Chapter 358

H.B. No. 2277

AN ACT

relating to the temporary exemption or tax reduction for certain high-cost gas.

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

SECTION 1. Section 201.057(a)(2), Tax Code, is amended to read as follows:

(2) "High-cost gas" means[~~:~~

[~~(A)~~] high-cost natural gas as described by Section 107, Natural Gas Policy Act of 1978 (15 U.S.C. Section 3317), as that section existed [~~exists~~] on January 1, 1989, without regard to whether that section is in effect or whether a determination has been made that the gas is high-cost natural gas for purposes of that Act[~~; or~~

[~~(B) all gas produced from oil wells or gas wells within a commission approved co-production project~~].

SECTION 2. Section 201.057, Tax Code, is amended by amending Subsections (c), (e), (f), (g), and (i) and adding Subsection (g-1) to read as follows:

(c) High-cost gas [~~as defined in Subsection (a)(2)(A)~~] produced from a well that is spudded or completed after August 31, 1996, is entitled to a reduction of the tax imposed by this chapter for the first 120 consecutive calendar months beginning on the first day of production, or until the cumulative value of the tax reduction equals 50 percent of the drilling and completion costs incurred for the well, whichever occurs first. The amount of tax reduction shall be computed by subtracting from the tax rate imposed by Section 201.052 the product of that tax rate times the ratio of drilling and completion costs incurred for the well to twice the median drilling and completion costs for high-cost wells [~~as defined in Subsection (a)(2)(A)~~] spudded or completed during the previous state fiscal year, except that the effective rate of tax may not be reduced below zero.

(e) The operator of a proposed or existing gas well, including a gas well that has not been completed, [~~or the operator of any proposed or existing oil or gas well within a commission approved co-production project,~~] may apply to the commission for certification that the well produces or will produce high-cost gas. The [~~Such~~] application[~~, if seeking certification as high-cost gas according to Subsection (a)(2)(A),~~] may be made at any time after the first day of production. The application may be made but is not required to be made concurrently with a request for a determination that gas produced from the well is high-cost natural gas for purposes of the Natural Gas Policy Act of 1978 (15 U.S.C. Section 3301 et seq.) [~~or with a request for commission approval of a co-production project~~]. The commission may require an applicant to provide the commission with any relevant information required to administer this section. For purposes of this section, a determination that gas is high-cost natural gas for purposes of the Natural Gas Policy Act of 1978 (15 U.S.C. Section 3301 et seq.) [~~according to Subsection (a)(2)(A) or a determination that gas is produced from within a commission approved co-production project~~]

is a certification that the gas is high-cost gas for purposes of this section, and in that event additional certification is not required to qualify for the [~~exemption or~~] tax reduction provided by this section.

(f) To qualify for the [~~exemption or~~] tax reduction provided by this section, the person responsible for paying the tax must apply to the comptroller. The application must contain the certification of the commission that the well produces high-cost gas and[~~, if the application is for a well spudded or completed after September 1, 1995,~~] must contain a report of drilling and completion costs incurred for each well on a form and in the detail as determined by the comptroller. Drilling and completion costs for a recompletion shall only include current and contemporaneous costs associated with the recompletion. Notwithstanding any other provision of this section, to obtain the maximum [~~tax exemption or~~] tax <u>reduction</u> [~~deduction~~], an application to the comptroller for certification according to Subsection <u>(a)(2)</u> [~~(a)(2)(A)~~] must be filed with the comptroller at the later of the 180th day after the date of first production or the 45th day after the date of approval by the commission. If the application is not filed by the applicable deadline, the [~~tax exemption or~~] tax <u>reduction</u> [~~deduction~~] is reduced by 10 percent for the period beginning on the 180th day after the first day of production and ending on the date on which the application is filed with the comptroller. [~~An application to the comptroller for certification according to Subsection (a)(2)(B) may not be filed before January 1, 1990, or after December 31, 1998.~~] The comptroller shall approve the application of a person who demonstrates that the gas is eligible for the [~~exemption or~~] tax reduction. The comptroller may require a person applying for the [~~exemption or~~] tax reduction to provide any relevant information in the person's monthly report that the comptroller considers necessary to administer this section. The commission shall notify the comptroller in writing immediately if it determines that a [~~an oil or gas~~] well previously certified as producing high-cost gas does not produce high-cost gas or if it takes any action or discovers any information that affects the eligibility of gas for a [~~an exemption or~~] tax reduction under this section.

(g) As soon as practicable after March 1 of each year, the comptroller shall determine [~~from reports containing drilling and completion cost data as required on applications to the comptroller under Subsection (f),~~] the median drilling and completion cost for all high-cost wells [~~as defined in Subsection (a)(2)(A)~~] for which an application for a tax reduction [~~exemption or reduced tax~~] was made during the previous state fiscal year. In making the determination, the comptroller shall use the drilling and completion cost data required to be reported to the comptroller under Subsection (f). The [~~Those~~] median drilling and completion cost [~~costs~~] shall be used to compute the reduced tax under Subsection (c) and is fixed on the date of the comptroller's determination under this subsection.

(g-1) The report of drilling and completion costs required under Subsection (f) may not be amended after March 1 of the year following the state fiscal year in which the application was made.

