

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

April 27, 2023

TO: Honorable Joan Huffman, Chair, Senate Committee on Finance

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB591 by Capriglione (Relating to an exemption from the severance tax for gas produced from certain wells that is consumed on site and would otherwise have been lawfully vented or flared.), **As Engrossed**

The fiscal implications of the bill cannot be determined due to the unknown amount of produced natural gas that would be consumed on the well site as opposed to being lawfully vented or flared. The bill would result in an indeterminate amount of revenue loss from the General Revenue Fund, Economic Stabilization Fund, and State Highway Fund.

This bill would amend Chapter 201 of the Tax Code (Gas Production Tax) to add Section 201.061 regarding a tax exemption for on-site use of natural gas that would be normally vented or flared.

Gas produced from a qualifying well that is consumed on the well site and would otherwise have been lawfully vented or flared would not be subject to the tax imposed by this chapter.

In order to qualify for the exemption a well site must abide by certain application requirements and be certified by the Texas Railroad Commission and the Comptroller of Public Accounts. The RRC indicates they would have administrative and IT costs related to reviewing the applications required under the bill and certifying that a well is a qualifying well.

To the extent that gas that could be used on site that would be exempt under the proposed section would in fact be gas that would have otherwise been vented or flared, there would be no revenue implication if the gas were from an oil well qualified for the flaring exemption under Section 201.053(2). However, the presumption provided by the bill that gas would have been lawfully vented or flared is that it be from an oil or gas well not connected to a pipeline or not to a pipeline with sufficient takeaway capacity, and that the well have received authorization from the Railroad Commission for the flaring of gas for at least 30 days in the year preceding the year when application for certification as a qualifying well is filed.

Authorization to flare does not demonstrate that gas was actually flared or that gas is normally flared from a well. Currently, on site uses of gas other than those exempted under Section 201.053 are taxable. It cannot be determined how much of currently taxable uses may become exempt as well operators secure authorization to flare for gas that in fact would not have otherwise been flared. The bill is likely to result in a decrease in gas production tax revenue but in an amount that cannot be estimated.

The bill would take effect September 1, 2023.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

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

LBB Staff: JMc, KK, SD