

BILL ANALYSIS

C.S.H.B. 9
By: Truitt
Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Texas faces challenges with regard to funding of transportation and mobility infrastructure projects. Billions of dollars are needed to fund new, already identified highway and roadway projects, safety improvement projects, and bridges and mass transit systems such as passenger rail systems. A revenue stream which adjusts automatically to keep pace with inflation is needed to keep pace with the state's needs.

C.S.H.B. 9 allows the motor fuels tax rate to adjust automatically based on the producer price index as well as provides for the ending of diversions.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

ARTICLE 1 – Use of State Highway Fund

SECTION 1.01 –Amends Sec. 201.115, Transportation Code

Sec. 201.115 – Clarifies that the Department of Transportation may only use funds in the state highway fund to repay a loan if it is permitted under the constitution.

SECTION 1.02 – Amends Sec. 222.001, Transportation Code

Sec. 222.001 - Removes the ability of the state to use money in the state highway fund (006) to pay for the operations of the Department of Public Safety and to administer the laws relating to traffic and safety on public roads. It also restricts the state's ability to use any new funds authorized by the constitution from motor fuels taxes on highway, passenger rail, transit rail, and freight rail projects

SECTION 1.03 – Amends Sec. 222.073, Transportation Code

Sec. 222.073 – Clarifies that the funds deposited into the state infrastructure bank may only be used in the same manner as the funds deposited into the state highway fund (006).

SECTION 1.04 – Repeals Sec. 222.002

SECTION 1.05 – Article 1 of the bill is effective September 1, 2011

ARTICLE 2 – Motor Fuels Taxes

SECTION 2.01 – Amends Sec. 162.102, Tax Code

Sec. 162.102 – Provides that the tax on gasoline may be set in accordance with Sec. 162.1025

SECTION 2.02 – Amends Subchapter B, Chapter 162, Tax Code by adding Sec. 162.1025

Sec 162.1025 - Allows for the gasoline tax to be automatically adjusted annually based on the producer price index. Prohibits the gasoline tax rate from being set below the current rate of 20 cents per net gallon. The bill also caps the increase of the rate to no more than three cents per biennium and allows for the adjustments to be made until September 1, 2022.

SECTION 2.03 – Amends Sec. 162.103, Tax Code

Sec. 162.103 – Adds conforming language to reference the provisions allowing for the annual adjustment to the gasoline tax.

SECTION 2.04 – Amends Sec. 162.113, Tax Code

Sec. 162.113 – Reduces the amount of the gasoline tax that may be retained by licensed distributors from 1.75 percent to .30 percent.

SECTION 2.05 – Amends Sec. 162.116, Tax Code

Sec. 162.116 - Reduces the amount of the gasoline tax that may be retained by suppliers from two percent to one half of one percent.

SECTION 2.06 – Amends Sec. 162.119, Tax Code

Sec. 162.119 - Reduces the amount of the gasoline tax that may be retained by importers from two percent to one half of one percent.

SECTION 2.07 – Amends Sec. 162.127, Tax Code

Sec. 162.127 - Makes conforming changes to the amount of the gasoline tax that the comptroller shall refund to a license holder on the first sale or distribution of gasoline.

SECTION 2.08- Amends Sec. 162.202, Tax Code

Sec. 162.202 - Provides that the tax on gasoline may be set in accordance with Sec. 162.2025.

SECTION 2.09 – Amends Subchapter C, Chapter 162, Tax Code by adding Sec. 162.2025

Sec. 162.2025 - Allows for the diesel tax to be automatically adjusted annually based on the producer price index. Prohibits the diesel tax rate from being set below the current rate of 20 cents per net gallon. The bill also caps the increase of the rate to no more than three cents per biennium and allows for the adjustments to be made until September 1, 2022.

SECTION 2.10 - Amends Sec. 162.203, Tax Code

Sec. 162.203 - Adds conforming language to reference the provisions allowing for the annual adjustment to the gasoline tax.

SECTION 2.11 – Amends Sec. 162.214, Tax Code

Sec. 162.214 - Reduces the amount of the diesel tax that may be retained by licensed distributors from 1.75 percent to .30 percent.

SECTION 2.12 – Amends Sec. 162.217, Tax Code

Sec. 162.217 - Reduces the amount of the diesel tax that may be retained by suppliers from two percent to one half of one percent.

SECTION 2.13 – Amends Sec. 162.220, Tax Code

Sec. 162.220 - Reduces the amount of the diesel tax that may be retained by importers from two percent to one half of one percent.

SECTION 2.14 – Amends Sec. 162.229, Tax Code

Sec. 162.229 - Makes conforming changes to the amount of the gasoline tax that the comptroller shall refund to a license holder on the first sale or distribution of gasoline.

SECTION 2.15 – Amends Sec. 162.308, Tax Code

Sec. 162.308 - Reduces the amount of the liquefied gas tax that may be retained by licensed dealers from one percent to one half of one percent.

SECTION 2.16 – Amends Sec. 162.311, Tax Code - Reduces the amount of the liquefied gas tax that may be retained by licensed interstate truckers for the gallons of fuel used outside the state from one percent to one half of one percent.

SECTION 2.17 – States that the following SECTIONS of the bill are only effective with the passage of a constitutional amendment allowing the motor fuels tax to be automatically adjusted and the permissive uses of the motor fuels taxes and certain revenue received by the federal government: Section 2.01, 2.02, 2.03, 2.08, 2.09, and 2.10

SECTION 2.18 – State that the following sections of the bill are effective immediately if it receives the vote necessary for immediate effect: Sections 2.04, 2.05, 2.06, 2.07, 2.11, 2.12, 2.13, 2.14, 2.15, and 2.16

ARTICLE 3 – Effective Date

SECTION 3.01 - Effective date: upon passage or September 1, 2009.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2009.

COMPARISON OF ORIGINAL TO SUBSTITUTE

H.B 9 would authorize certain counties to call an election to impose a tax and/or fees to produce local revenue for mobility or transportation improvement projects, including passenger rail, transit, roadway, and freight rail projects.

C.S.H.B. 9 replaces the local option portion of the filed bill and inserts provisions allowing for an indexing of the motor fuels tax and an end of diversions from the state highway fund.