

SUBJECT: Revising fee schedule for permit to operate an overweight motor vehicle

COMMITTEE: Transportation — favorable, without amendment

VOTE: 9 ayes — Krusee, Phillips, Harper-Brown, Deshotel, Haggerty, Harless, Hill, Macias, Murphy

0 nays

WITNESSES: For — (*Registered, but did not testify*: Les Findeisen, Texas Motor Transportation Association; Jody Richardson, Texas Oil and Gas Association; Michael Vasquez, Texas Conference of Urban Counties)

Against — None

On — (*Registered, but did not testify*: Carol Davis, Texas Department of Transportation)

BACKGROUND: In 1989, the 71st Legislature enacted HB 2060 by Russell, creating overweight permits for commercial vehicles, truck tractors, trailers, semi trailers, or combinations of those vehicles that weigh 80,000 pounds or less to travel on county and state-maintained roads. Under Transportation Code, sec. 623.011, the Texas Department of Transportation (TxDOT) is authorized to issue the permits, known since as “2060 permits,” for these overweight vehicles as long as its axle weight is no more than 10 percent beyond its allowable weight and its gross weight exceeds allowable limits by no more than 5 percent. A fee for the permit is set at \$75.

In 1995, the 74th Legislature approved HB 147 by Swinford, which amended Transportation Code, sec. 623.0111 to create a fee schedule for the overweight vehicles based on the number of counties through which they travel. The bill directed the money be distributed among the counties under a formula that gives each county a proportionate amount based on the amount of miles of road maintained by each county listed on each permit. In addition to the \$75 permit fee, the owner of an overweight vehicle must pay:

- \$125, if traveling through no more than 20 counties;
- \$345, if traveling through at least 21 but no more than 40 counties;
- \$565, if traveling through at least 41 but no more than 60 counties;

- \$785, if traveling through at least 61 but no more than 80 counties;
- \$1,005, if traveling through at least 81 but no more than 100 counties; or
- \$2,000, if traveling through more than 100 counties.

Transportation Code, sec. 623.0112 requires TxDOT to charge an administrative fee to each permit applicant to cover the costs of issuing permit stickers, distributing fees, and notifying counties that a permit has been issued for an overweight vehicle to operate there.

Transportation Code, sec. 621.353 directs the comptroller to allocate \$50 of the \$75 permit fee to the counties, which are paid under a formula that gives each county a proportionate amount based on the amount of miles of road maintained by each county listed on each permit. The comptroller must deposit the remaining \$25 and the money generated through administrative fees under sec. 623.0112 into the State Highway Fund (Fund 6) for TxDOT to spend on administrative costs incurred through the permitting process.

Sec. 621.353 also directs the comptroller to send the money generated through administrative fees under sec. 623.0112 to the counties based on the aforementioned proportionate funding formula. Counties receiving money under this section are required to spend it for road work on public bridges and roads.

Rider 11 under TxDOT's budget in the general appropriations act for fiscal 2006-07 — SB 1 by Ogden, enacted in 2005 by the 79th Legislature — appropriates for distribution to counties from Fund 6 the amount of money equivalent to that generated by fees associated with 2060 permits under Transportation Code, sec. 621.353.

**DIGEST:**

HB 3088 would revise the fee schedule for overweight vehicles based the number of counties through which they travel and would redirect fees collected through this process to Fund 6 for appropriation by the comptroller to the counties based on the existing proportionate funding formula. It also would remove a provision allocating administrative fees to the counties.

Under the new fee schedule, a vehicle would pay:

- \$175, if traveling through no more than five counties;
- \$250, if traveling through at least six but no more than 20 counties;
- \$450, if traveling through at least 21 but no more than 40 counties;
- \$625, if traveling through at least 41 but no more than 60 counties;
- \$800, if traveling through at least 61 but no more than 80 counties;
- \$900, if traveling through at least 81 but no more than 100 counties;
- \$1,000, if traveling through more than 100 counties.

