

By: Ashby

H.B. No. 3067

A BILL TO BE ENTITLED

AN ACT

relating to an oil and gas production tax credit for oil and gas producers that provide produced water for recycling.

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

SECTION 1. Subtitle I, Title 2, Tax Code, is amended by adding Chapter 207 to read as follows:

CHAPTER 207. TAX CREDIT FOR PROVIDING PRODUCED WATER TO BE RECYCLED

Sec. 207.0001. DEFINITIONS. In this chapter:

(1) "Permit holder" means a person who holds all federal and state permits required to recycle produced water so that the water may be discharged into or adjacent to water in the state.

(2) "Produced water" means water produced in oil or gas drilling, completion, flowback, or production.

(3) "Producer" has the meaning assigned by Section 201.001 or 202.001, as appropriate.

(4) "Railroad commission" means the Railroad Commission of Texas.

(5) "Water in the state" has the meaning assigned by Section 26.001, Water Code.

Sec. 207.0002. TAX CREDIT. (a) A producer is entitled to a credit against the tax imposed under Chapter 201 or 202, as applicable, in the amount and under the conditions and limitations provided by this chapter if:

1 (1) the producer provides to a permit holder produced
2 water that has a total dissolved solids concentration of more than
3 90,000 milligrams per liter;

4 (2) the permit holder recycles the produced water so
5 that the water may be discharged into or adjacent to water in the
6 state or sold, regardless of whether the water is actually
7 discharged or is sold, and complies with any federal and state
8 permit requirements for recycling the produced water; and

9 (3) the resulting fresh water meets standards for
10 discharge into water in the state under the federal National
11 Pollutant Discharge Elimination System program and the permit
12 holder complies with any state or federal requirements for testing
13 and reporting the quality of the water before discharge.

14 (b) Except as provided by Section 207.0003, the total amount
15 of the credit under this chapter for a reporting period is computed
16 by:

17 (1) determining the total number of barrels of
18 produced water described by Subsection (a) provided to a permit
19 holder during the reporting period that is subsequently recycled
20 during that period;

21 (2) multiplying the number of barrels determined under
22 Subdivision (1) by the monthly average closing price of a barrel of
23 West Texas Intermediate crude oil as recorded on the New York
24 Mercantile Exchange (NYMEX); and

25 (3) multiplying the amount determined under
26 Subdivision (2) by:

27 (A) 3.75 percent if the credit is claimed under

1 Chapter 201; or

2 (B) 2.3 percent if the credit is claimed under
3 Chapter 202.

4 (c) Produced water provided to a permit holder may be
5 counted only once in determining the amount of a credit. Only one
6 producer may claim a credit for the same produced water.

7 Sec. 207.0003. LIMITATION ON CREDIT AMOUNT. (a) Except as
8 provided by Subsection (b), the total amount of credits that may be
9 claimed under this chapter each state fiscal year may not exceed \$25
10 million.

11 (b) If in the first year of a state fiscal biennium the
12 amount claimed under this chapter is less than \$25 million, the
13 amount of credits that may be claimed in the second year of the
14 state fiscal biennium is equal to the sum of:

15 (1) \$25 million; and

16 (2) the difference between \$25 million and the amount
17 of credits claimed in the first state fiscal year.

18 (c) Each month, the comptroller shall post on the
19 comptroller's Internet website the amount of unclaimed credit
20 remaining for the state fiscal year.

21 (d) The comptroller by rule shall prescribe procedures by
22 which the comptroller may allocate credits if the limit prescribed
23 by Subsection (a) is reached before the end of the state fiscal
24 year.

25 Sec. 207.0004. PERMIT HOLDER REQUIREMENTS; MONTHLY REPORT.

26 The railroad commission shall adopt a registration process for
27 permit holders who participate in the program established by this

1 chapter. Each registered permit holder shall submit to the
2 railroad commission a monthly report that includes, for the
3 preceding month:

4 (1) the metered volume in gallons of produced water
5 the permit holder received from each producer and recycled;

6 (2) the total dissolved solids concentration of the
7 produced water received from each producer before recycling; and

8 (3) the volume of recycled water discharged into water
9 in the state or sold.

10 Sec. 207.0005. CERTIFICATION. (a) To be eligible for the
11 credit under this chapter, the producer must apply to the railroad
12 commission for certification that:

13 (1) the producer has, during the reporting period,
14 provided to a permit holder produced water that has a total
15 dissolved solids concentration of more than 90,000 milligrams per
16 liter; and

17 (2) the permit holder recycled the water during the
18 reporting period.

19 (b) The producer shall include with the certificate
20 application any information the railroad commission determines is
21 necessary to certify eligibility for the credit and the amount of
22 the credit, including information sufficient for the railroad
23 commission to identify:

24 (1) the metered volume in gallons of produced water
25 provided to a permit holder for which the producer intends to claim
26 a credit; and

27 (2) the total dissolved solids concentration of that

1 metered volume of produced water.

2 (c) The railroad commission shall consider the information
3 provided by the permit holder under Section 207.0004 in determining
4 whether to certify eligibility for the credit and the amount of the
5 credit.

6 (d) If the producer and permit holder provide sufficient
7 information under this section and Section 207.0004, the railroad
8 commission shall issue a certificate of eligibility to the
9 producer. The certificate must include:

10 (1) the information the permit holder is required to
11 provide under Section 207.0004; and

12 (2) the information the producer is required to
13 provide under Subsection (b) of this section.

14 (e) The railroad commission shall immediately notify the
15 comptroller in writing if the railroad commission:

16 (1) determines that a producer that previously
17 received a certificate under this section was not eligible for the
18 certified credit or is no longer eligible to receive the certified
19 credit; or

20 (2) takes any action or discovers any information that
21 affects the eligibility of the producer for a credit.

22 Sec. 207.0006. APPLICATION. (a) To claim the credit under
23 this chapter, the person responsible for paying the tax imposed
24 under Chapter 201 or 202, as appropriate, must apply to the
25 comptroller.

26 (b) The application must include a copy of the certificate
27 issued by the railroad commission under Section 207.0005 for the

1 reporting period and any other information required by the
2 comptroller to sufficiently demonstrate that the producer is
3 eligible for the credit and the amount of the credit.

4 (c) In addition to the information required by Subsection
5 (b), the comptroller may require additional information on a report
6 required under Subchapter E, Chapter 201, or Subchapter E, Chapter
7 202.

8 (d) The comptroller shall approve the application of a
9 person who demonstrates that the recycled water is eligible for the
10 credit.

11 Sec. 207.0007. RULES. The comptroller and the railroad
12 commission shall adopt rules necessary to implement this chapter.

13 SECTION 2. Chapter 207, Tax Code, as added by this Act,
14 applies only to produced water provided to a permit holder, as
15 described by Chapter 207, Tax Code, as added by this Act, on or
16 after the effective date of this Act. Produced water provided
17 before the effective date of this Act is subject to the law in
18 effect when the produced water was provided, and that law is
19 continued in effect for that purpose.

20 SECTION 3. The change in law made by this Act does not
21 affect tax liability accruing before the effective date of this
22 Act. That liability continues in effect as if this Act had not been
23 enacted, and the former law is continued in effect for the
24 collection of taxes due and for civil and criminal enforcement of
25 the liability for those taxes.

26 SECTION 4. This Act takes effect September 1, 2019.