HOUSE RESEARCH ORGANIZATION bill analysis

5/7/2013

HB 2148
Hilderbran
(CSHB 2148 by Hilderbran)

SUBJECT: Shifting collection of certain liquefied and compressed gas taxes to dealers

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 8 ayes — Hilderbran, Otto, Bohac, Button, Eiland, N. Gonzalez, Martinez Fischer, Strama

0 nays

1 absent — Ritter

WITNESSES: For — Bill Cashmareck, Love's Travel Stops; Chip Haass, Chesapeake Energy; Sherrie Merrow, Encana; Reagan Noll, Clean energy fuels; (*Registered, but did not testify:* Adrian Acevedo, Anadarko Petroleum Corp; Mark Borskey, General Electric;Teddy Carter, Texas Independent Producers and Royalty Owners Association; George Christian, Texas Taxpayers and Research Association; Jim Dow, Pioneer Natural Resources; Les Findeisen, Texas Motor Transportation Association; Chris Hosek, Linn Energy; James LeBas, TxOGA; John R. Pitts, United Parcel Service; Mari Ruckel, Texas Oil and Gas Association; William Stevens, Texas Alliance of Energy Producers; Evan Taranta, Apache Corp; Julie Williams, Chevron USA, Inc.)

Against — None

On — Kirk Davenport, Comptroller of Public Accounts; James Terrell, Select Milk Producers, Inc.

BACKGROUND: The state imposes a tax of 15 cents per gallon on the use of liquefied gas (butane, propane, compressed natural gas) as a motor fuel. Motor vehicles licensed in Texas and equipped with a liquefied gas system are required to prepay the tax by purchasing a liquefied gas tax decal. Motor vehicles licensed in other states pay the tax at the retail pump to a licensed dealer.

DIGEST: CSHB 2148 would remove compressed natural gas (CNG) and liquefied natural gas (LNG) from the current regulatory framework governing "liquefied gas." The bill would add a new subchapter, Tax Code, ch. 162, subch. D-1, to govern the collection and administration of taxes for compressed natural gas and liquefied natural gas.

Administration. Under the new administrative framework, a tax of 15 cents per gasoline or diesel gallon equivalent (1.7 gallons, or 6.035 pounds of LNG) would be imposed on CNG and LNG that was delivered into the fuel tank of a motor vehicle. A CNG and LNG dealer would add the amount of the tax to the selling price to be paid by the purchaser. The dealer would be liable for collecting all CNG and LNG taxes. The dealer would provide an invoice or receipt that stated the rate and amount of tax added to the selling price.

Exemptions. The bill would grant exemptions to CNG and LNG that was delivered into the fuel supply tank of a motor vehicle operated by:

- the United States;
- a public school district;
- a commercial transportation company or a metropolitan rapid transit authority that provided public school transportation services to a school district;
- a volunteer fire department in this state;
- by a county in this state;
- a nonprofit electric cooperative corporation; or
- a nonprofit telephone cooperative corporation.

The bill also would exempt motor vehicles and other equipment that would not be used on public highways.

License. A person would have to hold an appropriate license from the comptroller in order to sell or dispense CNG or LNG. In addition, an interstate trucker's license would authorize a person who operated a truck and fueled with CNG or LNG to report and pay the tax and take a credit or claim a refund as provided. The bill would establish procedures for license applications and display. The comptroller would determine requirements for bonds and other securities for license holders.

The bill would impose a class B misdemeanor (up to 180 days in jail and/or a maximum fine of $2,000), as well as a civil penalty between $25 and $200 for delivering CNG or LNG without a license or failing to collect taxes from a non-exempt vehicle.

Payments and records. The bill would set up a process for dealers and interstate truckers to report and remit the amount of taxes due to the comptroller, and to seek a refund or credit, if applicable. Specific records retention policies would apply.

Refund for certain metropolitan rapid transit authorities. The bill would authorize a refund for all CNG and LNG taxes paid by a metropolitan rapid transit authority operating under Transportation Code, ch. 451.

Allocation. After making deductions for refund purposes and for administration and enforcement, the comptroller would allocate the remainder of the taxes collected in the same way as existing gasoline taxes:

- one-fourth to be deposited to the Available School Fund; and
- three-fourths to be deposited to the State Highway Fund.

Effective date. The bill would take effect September 1, 2013.

SUPPORTERS SAY:

CSHB 2148 would remove barriers to the growing number of vehicles using CNG and LNG by changing tax collection practices, but not the taxes themselves.

There are a number of economic and environmental benefits to the state to increasing the number of vehicles using CNG and LNG. Under current law, these CNG and LNG-equipped vehicles must have a decal on their windshield to prove that they have paid their motor vehicle tax. This, in turn, necessitates certain technology and/or attendants that can monitor both the decal and the license plate of the vehicle. This current administrative apparatus is expensive and creates barriers to the market for compressed natural gas and liquefied natural gas stations and vehicles.

CSHB 2148 would simplify the administration of taxes for CNG and LNG-equipped vehicles by requiring collection at the dealer level so that customers pay upon refueling, as they do with gasoline and diesel. Changing current practices to resemble gasoline and diesel sales would remove many of the administrative hassles for the fewer than 10,000 CNG and LNG vehicles registered in Texas.

While there may be some initial costs and hassles for dealers, there is no reason to expect the bill would place an undue burden on dealers long-term. The requirements would be no more burdensome than those governing gas stations, and the huge range of gas station attests to dealers of all scopes and sizes to comply with the licensing and bonding requirement. In addition, dealers already should have many of the processes in place because out-of-state vehicles are able to pay the taxes at the pump under current law.

CSHB 2148 also would make some technical changes to the measurement of pipeline natural gas to set a diesel-gallon equivalent. This change would reflect a minor modification to account for the removal of carbon dioxide and nitrogen content in the gas composition. The revised measurement would be consistent with standards that are being pursued by the natural gas vehicle industry nationally.

OPPONENTS SAY:

CSHB 2148 would transfer the burden of tax collection and administration from customers to dealers. This would create an added hassle for dealers, many of whom are very small-scale operations. The costs and additional bureaucracy may push some small-scale dealers out of business or at least prompt them to discontinue their CNG and LNG operations.