

By: Meza

H.B. No. 4405

A BILL TO BE ENTITLED

AN ACT

relating to imposing a tax on certain electric generators and gas producers.

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

SECTION 1. Subtitle E, Title 2, Tax Code, is amended by adding Chapter 165 to read as follows:

CHAPTER 165. TAX ON ELECTRIC GENERATORS AND GAS PRODUCERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 165.001. DEFINITIONS. In this chapter:

(1) "Affiliated power generation company," "electric utility," and "exempt wholesale generator" have the meanings assigned by Section 31.002, Utilities Code.

(2) "Electric cooperative" has the meaning assigned by Section 11.003, Utilities Code.

(3) "Electric generator" includes:

(A) an affiliated power generation company;

(B) an electric utility or electric cooperative that owns or operates for compensation in this state equipment or facilities to generate electricity in this state;

(C) an exempt wholesale generator; and

(D) a power generation company.

(4) "Gas" has the meaning assigned by Section 201.001.

(5) "Gas producer" means a producer as defined by Section 201.001.

1 (6) "Power generation company" has the meaning
2 assigned by Section 31.002, Utilities Code, except that the term
3 does not include a distributed natural gas generation facility, as
4 that term is defined by Section 31.002, Utilities Code.

5 Sec. 165.002. COMPTROLLER POWERS AND DUTIES. The
6 comptroller shall adopt rules and forms necessary to implement this
7 chapter.

8 SUBCHAPTER B. IMPOSITION AND COLLECTION OF TAX

9 Sec. 165.021. TAX IMPOSED ON ELECTRIC GENERATOR; AMOUNT OF
10 TAX. (a) A tax is imposed on each electric generator in this state.

11 (b) The amount of the tax imposed by this chapter on an
12 electric generator each year is equal to the amount of the net
13 profit received by the electric generator during that year that is
14 directly attributable to electricity sold by the electric generator
15 at wholesale for the price of \$9,000 per megawatt hour beyond the
16 first four hours of sale at that price.

17 Sec. 165.022. TAX IMPOSED ON GAS PRODUCER; AMOUNT OF TAX.

18 (a) A tax is imposed on each gas producer in this state.

19 (b) The amount of the tax imposed by this chapter on a gas
20 producer each year is equal to the amount of the net profit received
21 by the gas producer during that year that is directly attributable
22 to gas sold by the gas producer at the wellhead at a price in excess
23 of \$200 per thousand cubic feet.

24 Sec. 165.023. PAYMENT OF TAX. Not later than February 25 of
25 each year, each electric generator and gas producer on whom a tax is
26 imposed by this chapter shall send to the comptroller the amount of
27 tax due under this chapter for the preceding year.

1 Sec. 165.024. REPORTS. Not later than February 25 of each
2 year:

3 (1) each electric generator on whom a tax is imposed by
4 this chapter shall send to the comptroller a report stating:

5 (A) the amount of the net profit received by the
6 electric generator during the preceding year that was directly
7 attributable to electricity sold by the electric generator at
8 wholesale at a price in excess of \$9,000 per megawatt hour beyond
9 the first four hours of sale at that price during that year; and

10 (B) any other information required by the
11 comptroller; and

12 (2) each gas producer on whom a tax is imposed by this
13 chapter shall send to the comptroller a report stating:

14 (A) the amount of the net profit received by the
15 gas producer during the preceding year that is directly
16 attributable to gas sold by the gas producer at the wellhead at a
17 price in excess of \$200 per thousand cubic feet during the preceding
18 year; and

19 (B) any other information required by the
20 comptroller.

21 Sec. 165.025. RECORDS. An electric generator or gas
22 producer on whom a tax is imposed under this chapter shall keep a
23 complete record of all information required to be reported to the
24 comptroller under Section 165.024.

25 SUBCHAPTER C. TAX CREDIT FOR WEATHERIZATION ACTIVITIES

26 Sec. 165.041. DEFINITION. In this subchapter, "qualifying
27 weatherization activity" means an activity designed to allow

1 equipment used to generate electricity or produce gas to operate
2 when the outside temperature is at -20 degrees Fahrenheit or 120
3 degrees Fahrenheit or is between those temperatures.

4 Sec. 165.042. ELIGIBILITY AND AMOUNT OF CREDIT. (a) An
5 electric generator or gas producer on whom a tax is imposed under
6 this chapter may claim a credit against the tax in the amount and
7 subject to the conditions provided by this section.

8 (b) The amount of the credit that may claimed on a report is
9 equal to the total amount spent by the electric generator or gas
10 producer on qualifying weatherization activities during the period
11 on which the report is based.

12 (c) The amount of the credit that may be claimed on a report
13 may not exceed the electric generator's or gas producer's tax
14 liability under this chapter for the period on which the report is
15 based. An electric generator or gas producer may not carry forward
16 any amount of a credit calculated as provided under Subsection (b)
17 that exceeds the limitation prescribed by this subsection.

18 SUBCHAPTER D. ALLOCATION AND USE

19 Sec. 165.061. ALLOCATION OF TAX REVENUE. (a) The
20 comptroller shall deposit the revenue from the tax imposed under
21 this chapter as follows:

22 (1) 25 percent to the credit of the foundation school
23 fund; and

24 (2) the remainder to the credit of the general revenue
25 fund.

26 (b) Money deposited to the credit of the general revenue
27 fund under Subsection (a) may be appropriated only to the state

1 energy conservation office of the comptroller's office as
2 established by Chapter 447, Government Code, for the purpose of
3 funding energy conservation programs administered by the office.

4 SECTION 2. This Act takes effect September 1, 2021.