

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 16, 2019

TO: Honorable Dustin Burrows, Chair, House Committee on Ways & Means

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB3067 by Ashby (Relating to an oil and gas production tax credit for oil and gas producers that provide produced water for recycling.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3067, As Introduced: a negative impact of (\$3,547,230) through the biennium ending August 31, 2021.

Additionally, there would be negative impact of (\$12,500,000) through the biennium ending August 31, 2025.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Six-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	(\$3,547,230)
2021	\$0
2022	\$0
2023	\$0
2024	(\$6,250,000)
2025	(\$6,250,000)

All Funds, Six-Year Impact:

Fiscal Year	Probable (Cost) from General Revenue Fund 1	Probable Revenue (Loss) from General Revenue Fund 1	Probable Revenue (Loss) from Foundation School Fund 193	Probable Savings from General Revenue Fund - ESF/SHF Reserve 1
2020	(\$3,547,230)	\$0	\$0	\$0
2021	\$0	\$0	\$0	\$0
2022	\$0	\$0	\$0	\$0
2023	\$0	\$0	\$0	\$0
2024	\$0	(\$18,750,000)	(\$6,250,000)	\$18,750,000
2025	\$0	(\$18,750,000)	(\$6,250,000)	\$18,750,000

Fiscal Year	Probable Revenue (Loss) from State Highway Fund 6	Probable Revenue (Loss) from Economic Stabilization Fund 599
2020	\$0	\$0
2021	\$0	\$0
2022	\$0	\$0
2023	\$0	\$0
2024	\$0	\$0
2025	(\$9,375,000)	(\$9,375,000)

Fiscal Analysis

The bill would amend Subtitle I, Title 2 of the Tax Code by adding Chapter 207 to provide a tax credit to an oil and gas producer for recycling certain produced water associated with oil and gas production activities.

The produced water eligible for credit if recycled would be that with total dissolved solids concentration of more than 90,000 milligrams per liter. The produced water would be recycled by a permit holder into fresh water that would meet the federal standards under the federal National Pollutant Discharge Elimination System program for discharged into water in the state or sold. The permit holder would be required to comply with any state or federal requirements for testing and reporting the quality of the water before discharge.

The Railroad Commission (RRC) would adopt a registration process for participating permit holders. Each registered permit holder would submit to RRC a monthly report containing the volume of produced water, the total dissolved solids concentration of the produced water, and the volume of recycled water discharged into water in the state or sold.

An oil and gas producer would be entitled to a credit against oil and gas production taxes for the recycled produced water. The amount of credits for a reporting period would be determined by multiplying the product of the number of barrels of the recycled volume and the monthly average closing price of a barrel of West Texas Intermediate crude oil on the New York Mercantile Exchange by 3.75 percent, if the credit is claimed against the natural gas production tax, or 2.3 percent, if the credit is claimed against the oil production tax.

The total amount of credits claimed could not exceed \$25 million in a fiscal year, subject to the exception that unclaimed credit amounts below the limitation in the first year of a state fiscal

biennium could be claimed in the second year the biennium. The comptroller would publish monthly the amount of unclaimed credits and prescribe procedures to allocate credits.

To be eligible for the credit, the producer would submit an application to RRC with the information as necessary for certification. To claim the credit, the producer would apply to the comptroller providing the required information and a copy of the certificate issued by RRC.

The comptroller and RRC would adopt rules necessary to implement provisions of the new Chapter 207.

The bill would take effect September 1, 2019.

Methodology

Currently, it is not economically feasible in the state to recycle produced water with total dissolved solids concentrations above 90,000 milligrams per liter into fresh water. However, with growing technical difficulties and costs related to the disposal of the produced water in certain areas including the Permian Basin, at some point the tax credit would incentivize deployment of available technologies capable of recycling such produced water into fresh water for discharge. In view of the time required for planning, permitting and building a recycling plant, such a facility could likely be fully operational by fiscal 2024.

Technology

The Comptroller of Public Accounts indicates there would be a one-time technology cost of \$3,255,000 for an estimated 21,700 hours of programming to integrate into the Comptroller's existing oil and natural gas systems a tax credit system for oil and gas producers that provide produced water for recycling. The system would also need interfaces to existing systems to monitor the tax credit claims that should not exceed \$25 million per state fiscal year, as well as provide oil and natural gas taxpayers the ability to apply for credit claims to the Comptroller.

This estimate assumes the Railroad Commission would incur costs of \$292,230 to develop an IT system to track the produced water permits, water reporting, and tax credits.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 455 Railroad Commission

LBB Staff: WP, KK, SD