

SUBJECT: Creating an exemption from severance tax for certain natural gas products

COMMITTEE: Ways & Means — committee substitute recommended

VOTE: 9 ayes — Meyer, Craddick, Gervin-Hawkins, Hefner, Muñoz, Noble,
Raymond, Shine, Turner

0 nays

2 absent — Thierry, Button

WITNESSES: For — Brent Whitehead, Giga Energy; Griffin Haby III, Mountain Lion
Oil & Gas; Wayne Christian (*Registered, but did not testify*: Jay Brown,
Crusoe Energy Systems; Kevin Hale, Libertarian Party of Texas; Reed
Clay, Texas Blockchain Council)

Against — (*Registered, but did not testify*: Susan Stewart)

On — (*Registered, but did not testify*: Shannon Brandt, Brad Reynolds,
Comptroller of Public Accounts)

DIGEST: CSHB 591 would exempt from severance taxes gas produced from a
qualifying well that was consumed on the well site that otherwise would
have been lawfully vented or flared.

A qualifying well would be a well that:

- was connected to a pipeline on which pipeline takeaway capacity was not expected to meet demand for gas produced from the well;
- was not and could not feasibly be connected to a pipeline but was operated by a well operator who had contractually dedicated the well, its gas, or the land or lease on which the well was located to a pipeline operator; or
- was not connected to a pipeline and was operated by a well operator who had not contractually dedicated the well, its gas, or the land or lease on which the well was located to a pipeline

operator.

A well operator and a pipeline operator could apply to the Railroad Commission for certification that a well was qualified for the exemption.

For each of the three categories of qualifying wells specified by the bill, an application would be required to:

- attest that the well met the criteria for the category, as applicable;
- be submitted jointly by the well operator and pipeline operator, or by the well operator alone, as applicable; and
- certify that the commission authorized gas from the well to be flared for at least 30 days during the year preceding that in which the application was filed.

The commission could require an applicant to provide any information relevant to determining whether a well was qualified for the exemption. If the application was approved, the commission would be required to issue a certificate designating the well as a qualifying well. The certificate would expire in one year.

A certified well that was connected to a pipeline on which takeaway capacity was not expected to meet demand would be required to use all available takeaway capacity before consuming gas on the site and receiving an exemption under the bill.

To qualify for the exemption under the bill, the person responsible for paying the gas severance tax would have to apply to the comptroller. The application would have to include the certificate issued by the Railroad Commission. The comptroller could require an applicant to provide any additional information the comptroller deemed relevant. The commission, well operator, or pipeline operator would be required to notify the comptroller in writing immediately if a certified well no longer qualified for the exemption.

The bill would take effect September 1, 2023 and would not affect tax

liability accruing before that date.

**SUPPORTERS
SAY:**

HB 591 would clarify the circumstances in which gas that otherwise would be lawfully vented or flared could be used without being subject to severance taxes. Lawfully flared or vented gas is not subject to severance tax, but it remains unclear whether gas purchased for use by mobile Bitcoin operators should be subject to the tax. HB 591 would provide this important clarification.

Venting and flaring are currently used to dispose of stranded natural gas created as a byproduct of oil production. Typically, oil producers prefer to sell the gas through a pipeline operator. However, when a pipeline connection does not exist or the pipeline does not have takeaway capacity, the gas will be vented or flared. In addition to wasting the gas, venting and flaring can create health risks for nearby residents.

Mobile Bitcoin mines are able to use stranded gas to generate electricity to run the large computer systems they use to create new Bitcoin. This gives a productive use for stranded gas and saves it from being vented into the air, reducing CO₂ emissions. Bitcoin operators are mobile and are often able to move equipment from site to site to capture gas from multiple producers. Allowing Bitcoin miners to use the stranded gas provides a reasonable and effective solution to the problem of wasted stranded gas. While there will always be a need for emergency flaring or venting, this new use could be an important tool for years to come.

**CRITICS
SAY:**

The bill would create a standing tax incentive to encourage the capture of gas that would have been flared or vented. The industry has a stated goal of ending routine flaring by 2030. In light of this goal, this tax incentive should be temporary.

A provision should also be added that requires any industry using stranded gas for power production to provide either financial assurance or bonding to ensure any equipment left on site would be cleaned up and properly disposed of in the future, similarly to requirements that are in place for solar and wind industries.

NOTES:

According to the Legislative Budget Board, the fiscal implications of the bill cannot be determined as it is not known how much natural gas would be used at the well site verses being lawfully vented or flared. The bill would result in an indeterminate amount of revenue loss from the general fund, Economic Stabilization Fund, and State Highway Fund.