LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

April 21, 2025

TO: Honorable Morgan Meyer, Chair, House Committee on Ways & Means

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB3159** by Darby (Relating to a severance tax exemption for oil and gas produced from certain restimulation wells; providing a civil penalty.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3159, As Introduced: a negative impact of ($66,383,000) through the biennium ending August 31, 2027.

General Revenue-Related Funds, Five- Year Impact:

Fiscal Year	**Probable Net Positive/(Negative) Impact to *General Revenue Related Funds***
2026	($10,455,000)
2027	($55,928,000)
2028	($86,815,000)
2029	($97,526,000)
2030	($96,541,000)

All Funds, Five-Year Impact:

Fiscal Year	**Probable Revenue (Loss) from *General Revenue Fund* 1**	**Probable (Cost) from *General Revenue Fund* 1**	**Probable Revenue (Loss) from *Foundation School Fund* 193**	**Probable Revenue (Loss) from *State Highway Fund* 6**
2026	($6,229,000)	($73,000)	($4,153,000)	$0
2027	($33,513,000)	($73,000)	($22,342,000)	($6,229,000)
2028	($52,045,000)	($73,000)	($34,697,000)	($33,513,000)
2029	($58,472,000)	($73,000)	($38,981,000)	($52,045,000)
2030	($57,881,000)	($73,000)	($38,587,000)	($58,472,000)

Fiscal Year	*Change in Number of State Employees from FY 2025*
2026	1.0
2027	1.0
2028	1.0
2029	1.0
2030	1.0

Fiscal Analysis

The bill would provide a severance tax exemption for hydrocarbons produced from both oil and gas restimulation wells on or after January 1, 2026. The bill would define a restimulation well as a well that has at least 5 years of production and would not be part an enhanced oil recovery project or an uncompleted well without a record of production prior to the hydraulic fracture treatment to enhance the well's production.

Oil, gas, and condensate produced from a qualified well would be exempt from severance taxes ending on the last day of the 36th consecutive month following the restimulation treatment or the date on which the cumulative amount of taxes exempted equals the lesser of restimulation costs or $750,000, whichever occurs first. The exemption on gas would override the qualified wells' concurrent high-cost gas tax reduction while the restimulation exemption is in effect.

The Railroad Commission (RRC) would review an application by the operator and issue a certificate for the qualifying well. RRC may revoke the certificate under certain circumstances and the exemption would automatically expire concurrently. RRC would adopt rules necessary to administer the certification and associated penalty provisions of the bill.

To qualify for the exemption, the taxpayer must apply to the Comptroller with the issued RRC certificate and a report of the actual restimulation costs incurred. The Comptroller by rule would establish forms and procedures to implement those provisions of the bill.

A civil penalty would be assessed against a person applying or attempting to apply for an exemption knowing the well is not a qualifying well in an amount not to exceed $10,000 plus the difference in taxes paid and taxes due.

The bill would take effect January 1, 2026.

Methodology

According to the Comptroller, based on industry information, refracturing an existing well can increase production greatly and result in the recovery of cumulatively more oil and gas than a comparable new well's recoverable reserves, at a lesser cost than drilling a new well. Although historically only representing a few percent of all wells drilled, refracturing is approaching an inflection point with more wells identified and committed capital allocated for refracturing. This analysis assumes, refracturing activities remain stable for the forecast period but are expected to increase in the future given the cost advantage, additional recoverable reserves, better understanding of well drainage areas and recovery factor, improving fracturing technology with available tools designed for refracturing, diminishing core drilling locations in maturing shale basins, and declining refracturing costs associated with economies of scale.

The fiscal impact analysis is based on industry data and the Comptroller's *2026-27 Biennial Revenue Estimate*. Oil wells are expected to be the primary focus of refracturing activities. The time required for the accumulated exempt taxes to reach the limit of $750,000 would likely occur within the first 18 months for an oil well. However, for a gas well, reaching the limit would unlikely occur within the exempt period of 36 months. This analysis assumes negligible impact of the exemption provided by the bill with respect to refracturing existing certified high-cost gas wells with marginal production since the high-cost well tax rates are already low or at zero.

With regard to the civil penalty; as the number assessed, for how much, and the differential value of taxes is unknown, the fiscal implications cannot be determined. The fiscal impacts, consequently, does not include any impact from the civil penalty.

The natural gas and oil production taxes are occupation taxes and, as such, are allocated three-fourths to undedicated GR and one-fourth to GR Dedicated Account 0193 – Foundation School.

Of the amount equal (calculated separately for the oil and natural gas production tax) to annual total revenue above 1987 collections, 75 percent is reserved for the constitutional transfer from undedicated GR to the Economic Stabilization Fund – 0599 (ESF) and State Highway Fund – 0006 (SHF), in equal portions, the following year. However, the transfers to ESF are not expected to occur since the balance of the fund will be above its allowable cap from the start of fiscal 2026; transfers to the SHF continue. Net Loss to GR is net amount of decreased severance taxes revenue that was further adjusted for a reduced reserve for transfers to the ESF.

The administrative cost estimate includes the funds necessary to hire one (1) Accounts Examiner III FTE to process the applications and handle the influx of refund requests that will generate from the amended credits and reduced tax rates.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

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