

SUBJECT: Production and taxation incentives for renewable diesel fuel

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 7 ayes — Keffer, Ritter, Otto, Y. Davis, Paxton, Peña, Pitts
0 nays
2 absent — Bonnen, Flores

SENATE VOTE: On final passage, April 11 — 30-0

WITNESSES: For — Gerald McKenna, Neste Oil; (*Registered, but did not testify:* Steve Perry, Chevron USA)
Against — None

BACKGROUND: The Governor’s Office manages the Economic Development and Tourism Division, which oversees the state’s fuel ethanol and biodiesel production incentive program, as outlined in Agriculture Code, ch. 16. Enacted in 2003, this program distributes grants to producers as an incentive for fuel ethanol and biodiesel production. Grants amount to 20 cents for each gallon of fuel ethanol or biodiesel produced, totaling no more than 18 million gallons at any one plant.

To qualify for a grant, a plant must be registered with the division, and the producer must submit a monthly report on the amount of fuel ethanol or biodiesel produced, imported, sold, or blended with motor fuels and the quantity of agricultural products used for production purposes. The program is funded through fee of 3.2 cents imposed on each gallon of fuel ethanol or biodiesel produced and general revenue appropriations.

Under current law, biodiesel is defined as a monoalkyl ester that is derived from vegetable oils, rendered animal fats, or renewable lipids and meets minimum accepted values for fuel properties to provide adequate customer satisfaction, as set by the American Society for Testing and Materials (ASTM). There is no definition for “renewable diesel.”

DIGEST:

SB 663 would include renewable diesel as a fuel for which producers could receive incentives under the fuel ethanol and biodiesel production incentive program. The program would be renamed the “fuel ethanol, biodiesel, and renewable diesel production incentive program.” SB 663 would modify Agriculture Code, ch. 16 to reflect the inclusion of renewable diesel under the program’s provisions.

The bill would make certain changes to definitions under Agriculture Code, ch. 16 and Tax Code, ch. 162, which governs motor-fuel taxation. Renewable diesel would be defined as a motor fuel that:

- is a hydrocarbon;
- meets requirements for fuels and fuel additives established by the federal Clean Air Act;
- meets standards for customer satisfaction set by the ASTM;
- is intended for use in engines designed to run on conventional, petroleum-derived diesel fuel; and
- is derived from agricultural products, vegetable oils, recycled grasses, biomass, or animal fats or wastes of these products or fats.

The definition of “biodiesel” would be modified to match the definition of renewable diesel, except that instead of being described as a hydrocarbon, biodiesel fuel would be described as “mono-alkyl esters of long chain fatty acids derived from vegetable oils and animal fats.”

The bill would make additional modifications to motor-fuel taxation in the Tax Code. The definition of diesel fuel would be amended to include renewable diesel. The volume of renewable diesel blended with a taxable diesel fuel and sold would be exempt from taxation by the state.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007, and would not affect tax liability accruing or fees charged before that date.