(i) If, before the commission certifies that a well produces high-cost gas or before the comptroller approves an application for a [~~an exemption or~~] tax reduction under this section, the tax imposed by this chapter is paid on high-cost gas that otherwise qualifies for the [~~exemption or~~] tax reduction provided by this section, the person who remitted the tax is [~~producer or producers of the gas are~~] entitled to a refund [~~credit against other taxes imposed by this chapter~~] in an amount equal to the difference between the amount of the tax paid on the gas and the amount of tax that would have been paid on the gas if it had received a [~~that otherwise qualified for the exemption or~~] tax reduction under this section [~~on or after the first day of the next month after the month in which the application for certification under this section was filed with the commission~~]. The [~~If the application for certification is submitted to the commission after January 1, 2004, the~~] total allowable refund [~~credit~~] for taxes paid for reporting periods before the date the application is filed may not exceed the total tax paid on the gas that otherwise qualified for the [~~exemption or~~] tax reduction and that was produced during the 24 consecutive calendar months immediately preceding the month in which the application for certification under this section that the comptroller approved was filed with the commission. [~~The credit is allocated to each producer according to the producer's proportionate share in the gas.~~] To receive a refund [~~credit~~], the person entitled to the refund [~~one or more of the producers~~] must apply to the comptroller for the refund [~~credit~~] not later than the first anniversary after the date the comptroller approves the application for a [~~an exemption or~~] tax reduction under this section. [~~If a producer demonstrates that the producer does not have sufficient tax liability under this chapter to claim the credit within five years from the date the application for the credit is made, the producer is entitled to a refund in the amount of any credit the comptroller determines may not be claimed within that five years. Nothing in this subsection shall relieve the obligation imposed by Subsection (b) to pay tax when due on high-cost gas produced from co-production projects on or before July 31, 1995.~~]

SECTION 3. Sections 201.057(a)(3), (a)(4), (a)(5), (b), (d), and (j), Tax Code, are repealed.

SECTION 4. The change in law made by this Act does not affect tax liability accruing before the effective date of this Act. 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 5. This Act takes effect September 1, 2017.

H.B. No. 2277

President of the Senate

Speaker of the House

I certify that H.B. No. 2277 was passed by the House on May 6, 2017, by the following vote: Yeas 141, Nays 2, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2277 was passed by the Senate on May 19, 2017, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: 5-31-2017

Date

Governor

FILED IN THE OFFICE OF THE SECRETARY OF STATE
11:00 AM O'CLOCK
JUN 01 2017
Secretary of State

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 12, 2017

TO: Honorable Jane Nelson, Chair, Senate Committee on Finance

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB2277** by Darby (Relating to the temporary exemption or tax reduction for certain high-cost gas.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would amend Section 201.057 of the Tax Code, regarding the tax reduction for certain high-cost natural gas.

The bill would allow the Comptroller to make the determination of the median drilling and completion cost for use in calculating the reduced high-cost natural gas tax rate at a date of the Comptroller's determination. Amendments to the drilling and completions cost report would not be allowed after March 1 of the year following the fiscal year in which the original application was made.

The bill would clarify the current practice of providing applicable refunds for high-cost natural gas wells. The bill would remove references to expired tax exemptions.

Because the bill would be codifying current policies and procedures as they pertain to the tax reduction for certain high-cost natural gas wells there would be no fiscal impact to the state.

The bill would take effect September 1, 2017.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts
LBB Staff: UP, KK, SD

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 24, 2017

TO: Honorable Dennis Bonnen, Chair, House Committee on Ways & Means

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB2277** by Darby (relating to the temporary exemption or tax reduction for certain high-cost gas.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend Section 201.057 of the Tax Code, regarding the tax reduction for certain high-cost natural gas.

The bill would allow the Comptroller to make the determination of the median drilling and completion cost for use in calculating the reduced high-cost natural gas tax rate at a date of the Comptroller's determination. Amendments to the drilling and completions cost report would not be allowed after March 1 of the year following the fiscal year in which the original application was made.

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The bill would take effect September 1, 2017.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts
LBB Staff: UP, KK, SD

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

March 28, 2017

TO: Honorable Dennis Bonnen, Chair, House Committee on Ways & Means

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB2277** by Darby (Relating to fixing the median cost of high-cost gas wells.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend Section 201.057 of the Tax Code, regarding the tax reduction for certain high-cost natural gas.

The bill would allow the Comptroller to make the determination of the median drilling and completion cost for use in calculating the reduced high-cost natural gas tax rate at a date of the Comptroller's determination. Amendments to the drilling and completions cost report would not be allowed after March 1 of the year following the fiscal year in which the original application was made.

The bill would clarify the current practice of providing applicable refunds for high-cost natural gas wells. The bill would remove references to expired tax exemptions.

Because the bill would be codifying current policies and procedures as they pertain to the tax reduction for certain high-cost natural gas wells there would be no fiscal impact to the state.

The bill would take effect September 1, 2017.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts
LBB Staff: UP, KK, SD

LEGISLATIVE BUDGET BOARD
Austin, Texas

TAX/FEE EQUITY NOTE

85TH LEGISLATIVE REGULAR SESSION

April 24, 2017

TO: Honorable Dennis Bonnen, Chair, House Committee on Ways & Means

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB2277** by Darby (relating to the temporary exemption or tax reduction for certain high-cost gas.), **Committee Report 1st House, Substituted**

No statistically significant impact on the overall distribution of a state tax or fee burden among individuals and businesses is anticipated from the provisions of this bill.

Source Agencies:
LBB Staff: UP, KK

LEGISLATIVE BUDGET BOARD
Austin, Texas

TAX/FEE EQUITY NOTE

85TH LEGISLATIVE REGULAR SESSION

March 27, 2017

TO: Honorable Dennis Bonnen, Chair, House Committee on Ways & Means

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB2277** by Darby (Relating to fixing the median cost of high-cost gas wells.), **As Introduced**

No statistically significant impact on the overall distribution of a state tax or fee burden among individuals and businesses is anticipated from the provisions of this bill.

Source Agencies:
LBB Staff: UP, KK