

BILL ANALYSIS

Senate Research Center
89R3538 CJD-F

S.B. 782
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, there is no incentive for oil and gas operators to restimulate existing horizontal shale wellbores to maximize their production. After these wells are completed and receive an initial stimulation treatment, production gradually decreases. While production decreases, a substantial amount of oil and gas remains in the shale rock accessed by the existing wellbore.

Because of declining production, operators must decide whether to spend capital on drilling new wells with higher production rates or perform restimulation treatment to acquire the trapped minerals from existing wells. Currently, vertical wells benefit from a tax incentive called the Enhanced Oil Recovery (EOR) Tax Incentive. However, that incentive does not apply to modern horizontal shale wells.

S.B.782 addresses this issue by creating a temporary severance tax exemption for qualifying oil and gas wells that use a restimulation treatment. This bill incentivizes operators to invest capital into restimulating existing low-producing oil and gas wells.

As proposed, S.B. 782 amends current law relating to a severance tax exemption for oil and gas produced from certain restimulation wells and provides a civil penalty.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Railroad Commission of Texas in SECTION 1 (Section 202.062, Tax Code) of this bill.

Rulemaking authority is expressly granted to the Comptroller of Public Accounts of the State of Texas in SECTION 1 (Section 202.062, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 202, Tax Code, by adding Section 202.062, as follows:

Sec. 202.062. TAX EXEMPTION FOR OIL AND GAS PRODUCED FROM RESTIMULATION WELLS. (a) Defines "commission," "consecutive months," "hydrocarbons," "operator," "qualifying well," "restimulation costs," "restimulation treatment," and "restimulation well."

(b) Provides that this section does not apply to an oil or gas well that has less than 60 months of production reported to the Railroad Commission of Texas (RRC) before the date a restimulation treatment is performed, is part of an enhanced oil recovery project, as defined by Section 89.002 (Definitions), Natural Resources Code, or is drilled but not completed and that does not have a record of hydrocarbon production reported to RRC.

(c) Provides that hydrocarbons produced from a qualifying well are exempt from the taxes imposed by Chapter 201 (Gas Production Tax) and Chapter 202 (Oil Production Tax) until the earlier of the last day of the 36th consecutive month following the month in which the well first produces hydrocarbons after a

restimulation treatment is completed or the date which the cumulative amount of taxes exempted under Chapter 201 and this chapter and any credit under Subsection (1) equals the lesser of the restimulation costs described by Subsection (j) or \$750,000.

(d) Provides that, notwithstanding Section 201.057 (Temporary Exemption or Tax Reduction for Certain High-Cost Gas), gas produced from a qualifying well that was previously certified by RRC as a well that produces or will produce high-cost gas is not eligible for the tax reduction provided by that section during the period the gas is exempt from under Subsection (c) of this section.

(e) Authorizes the operator of a restimulation well to apply to RRC for certification that the well is qualifying well. Authorizes the application to be made at any time after the first day the well produces hydrocarbons following the date a restimulation treatment is completed. Authorizes RRC to require an applicant to provide any relevant information required to administer this section.

(f) Requires RRC, if RRC approves an application submitted under Subsection (e), to issue a certificate designating the well as qualifying well.

(g) Authorizes RRC to revoke a certificate issued under Subsection (f) if RRC determines that a well that was certified as a qualifying well is not a restimulation well or the operator is claiming or has claimed an exemption under this section for hydrocarbons produced from a well that is not a qualifying well.

(h) Requires RRC to notify an operator that a certificate issued under Subsection (f) has been revoked. Provided that an exemption provided by this section is automatically revoked on the date RRC revokes a certificate unless RRC issues a new certificate for the well. Provides that hydrocarbons produced from the well after the date a certificate is revoked are not eligible for the exemption provided by this section.

(i) Requires the person responsible for paying the tax, to qualify for the exemption provided by this section, to apply to the Comptroller of Public Accounts of the State of Texas (comptroller). Requires the comptroller to determine the form and content of the application, which is requires to include:

(1) the certificate issued by RRC under Subsection (f); and

(2) a report of the restimulation costs incurred to perform the restimulation treatment on the qualifying well from which the hydrocarbons that are the subject of the application are produced.

(j) Provides that, for the purposes of Subsection (i) (2), restimulation costs include only the current and contemporaneous restimulation costs associated with performing the restimulation treatment.

(k) Requires the comptroller to approve an application for an exemption provided by this section if the application meets the requirements of this section. Authorizes the comptroller to require the person applying for the exemption to provide any relevant information necessary to administer this section. Authorizes the comptroller by rule to establish procedures to comply with this section.

(l) Provides that, if the tax imposed under Chapter 201 or Chapter 202, as applicable, is paid at the applicable rate on hydrocarbons produced from a qualifying well on or after the date the RRC issues a certificate for the well under Subsection (f) but before the date the comptroller approves an application for an exemption for hydrocarbons produced from the well under Subsection (k), the person responsible for paying the tax is entitled to a credit against the taxes due under Chapter 201 or this chapter in an amount equal to the amount of tax paid

during that period on hydrocarbons produced from the qualifying well. Requires the person responsible for paying the tax, to receive the credit, to apply to the comptroller before the expiration of the applicable period for filing a tax refund claim under Section 111.104 (Refunds).

(m) Provides that a person who makes or submits an application, report, or other document or item of information to RRC or the comptroller under this section that the person knows is false or untrue in a material fact is subject to the penalties imposed by Chapters 85 (Conservation of Oil and Gas) and 91 (Provisions Generally Applicable), Natural Resources Code.

(n) Provides that a person who applies or attempts to apply for an exemption under this section for hydrocarbons produced from a well the person knows is not a qualifying well is liable to the state for a civil penalty. Prohibits the amount of the penalty from exceeding the sum of \$10,000 and the difference between the amount of taxes paid or attempted to be paid and the amount of taxes due.

(o) Authorizes the attorney general to recover a penalty under Subsection (n) in a suit brought on behalf of the state. Provides that venue for the suit is in Travis County.

(p) Authorizes RRC to adopt rules necessary to administer this section.

SECTION 2. Makes application of Section 202.062, Tax Code, as added by this Act, prospective.

SECTION 3. Provides that the changes in law by this Act does not affect tax liability accruing before the effective date of this Act. Provides that liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 4. Effective date: January 1, 2026.