

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 1634  
By: Seliger  
Natural Resources  
4/18/2005  
Committee Report (Substituted)

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

The United States and Texas oil and gas industries need people who are strong in math and science skills. Over the next 10 years, it is estimated that 60 percent of the oil and gas industry's current workforce will become eligible for retirement. Today the oil and gas industry faces shortages of qualified petroleum engineers, geologists, geophysicists, and skilled oilfield workers. If this problem is not addressed, the United States and Texas oil and gas industries face the loss of their technical competitive advantage to foreign competitors.

There is a need to educate K-12 students, college students, and the general public about the role that the oil and gas industry plays in Texas and the opportunities that are available to the next generation in the oil and gas industry.

C.S.S.B. 1634 provides an additional source of funding to encourage K-12 and college-level students to develop the math and science skills needed to ensure that Texas continues to lead the world in the oil and gas industry, and creates the Texas Energy Education Council.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 1 (Sections 5.02 and 5.04, Article 4413(47g), Revised Statutes) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Title 70, Revised Statutes, by adding Article 4413(47g), as follows:

Art. 4413(47g). TEXAS ENERGY EDUCATION COUNCIL

#### PART 1. GENERAL PROVISIONS

Sec. 1.01. DEFINITIONS. Defines "condensate," "first purchaser," "gas," "oil," "person," and "producer."

#### PART 2. TEXAS ENERGY EDUCATION COUNCIL

Sec. 2.01. COMPOSITION OF COUNCIL. (a) Provides that the Texas Energy Education Council (council) is composed of 15 members.

(b) Requires the Railroad Commission of Texas to select a member of the commission to serve on the council as the chair of the council.

(c) Provides that the commissioner of the Texas Education Agency is a member of the council and serves as vice chair of the council.

(d) Requires the governor to appoint to the council one faculty member from each of five listed university systems and eight members representing the interests of the oil and gas industry.

(e) Requires the faculty members, to be eligible for appointment, to teach courses in petroleum engineering, geology, math, or science.

(f) Requires the governor, in making appointments of members representing the interests of the oil and gas industry, to consider individuals recommended by Texas oil and gas industry trade associations actively participating in the program coordinated by the council.

Sec. 2.02. TERMS; VACANCIES. (a) Requires certain appointed members of the council to serve for staggered six-year terms, and sets forth the expiration dates of the terms.

(b) Requires a vacancy in an appointed position on the council to be filled for the unexpired portion of the term in the same manner as the original appointment.

Sec. 2.03. COMPENSATION. Prohibits a member of the council from receiving compensation for service performed for the council. Entitles a member to reimbursement for certain expenses incurred in performing services as a member of the council. Requires money paid to a council member under this section to be paid from the energy education account.

### PART 3. POWERS AND DUTIES OF COUNCIL

Sec. 3.01. POWERS AND DUTIES OF COUNCIL. (a) Sets forth the duties of the council relating to education of the public regarding oil and gas production. Requires the council to employ an executive director and appropriate staff to implement the decisions and programs of the council and requires the council to implement the other provisions of this article.

(b) Requires the executive director and staff to function independently of and be located separately from any state agency.

(c) Requires the council to pay administrative expenses, including the salaries and benefits of the executive director and staff from the energy education account. Sets a cap on annual administrative expenses.

### PART 4. ENERGY EDUCATION ACCOUNT

Sec. 4.01. ENERGY EDUCATION ACCOUNT. (a) Provides that the energy education account is an account in the general revenue fund. Sets forth the conditions under which the funds may be appropriated.

(b) Sets forth the sources of revenue for the energy education account, including assessments collected under Part 5 of this article.

### PART 5. ASSESSMENT

Sec. 5.01. IMPOSITION OF ASSESSMENT. (a) Provides that an assessment is imposed on each producer of oil, gas, or condensate. Sets forth the amount of the assessment, and defines what constitutes the market value of the oil, gas, or condensate.

(b) Prohibits a producer from being assessed in any state fiscal year an amount that exceeds \$150,000, notwithstanding Subsection (a). Requires the comptroller, if a producer contributes more than \$150,000 in a state fiscal year, to automatically refund to that producer the amount that exceeds \$150,000 at the end of that state fiscal year. Provides that for purposes of the limitation provided by this subsection on assessments imposed on a producer, assessments imposed on an affiliate or subsidiary of a producer are considered to have been imposed on the producer and the \$150,000 limitation applies in the aggregate as to the producer and the producer's affiliates or subsidiaries. Authorizes a producer, if the producer determines that the producer's total contributions to the fund [presumably the energy education account] in a state fiscal year probably or definitely will total at least \$150,000, to elect to remit the producer's contributions to the fund [presumably the energy education account] in 12 payments of \$12,500

that are due not later than the 15th day of each month. Requires a producer that elects to make the contribution in installments to notify the comptroller of the election not later than September 30 of the state fiscal year in which the contribution is due and make the first payment not later than October 15 of that year.

