against other taxes~~
8 ~~imposed by this chapter]~~ in an amount equal to the difference
9 between the amount of the tax paid on the gas and the amount of tax
10 that would have been paid on the gas if it had received a ~~[that~~
11 ~~otherwise qualified for the exemption or]~~ tax reduction under this
12 section ~~[on or after the first day of the next month after the month~~
13 ~~in which the application for certification under this section was~~
14 ~~filed with the commission].~~ The ~~[If the application for~~
15 ~~certification is submitted to the commission after January 1, 2004,~~
16 ~~the]~~ total allowable refund ~~[credit]~~ for taxes paid for reporting
17 periods before the date the application is filed may not exceed the
18 total tax paid on the gas that otherwise qualified for the
19 ~~[exemption or]~~ tax reduction and that was produced during the 24
20 consecutive calendar months immediately preceding the month in
21 which the application for certification under this section that the
22 comptroller approved was filed with the commission. ~~[The credit is~~
23 ~~allocated to each producer according to the producer's~~
24 ~~proportionate share in the gas.]~~ To receive a refund ~~[credit]~~, the
25 person entitled to the refund ~~[one or more of the producers]~~ must
26 apply to the comptroller for the refund ~~[credit]~~ not later than the
27 first anniversary after the date the comptroller approves the

1 application for a [~~an exemption or~~] tax reduction under this
2 section. [~~If a producer demonstrates that the producer does not~~
3 ~~have sufficient tax liability under this chapter to claim the~~
4 ~~credit within five years from the date the application for the~~
5 ~~credit is made, the producer is entitled to a refund in the amount~~
6 ~~of any credit the comptroller determines may not be claimed within~~
7 ~~that five years. Nothing in this subsection shall relieve the~~
8 ~~obligation imposed by Subsection (b) to pay tax when due on~~
9 ~~high-cost gas produced from co-production projects on or before~~
10 ~~July 31, 1995.]~~

11 SECTION 3. Sections [201.057\(a\)\(3\)](#), (a)(4), (a)(5), (b),
12 (d), and (j), Tax Code, are repealed.

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

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