

SUBJECT: Authorizing vehicle inspection air quality fees in certain counties.

COMMITTEE: Environmental Regulation — committee substitute recommended.

VOTE: 9 ayes — Harless, Márquez, Isaac, Kacal, Lewis, Reynolds, Thompson,
C. Turner, Villalba

0 nays

WITNESSES: For — Deece Eckstein, Travis County; Eddie Hazel, Harris County Emissions Task Force; Jerry Kitchens, Dallas County Emission Enforcement Program; Michael Nowels, Texas State Inspection Association; Cyrus Reed, Lone Star Chapter, Sierra Club; Michael Vasquez, Texas Conference of Urban Counties; (*Registered, but did not testify*: Rita Beving; Scott Johnson; Donald Lee, Texas Conference of Urban Counties; Mark Mendez, Tarrant County Commissioners Court; Luke Metzger, Environment Texas; Craig Pardue, Dallas County; Robin Schneider, Texas Campaign for the Environment; Stacy Suits; David Weinberg, Texas League of Conservation Voters; Kaiba White, Public Citizen)

Against — (*Registered, but did not testify*: Brent Connett , Texas Conservative Coalition; Bill Oswald, Koch Companies; Stephanie Simpson, Texas Association of Manufacturers)

On — David Brymer, Texas Commission on Environmental Quality

BACKGROUND: The Texas Commission on Environmental Quality (TCEQ) administers the Low-income Repair Assistance Program (LIRAP) in 16 Texas counties (Brazoria, Collin, Dallas, Denton, Ellis, Fort Bend, Galveston, Harris, Johnson, Kaufman, Montgomery, Parker, Rockwall, Tarrant, Travis, Williamson).

LIRAP funds two programs. AirCheckTexas Drive a Clean Machine is a financial assistance and incentive program for qualified owners living in one of the 16 counties whose vehicles fail the emissions test or whose vehicles are at least 10 years old. LIRAP also funds the Local Initiative Projects (LIP), which are grants to the 16 counties (or their designees) that fund projects like vehicle emission testing fraud prevention and counterfeit

inspection sticker enforcement, traffic light synchronization, and other projects that can improve air quality.

Revenue for LIRAP comes from a \$6 fee paid by the residents in the Houston and Dallas-Fort Worth area counties and \$2 fee paid by the residents of Travis and Williamson counties as part of their vehicle emissions test fee. The LIRAP fund balance is expected to be about \$80 million at the beginning of fiscal 2014. The program is expected to collect \$43.1 million in fiscal 2014 and \$44.6 million in fiscal 2015. The proposed appropriations bill for the upcoming biennium proposes \$12.5 million with \$11.25 million for Drive a Clean Machine and \$1.25 million for LIP.

DIGEST:

CSHB 3812 would allow an affected county that was approaching or had exceeded the eight-hour nation ambient air quality standard for ozone to adopt a county air quality fee to be used in that county only for a low-income vehicle repair assistance or accelerated retirement program or local initiative project to improve vehicle-related air emissions.

A county that adopted the fee would have to notify the Department of Public Safety (DPS), in a manner determined by the department, of the fee and the fee amount not later than the 60th day before the county imposed the fee. The fee is capped at an amount not to exceed the amount of the fee assessed in the county for an emission-related inspection.

Upon receiving notice from a county, DPS would be required to notify inspection stations located in the county and require the inspection stations to charge the fee and remit it back to DPS.

CSHB 3812 would establish the county air quality trust fund with the comptroller outside the treasury. The trust fund would be administered by DPS as a trustee for the purpose of holding the revenue until it was disbursed to the counties. DPS would annually remit to the county the fee imposed under this section.

The bill would prohibit DPS from crediting the revenue from inspection stations from a participating county to an account or fund in the treasury. CSHB 3812 would provide that a fee imposed by the bill is not a fee imposed under a Clean Air Act fee and would not be credited to the Texas mobility fund.

DPS would be allowed to deduct an administrative fee in an amount of not more than two percent of the fees collected.

The bill would take effect September 1, 2013.

**SUPPORTERS
SAY:**

CSHB 3812 would be a significant step in the state's effort to deliver truth-in-budgeting. The bill would allow DPS to collect and disperse vehicle emission fees directly to the counties. Unlike LIRAP, which is projected to have a fund balance of about \$80 million at the beginning of fiscal 2014, the fees collected by DPS would be disbursed on an annual basis and not held by the comptroller for budget certification purposes. The fees would be used for their intended purposes, low-income individual vehicle repair or local initiative projects to improve vehicle-related air emissions, rather than shore up the state budget.

CSHB 3812 would allow counties to establish an optional vehicle emission inspection program. Counties could either participate in TCEQ's existing program or pursue the more direct option of accessing the fees and have them be administered and disbursed by DPS.

It is time for the state to take action and make good on two promises --- to provide cleaner air and to improve the transparency of state budgeting. CSHB 3812 would deliver on those promises.

**OPPONENTS
SAY:**

CSHB 3812's intent is unclear. The bill would appear to allow both a state vehicle emission fee to be charged and also a county-ordered vehicle emission fee. Accessing another fee and increasing the size of the programs that benefit from that fee are not the solution to the air pollution issues in Texas.

While CSHB 3812 is well intended, it is only a partial solution to the problem of the large LIRAP fund balance and could cause problems for the state's budget certification process. If the intent of CSHB 3812 is to provide an alternative to TCEQ's program, allowing only the county fee or the state fee to be charged for vehicle emissions, then a significant revenue stream could become unavailable for budget certification purposes. If all 16 counties opted out of the program and the state's revenue stream ended as the state program wound down, then, depending on the timing of county action, tens of millions of dollars could potentially become unavailable to the state for budget certification purposes over the biennium.

The bill, if it is intended to be an alternative to TCEQ's fee, could have the unintended consequence of creating an uneven fee structure within a single air nonattainment area. The bill would allow for a permissive fee structure. One county in a nonattainment area could set its fee at \$6 per inspection, and an adjacent county could theoretically set a fee at a penny. This could have a couple of consequences, including effectively ending the low-income vehicle repair and replacement assistance program in the county with the low fee and disrupting the program in a higher fee county as drivers from that county got inspections in the low fee county.

The proposed administrative costs are too high. TCEQ's administrative cost is \$42,000 annually. DPS should not receive \$860,000 per year to act as a pass through agent. TCEQ should be the trustee of the funds, rather than DPS, and award to the counties funds through existing grant, oversight, and disbursement processes. This would ensure that local vehicle-related air pollution programs were well-managed, the effects of local politics were minimized, there was uniformity throughout air nonattainment areas, and counties benefited from state air quality expertise and assistance.

OTHER
OPPONENTS
SAY:

No new additional fees should be authorized. A car is not a national birthright and no Texan should be forced, at the county or state level, to subsidize the automobile purchases and repairs of other individuals.