The bill would take effect September 1, 2007, and would apply only to permit applications filed on or after that date.

**SUPPORTERS  
SAY:**

HB 3088 would update permitting fees unchanged for more than a decade and would correct errors in statute to ensure that the money collected would be the same money allocated to the counties for road maintenance. This bill would provide counties with additional funding to maintain roads severely impacted by overweight trucks.

Trucks using 2060 permits generally are involved in moving raw materials to other areas where they are either broken down into smaller loads or used to produce other products. Many of these trips are relatively short hauls confined to county roads. The damage done to these roads, however, is pronounced. It is estimated that one 80,000-pound truck creates as much wear and tear on a road as 6,000 cars. HB 3088 would increase the funding available to counties to maintain these roads to account for the increased costs of road maintenance since fees last were changed in 1995. Worn-out roads inhibit commerce, damage vehicles, create safety hazards, and hamper the efficient operation of vehicles used to meet vital needs, such as law enforcement, emergency response, and utility repair.

The bill would fix several statutory inconsistencies to align the code with the proper intent of the Legislature. Although the Transportation Code clearly states that money generated through these fees should be sent back to the counties affected by overweight trucks, the budget has never appropriated that money. In effect, money has been deposited into general revenue while another pool of money is taken out of Fund 6 to give to the counties under this program. This bill would ensure that the fee revenues passed through Fund 6 on their way to county treasuries, enabling other Fund 6 money that erroneously had been used for this purpose instead to be applied toward highway projects.

In addition, the bill would fix language allocating administrative fees to both the counties and Fund 6 and would specify how money paid under the fee schedule should be allocated. These inconsistencies inadvertently were introduced in 1997 with the enactment of SB 898 by Harris, a bill that was designed to make nonsubstantive corrections to a number of codes, including the Transportation Code. Although the comptroller has been sending administrative fees to Fund 6 for use by TxDOT and money collected through the fee schedule to the counties as intended, removing this language is important to ensure the statute is clear to avoid any future problems.

The bill would raise fees for the most popular permits — those for travel between 80 or fewer counties — and drop costs for all other permits. Permits for use in the upper categories rarely are used because vehicles traveling through that many counties typically use federal interstate highways. By reducing the fee for a permit allowing travel between more than 100 counties by \$1,000, HB 3088 create more of an incentive for those trucks to use state and county roads instead.

HB 3088 also would create a category for trucks moving between fewer than six counties, helping funnel money to the counties truly affected by overweight truck traffic. Often, when a truck operator purchases a permit for use in up to 20 counties, he will write down any counties he might drive through. Based on the existing funding formula, counties whose roads are used the most can receive less money under a given permit than other counties that have more miles of road on which the truck seldom operates. The new category would ensure that the bulk permitting fees for trucks operating in a small number of counties would be received by those counties to maintain their roads. Although the fairest option would be to fund counties based on miles traveled by each truck in each county, it would create administrative difficulties for truck operators and the state to track and calculate.

OPPONENTS  
SAY:

According to the fiscal note, HB 3088 would cost the state more than \$12 million in general revenue-related funds in fiscal 2008-09. These funds could be spent on other important state needs or for certification of the budget.

OTHER  
OPPONENTS  
SAY:

This bill should be amended to create a permanent fix for two of the problems it is aiming to solve — equity of payments to counties and up-to-date fees for permits. The funding formula for payments to counties

should be more fairly distributed based on the number of miles each truck travels in a particular county. Additionally, instead of simply updating the fees, the bill should index the fees based on some applicable standard, such as construction costs, inflation, or the consumer price index, so that future statutory changes would not be required.

**NOTES:**

The Legislative Budget Board estimates that HB 3088 would cost the state about \$12.1 million in general revenue-related funds in fiscal 2008-09. Because Fund 6 would receive the income from the fees and spend that money in lieu of existing money, that fund would see an increase of \$20.4 million in the next fiscal biennium.

The companion bill, SB 624 by Estes, is pending in the Senate Transportation and Homeland Security Committee.