

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**April 12, 2021**

**TO:** Honorable Craig Goldman, Chair, House Committee on Energy Resources

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB4442** by Raymond (Relating to the regulation of oil and gas waste; creating a tax exemption; imposing a fee.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB4442, As Introduced : a negative impact of (\$391,900,000) through the biennium ending August 31, 2023.

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, Five- Year Impact:**

<i>Fiscal Year</i>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2022	(\$173,700,000)
2023	(\$218,200,000)
2024	(\$236,400,000)
2025	(\$231,100,000)
2026	(\$241,500,000)

**All Funds, Five-Year Impact:**

<i>Fiscal Year</i>	<b>Probable Revenue (Loss) from General Revenue Fund 1</b>	<b>Probable (Cost) from Oil &amp; Gas Regulation 5155</b>	<b>Probable Revenue Gain from Oil &amp; Gas Regulation 5155</b>	<b>Probable Revenue (Loss) from Cities</b>
2022	(\$173,700,000)	(\$141,565)	\$4,400,000	(\$7,970,000)
2023	(\$218,200,000)	(\$28,313)	\$4,950,000	(\$10,010,000)
2024	(\$236,400,000)	(\$21,235)	\$5,400,000	(\$10,850,000)
2025	(\$231,100,000)	\$0	\$5,700,000	(\$10,610,000)
2026	(\$241,500,000)	\$0	\$5,950,000	(\$11,080,000)

<i>Fiscal Year</i>	<b>Probable Revenue (Loss) from Counties</b>	<b>Probable Revenue (Loss) from Transit Authorities</b>
2022	(\$5,010,000)	(\$2,680,000)
2023	(\$6,290,000)	(\$3,360,000)
2024	(\$6,820,000)	(\$3,640,000)
2025	(\$6,670,000)	(\$3,560,000)
2026	(\$6,970,000)	(\$3,720,000)

**Fiscal Analysis**

The bill would amend the Natural Resources Code to create a \$200 nonrefundable fee for oil and gas well drilling permits that utilize a reserve pit for the disposal of oil field waste.

The bill would add solids control equipment and closed-loop drilling systems to waste minimization incentives and allow funds deposited to Oil and Gas Regulation and Cleanup Account No. 5155 (OGRC Fund 5155) to be used for the remediation of a site that utilized a reserve pit or an above ground tank.

The bill would require oil and gas well operators to record the volume and type of waste generated at a well site and the primary method of disposal. It would also require an operator to provide a written notice to landowners if an on-site reserve pit is utilized on the property.

The bill would also amend the Tax Code to exempt from sales tax all tangible property or equipment used to process, reuse, or recycle oil and gas wastes, including solids control equipment and closed-loop drilling systems.

The provisions of the bill would only apply to an application or materially amended application submitted after the effective date of the bill, or September 1, 2021.

## **Methodology**

According to the Comptroller of Public Accounts (CPA), approximately 10,300 drilling permits will be submitted to the Railroad Commission (RRC) in fiscal year 2022 and 11,600 in fiscal year 2023. This analysis assumes that approximately 85.0 percent of drilling permits would pay a reserve pit fee of \$500 (\$200 reserve pit fee + \$300 surcharge, see below) and generate an estimated \$4,400,000 in additional revenue in fiscal year 2022 and \$4,930,000 in fiscal year 2023. The additional fee revenue would be credited to OGRC Fund 5155.

Natural Resources Code §81.070 allows RRC to impose a reasonable surcharge, not to exceed 185.0 percent, on fees that are deposited to OGRC Fund 5155 to recover costs associated with the purposes of the fund. According to RRC, a surcharge of \$300, or 150.0 percent, would be applied to the new reserve pit fee which is consistent with existing surcharges placed on drilling permit fees.

Based on information provided by CPA, the exemption from sales tax of all tangible property or equipment used to process, reuse, or recycle oil and gas wastes could be broadly construed and apply to all items used for waste management in the oil and gas industry. Solids control equipment and closed-loop drilling systems are not defined in the bill. This analysis assumes that solids control equipment would include storage tanks and any equipment used to transport waste to off-site treatment facilities or used to construct or line a reserve pit. It also assumes a closed-loop drilling system would include any system for drilling fluid management and its requisite components.

According to CPA, any activity to alter the physical or chemical characteristics of oil and gas wastes, such as to filter or otherwise change the concentration of solids in drilling and completion fluids or apply chemical treatments, whether for reuse or recycling of the fluids or in connection with their disposal or storage in reserve pits, could qualify as processing.

Based on sales tax revenue provided by CPA attributable to the oil and gas industry from reports regarding costs for waste management associated with well drilling and completion, the tax exemption provision of the bill would have a negative fiscal impact to the General Revenue Fund of \$173,700,000 million in fiscal year 2022 and \$218,200,000 million in fiscal year 2023.

Based on information provided by the RRC, this analysis assumes the agency's online drilling permit system and LoneSTAR system would require modifications to add the new reserve pit fee to the drilling permit application process and to allow inspectors to verify that an operator utilizing a reserve pit has paid the required fee. The modification would require \$141,565 in fiscal year 2022; \$28,313 in fiscal year 2023; and \$21,235 in fiscal year 2024 from OGRC Fund 5155.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to

funds consolidation review by the current Legislature.

The bill would take effect September 1, 2021.

### **Technology**

The RRC's online drilling permit system and LoneSTAR system would require modifications that would cost \$141,565 in fiscal year 2022; \$28,313 in fiscal year 2023; and \$21,235 in fiscal year 2024 from OGRC Fund 5155.

### **Local Government Impact**

Based on information provided by CPA, the sales tax exemption would reduce tax revenue to local municipalities by amounts reflected in the table above.

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

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