

## **BILL ANALYSIS**

Senate Research Center  
88R16038 CJC-F

H.B. 591  
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Finance  
4/27/2023  
Engrossed

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

Flared gas occurs when an oil well hits pockets of gas while extracting oil and there is no pipeline available to take the gas. In these instances, the operator is forced to vent the gas or flare it. Venting or flaring of gas has a negative environmental impact due to the increased emissions, as well as a negative economic impact due to the lost usefulness of the gas.

When gas is redirected from a flare to a generator for on-site power, there is a 63 percent decrease in carbon emissions and a 99 percent decrease in methane emissions. Cryptocurrency mining operations can bring an economic incentive to mitigate flaring by adding a mobile data center at the well site to mine bitcoin. These mining operations provide jobs and tax revenue that benefit areas in which they are located.

Currently, oil and gas operators do not pay severance tax to flare gas because there is no sale of the gas. Pairing cryptocurrency mining operations and other energy users with stranded gas allows the state to utilize its natural resources and reduce emissions.

H.B. 591 would exempt gas that is used for on-site purposes, including the operation of mobile data centers, from the severance tax.

H.B. 591 amends current law relating to an exemption from the severance tax for gas produced from certain wells that is consumed on site and would otherwise have been lawfully vented or flared.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Railroad Commission of Texas in SECTION 1 (Section 201.061, Tax Code) of this bill.

Rulemaking authority is expressly granted to the Comptroller of Public Accounts of the State of Texas in SECTION 1 (Section 201.061, Tax Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter B, Chapter 201, Tax Code, by adding Section 201.061, as follows:

Sec. 201.061. EXEMPTION FOR GAS PRODUCED THAT WOULD OTHERWISE HAVE BEEN VENTED OR FLARED. (a) Defines "commission," "qualifying well," and "well operator."

(b) Provides that gas produced from a qualifying well that is consumed on the well site and would otherwise have been lawfully vented or flared is not subject to the tax imposed by Chapter 201 (Gas Production Tax).

(c) Authorizes a well operator and a pipeline operator, as applicable, to apply to the Railroad Commission of Texas (RRC) in the manner provided by Subsection (d), (e), or (f), as applicable, for certification that a well is a qualifying well.

(d) Requires that an application that relates to a well described by Subsection (a)(2)(A) (relating to defining "qualifying well" as a well that is connected to a pipeline on which pipeline takeaway capacity is not expected to meet the demand for gas produced from the well):

(1) include an attestation that pipeline takeaway capacity is not expected to meet the demand for gas produced from the well;

(2) be submitted jointly by the well operator and the pipeline operator; and

(3) certify that RRC authorized gas from the well to be flared for at least 30 days during the year preceding the year in which the application is filed.

(e) Requires that an application that relates to a well described by Subsection (a)(2)(B) (relating to defining "qualifying well" as a well that is not connected to a pipeline and for which connection to a pipeline is technically or commercially unfeasible but is operated by a well operator who has contractually dedicated the well, the gas produced from the well, or the land or lease on which the well is located to a pipeline operator):

(1) attest that the well is not connected to a pipeline and it is technically or commercially unfeasible to connect the well to a pipeline;

(2) be submitted jointly by the well operator and the pipeline operator; and

(3) certify that RRC authorized gas from the well to be flared for at least 30 days during the year preceding the year in which the application is filed.

(f) Requires that an application that relates to a well described by Subsection (a)(2)(C) (relating to defining "qualifying well" as a well that is not connected to a pipeline and is operated by a well operator who has not contractually dedicated the well, the gas produced from the well, or the land or lease on which the well is located to a pipeline operator):

(1) attest that the well:

(A) is not connected to a pipeline; and

(B) is operated by a well operator who has not contractually dedicated the well, the gas produced from the well, or the land or lease on which the well is located to a pipeline operator;

(2) be submitted by the well operator; and

(3) certify that RRC authorized gas from the well to be flared for at least 30 days during the year preceding the year in which the application is filed.

(g) Authorizes RRC to require an applicant described by Subsection (c) to provide RRC with any information RRC determines is relevant to determining whether a well is a qualifying well. Requires RRC, if RRC approves an application submitted under Subsection (c), to issue a certificate designating the well as a qualifying well. Provides that a certificate issued under this subsection expires one year after the date on which RRC issues the certificate.

(h) Requires that a well described by Subsection (a)(2)(A) for which RRC issues a certificate under Subsection (g) use all available pipeline takeaway capacity

before consuming gas on the well site and receiving an exemption under this section.

(i) Requires the person responsible for paying the tax imposed by this chapter, to qualify for the exemption provided by this section, to apply to the Comptroller of Public Accounts of the State of Texas (comptroller). Requires that the application contain the certificate issued by RRC under Subsection (g). Authorizes the comptroller to require a person applying for the exemption to provide any additional information the comptroller determines is relevant to determining whether the gas is eligible for the exemption.

(j) Requires RRC, the well operator, or pipeline operator to notify the comptroller in writing immediately if a well certified under this section is no longer a qualifying well.

(k) Authorizes RRC and the comptroller to adopt rules necessary to implement and administer this section.

SECTION 2. Provides that the change in law made by this Act does not affect tax liability accruing before the effective date of this Act. Provides that 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 3. Effective date: September 1, 2023.