(c) Provides that, except as otherwise provided by this article, Chapters 201 (Gas Production Tax) and 202 (Oil Production Tax), Tax Code, apply to the assessment imposed by this article as if the assessment were a tax imposed by those chapters.

(d) Provides that the assessment imposed by this article is not an occupation tax. Entitles a person who does not want to pay to a refund as provided by Section 5.04.

(e) Requires a first purchaser or producer, as applicable, to include as a separate item in any report required by Chapter 201 or 202, Tax Code, any required information relating to the assessment imposed by this article.

Sec. 5.02. DEPOSIT OF ASSESSMENT. (a) Requires the comptroller, except as provided by Subsection (b) of this section, to deposit an assessment collected under this article to the credit of the energy education account.

(b) Requires the comptroller to retain a portion of an assessment collected under this article to cover the cost of administering the imposition and the collection of the assessment. Requires the comptroller, by rule, to specify the portion of the assessment to be retained.

Sec. 5.03. COLLECTION OF ASSESSMENT. (a) Provides that the council is responsible for taking appropriate legal action to collect any assessment that is not paid to the comptroller. Provides that the comptroller is not responsible for collecting any assessment not paid to the comptroller.

(b) Requires the comptroller to report to the council any information the comptroller obtains regarding the failure of any person to properly pay an assessment, and to provide any documentation of that failure in the comptroller's possession.

Sec. 5.04. REFUND OF ASSESSMENT. (a) Entitles a person to a refund of an assessment paid by the person during the preceding state fiscal year if the person submits a request for a refund as provided by this section.

(b) Requires a request for a refund to be made to the comptroller not later than the third calendar month following the end of the state fiscal year for which the refund is requested. Requires the request to be in the form and include the information required by the comptroller.

(c) Requires the producer to submit the refund request if the producer paid the assessment and provides that the refund shall be paid to the producer. Requires the first purchaser to submit the refund request at the request of the producer if the first purchaser paid the assessment on behalf of the producer and provides that the refund shall be paid to the producer. Requires the first purchaser to refund to the producer the amount refunded not later than the 60th day after receipt of the refund.

(d) Requires the council to give notice of the right to request a refund through certain media.

(e) Requires the comptroller to determine the validity of a request for a refund. Authorizes the comptroller, in determining the validity of a request for a refund, to consider only whether the applicant provided the proper documentation to

support the request and whether the application was timely. Requires the comptroller to perform the comptroller's duties in a certain manner.

(f) Requires the comptroller to refund the amount of the assessment paid plus a certain rate of interest to a person if the comptroller determines that the person is entitled to a refund.

(g) Requires the comptroller to adopt rules to implement this section and rules to suspend all assessments under Section 5.01 of this article should funds in the energy education account be appropriated by the legislature for any use other than those provided by this article.

#### PART 6. REVIEW AND EXPIRATION

Sec. 6.01. REVIEW BY COMPTROLLER. (a) Requires the comptroller, if, in any state fiscal year, at least 40 percent of producers eligible to contribute to the fund [presumably the energy education account] request refunds of their contributions, to conduct a review to determine whether the council and the program administered by the council are viable and should continue.

(b) Requires the comptroller to report to the legislature on the results of the review. Requires the report to include a recommendation of whether the council and the programs administered by the council should continue without change, continue but with recommended changes, or be discontinued and this article repealed.

Sec. 6.02. EXPIRATION. Provides that this article expires September 1, 2015.

SECTION 2. Requires the governor to appoint persons to serve on the council as soon as practicable after receipt of the recommendations. Requires the governor to designate five persons to serve on the council for terms expiring February 1, 2007, four persons to serve on the council for terms expiring February 1, 2009, and four persons to serve on the council for terms expiring February 1, 2011.

SECTION 3. Makes the application of this Act prospective to oil, gas, and condensate produced and saved on or after January 1, 2006.

SECTION 4. (a) Effective date, except as provided by Subsection (b): September 1, 2005

(b) Effective date of Part 5, Article 4413(47g), Revised Statutes, as added by this Act: January 1, 2006.