

By: Hinojosa

S.B. No. 1999

A BILL TO BE ENTITLED

AN ACT

relating to an oil and gas production tax credit for oil and gas producers that provide treated produced water to aquifer storage and recovery project operators.

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

SECTION 1. Subtitle I, Title 2, Tax Code, is amended by adding Chapter 208 to read as follows:

CHAPTER 208. TAX CREDIT FOR PROVIDING TREATED PRODUCED WATER TO  
AQUIFER STORAGE AND RECOVERY PROJECT OPERATOR

Sec. 208.0001. DEFINITIONS. In this chapter:

(1) "Aquifer storage and recovery project" means a project involving the injection of water into a geologic formation for the purpose of subsequent recovery and beneficial use.

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "Produced water" means water produced in oil or gas drilling, completion, flowback, or production.

(4) "Producer" has the meaning assigned by Section 201.001 or 202.001, as appropriate.

(5) "Project operator" means a person who undertakes an aquifer storage and recovery project.

Sec. 208.0002. TAX CREDIT. (a) A producer is entitled to a credit against the tax imposed under Chapter 202, as applicable, in the amount and under the conditions and limitations provided by

1 this chapter if:

2 (1) the producer provides to a project operator  
3 produced water that has a total dissolved solids concentration of  
4 more than 90,000 milligrams per liter; and

5 (2) the project operator treats the water for  
6 injection into an aquifer for storage and recovery and shall not  
7 degrade native groundwater , and complies with any federal and  
8 state registration or permit requirements for treating and  
9 injecting the produced water, including any requirements for water  
10 testing and water quality reporting.

11 (b) Except as provided by Section 208.0003, the total amount  
12 of the credit under this chapter for a reporting period is computed  
13 by:

14 (1) determining the total number of barrels of  
15 produced water described by Subsection (a) provided to a project  
16 operator during the reporting period that is subsequently treated  
17 during that period;

18 (2) multiplying the number of barrels determined under  
19 Subdivision (1) by the monthly average closing price of a barrel of  
20 West Texas Intermediate crude oil as recorded on the New York  
21 Mercantile Exchange (NYMEX); and

22 (3) multiplying the amount determined under  
23 Subdivision (2) by:

24 2.3 percent requiring the credit to be claimed  
25 under Chapter 202.

26 (c) Produced water provided to a project operator may be  
27 counted only once in determining the amount of a credit. Only one

1 producer may claim a credit for the same produced water.

2 Sec. 208.0003. LIMITATION ON CREDIT AMOUNT. (a) Except as  
3 provided by Subsection (b), the total amount of credits that may be  
4 claimed under this chapter each state fiscal year may not exceed \$25  
5 million.

6 (b) If in the first year of a state fiscal biennium the  
7 amount claimed under this chapter is less than \$25 million, the  
8 amount of credits that may be claimed in the second year of the  
9 state fiscal biennium is equal to the sum of:

10 (1) \$25 million; and

11 (2) the difference between \$25 million and the amount  
12 of credits claimed in the first state fiscal year.

13 (c) Each month, the comptroller shall post on the  
14 comptroller's Internet website the amount of unclaimed credit  
15 remaining for the state fiscal year.

16 (d) The comptroller by rule shall prescribe procedures by  
17 which the comptroller may allocate credits on a prorated basis if  
18 the limit prescribed by Subsection (a) is reached before the end of  
19 the state fiscal year.

20 Sec. 208.0004. PROJECT OPERATOR REQUIREMENTS; MONTHLY  
21 REPORT. (a) The commission shall adopt a registration process for  
22 project operators who participate in the program established by  
23 this chapter. Each registered project operator shall submit to the  
24 commission a monthly report that includes, for the preceding month:

25 (1) the metered volume in barrels of produced water  
26 the project operator received from each producer and treated;

27 (2) the total dissolved solids concentration of the

1 produced water received from each producer before treatment; and

2 (3) the volume of treated water injected into an  
3 aquifer for storage and recovery.

4 (b) A project operator must hold a permit from the Railroad  
5 Commission of Texas authorizing the project operator to treat fluid  
6 oil and gas waste at a commercial recycling facility.

7 Sec. 208.0005. CERTIFICATION. (a) To be eligible for the  
8 credit under this chapter, the producer must apply to the  
9 commission for certification that:

10 (1) the producer has, during the reporting period,  
11 provided to a project operator produced water that has a total  
12 dissolved solids concentration of more than 90,000 milligrams per  
13 liter before injection into an aquifer for storage and recovery;  
14 and

15 (2) the project operator treated the water during the  
16 reporting period.

17 (b) The producer shall include with the certificate  
18 application any information the commission determines is necessary  
19 to certify eligibility for the credit and the amount of the credit,  
20 including information sufficient for the commission to identify:

21 (1) the metered volume in barrels of produced water  
22 provided to a project operator for which the producer intends to  
23 claim a credit; and

24 (2) the total dissolved solids concentration of that  
25 metered volume of produced water.

26 (c) The commission shall consider the information provided  
27 by the project operator under Section 208.0004 in determining

1 whether to certify eligibility for the credit and the amount of the  
2 credit.

3 (d) If the producer and project operator provide sufficient  
4 information under this section and Section 208.0004, the commission  
5 shall issue a certificate of eligibility to the producer. The  
6 certificate must include:

7 (1) the information the project operator is required  
8 to provide under Section 208.0004; and

9 (2) the information the producer is required to  
10 provide under Subsection (b) of this section.

11 (e) The commission shall immediately notify the comptroller  
12 in writing if the commission:

13 (1) determines that a producer that previously  
14 received a certificate under this section was not eligible for the  
15 certified credit or is no longer eligible to receive the certified  
16 credit; or

17 (2) takes any action or discovers any information that  
18 affects the eligibility of the producer for a credit.

19 Sec. 208.0006. APPLICATION. (a) To claim the credit under  
20 this chapter, the person responsible for paying the tax imposed  
21 under Chapter 201 or 202, as appropriate, must apply to the  
22 comptroller.

23 (b) The application must include a copy of the certificate  
24 issued by the commission under Section 208.0005 for the reporting  
25 period and any other information required by the comptroller to  
26 sufficiently demonstrate that the producer is eligible for the  
27 credit and the amount of the credit.

1       (c) In addition to the information required by Subsection  
2 (b), the comptroller may require additional information on a report  
3 required under Subchapter E, Chapter 201, or Subchapter E, Chapter  
4 202.

5       (d) The comptroller shall approve the application of a  
6 person who demonstrates that the treated water is eligible for the  
7 credit.

8       Sec. 208.0007. RULES. The comptroller and the commission  
9 shall adopt rules necessary to implement this chapter.

10       SECTION 2. Chapter 208, Tax Code, as added by this Act,  
11 applies only to produced water provided to a project operator, as  
12 described by Chapter 208, Tax Code, as added by this Act, on or  
13 after the effective date of this Act. Produced water provided  
14 before the effective date of this Act is subject to the law in  
15 effect when the produced water was provided, and that law is  
16 continued in effect for that purpose.

17       SECTION 3. The change in law made by this Act does not  
18 affect tax liability accruing before the effective date of this  
19 Act. That liability continues in effect as if this Act had not been  
20 enacted, and the former law is continued in effect for the  
21 collection of taxes due and for civil and criminal enforcement of  
22 the liability for those taxes.

23       SECTION 4. This Act takes effect September 1, 2019.