

By: Eckhardt

S.B. No. 1293

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the applicability of the gas production tax to flared or  
3 vented gas at an increased rate.

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

5 SECTION 1. Section 201.052, Tax Code, is amended to read as  
6 follows:

7 Sec. 201.052. RATES [~~RATE~~] OF TAX. [~~(a)~~] The tax imposed  
8 by this chapter is at the rate of:

9 (1) 7.5 percent of the market value of gas produced and  
10 saved in this state by the producer; and

11 (2) 25 percent of the market value of gas produced and  
12 flared or vented in this state by the producer.

13 SECTION 2. Section 201.053, Tax Code, is amended to read as  
14 follows:

15 Sec. 201.053. GAS NOT TAXED. The tax imposed by this  
16 chapter does not apply to gas:

17 (1) injected into the earth in this state, unless sold  
18 for that purpose;

19 (2) [~~produced from oil wells with oil and lawfully~~  
20 ~~vented or flared,~~

21 [~~(3)~~] used for lifting oil, unless sold for that  
22 purpose; or

23 (3) [~~(4)~~] produced in this state from a well that  
24 qualifies under Section 202.056 or 202.060, except as provided by

1 Section 201.062.

2 SECTION 3. Section 201.054(b), Tax Code, is amended to read  
3 as follows:

4 (b) The rate of the tax imposed by this section is the same  
5 as the rate of the tax imposed by Section 201.052(1) [~~201.052 of~~  
6 ~~this code~~].

7 SECTION 4. Section 201.057(c), Tax Code, is amended to read  
8 as follows:

9 (c) High-cost gas produced from a well that is spudded or  
10 completed after August 31, 1996, is entitled to a reduction of the  
11 tax imposed by this chapter for the first 120 consecutive calendar  
12 months beginning on the first day of production, or until the  
13 cumulative value of the tax reduction equals 50 percent of the  
14 drilling and completion costs incurred for the well, whichever  
15 occurs first. The amount of tax reduction shall be computed by  
16 subtracting from the tax rate imposed by Section 201.052(1)  
17 [~~201.052~~] the product of that tax rate times the ratio of drilling  
18 and completion costs incurred for the well to twice the median  
19 drilling and completion costs for high-cost wells spudded or  
20 completed during the previous state fiscal year, except that the  
21 effective rate of tax may not be reduced below zero.

22 SECTION 5. Subchapter B, Chapter 201, Tax Code, is amended  
23 by adding Sections 201.061 and 201.062 to read as follows:

24 Sec. 201.061. ANNUAL EXEMPTION FOR FLARED OR VENTED GAS.

25 (a) Each calendar year, a producer is entitled to an exemption from  
26 the tax imposed at the rate provided by Section 201.052(2).

27 (b) The exemption applies to gas produced and flared or

1 vented in this state by the producer during a calendar year in an  
2 amount equal to, at the producer's election:

3 (1) 1,000 mcf; or

4 (2) 0.005 percent of the total amount of gas produced  
5 in this state by the producer during the calendar year.

6 (c) The comptroller by rule shall provide procedures for a  
7 producer to claim the exemption, including electing an amount under  
8 Subsection (b) and allocating the amount among all gas produced and  
9 flared or vented by the producer during a calendar year.

10 (d) The exemption under this section may not be transferred  
11 to another producer or calendar year.

12 Sec. 201.062. APPLICABILITY OF CERTAIN PROVISIONS TO FLARED  
13 OR VENTED GAS. Notwithstanding any other law including Section  
14 201.058(a), Sections 201.057, 201.059, 202.056, 202.057, and  
15 202.060 do not apply to gas that is flared or vented and may not be  
16 used to reduce any amount of tax imposed at the rate provided by  
17 Section 201.052(2).

18 SECTION 6. Sections 201.101(a) and (c), Tax Code, are  
19 amended to read as follows:

20 (a) Except as provided by Section 201.1011, the [The] market  
21 value of gas is its value at the mouth of the well from which it is  
22 produced. The value of gas at the mouth of the well is determined by  
23 ascertaining the producer's actual marketing costs and subtracting  
24 those costs from the producer's gross cash receipts from the sale of  
25 the gas.

26 (c) Marketing costs do not include:

27 (1) costs incurred in producing the gas;

- 1           (2) costs incurred in normal lease separation of the
- 2 oil or condensate; [~~or~~]
- 3           (3) insurance premiums on the marketing facility;
- 4           (4) the value of gas that is flared or vented; or
- 5           (5) any cost associated with flaring or venting gas.

6           SECTION 7. Subchapter C, Chapter 201, Tax Code, is amended  
7 by adding Section 201.1011 to read as follows:

8           Sec. 201.1011. MARKET VALUE OF FLARED OR VENTED GAS. (a)  
9 The market value of flared or vented gas is equal to the amount  
10 determined under Subsection (b) for the month in which the gas is  
11 produced.

12           (b) The comptroller shall determine the average cash value  
13 at the mouth of the well for all gas produced and saved in this state  
14 during each month, with no deduction for marketing costs. The  
15 comptroller shall publish the amount determined on the  
16 comptroller's Internet website.

17           (c) The comptroller may determine an amount under  
18 Subsection (b) using a price index or other available statistical  
19 data.

20           SECTION 8. Section 201.151, Tax Code, is amended to read as  
21 follows:

22           Sec. 201.151. PRODUCER'S RECORDS. (a) A producer shall  
23 keep accurate records of all gas the producer produces, including  
24 the amount of gas produced and saved and the amount of gas produced  
25 and flared or vented.

26           (b) The records shall be kept in the state.

27           SECTION 9. Section 201.201, Tax Code, is amended to read as

1 follows:

2           Sec. 201.201. TAX DUE. The tax imposed by this chapter for  
3 gas produced [~~and saved~~] is due at the office of the comptroller in  
4 Austin on the 20th day of the second month following the month of  
5 production.

6           SECTION 10. Section 201.203(a), Tax Code, is amended to  
7 read as follows:

8           (a) On or before the 20th day of the second month following  
9 the month in which gas was produced, the producer shall file a  
10 report with the comptroller on forms prescribed by the comptroller.  
11 The report must contain the following information concerning gas  
12 produced during the month being reported:

13                   (1) the gross amount of gas produced that is subject to  
14 the tax imposed by this chapter, including separate statements of  
15 the amount of gas produced and saved and the amount of gas produced  
16 and flared or vented;

17                   (2) the leases from which the gas was produced;

18                   (3) the names and addresses of the first purchasers of  
19 the gas, if applicable; and

20                   (4) other information the comptroller may reasonably  
21 require.

22           SECTION 11. The changes in law made by this Act do not  
23 affect tax liability accruing before the effective date of this  
24 Act. That liability continues in effect as if this Act had not been  
25 enacted, and the former law is continued in effect for the  
26 collection of taxes due and for civil and criminal enforcement of  
27 the liability for those taxes.

1 SECTION 12. This Act takes effect September 1, 2021.