

BILL ANALYSIS

C.S.S.B. 855
By: Carona
Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The major urban areas in Texas face tremendous 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. New funding tools are needed to address these challenges, including tools for local governmental entities which have transportation infrastructure obligations and responsibilities.

C.S.S.B. 855 provides for the imposition of a county motor fuels tax, upon approval by the voters, for mobility improvement projects in counties that are wholly or partly located in the boundaries of the same metropolitan planning organization.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the comptroller of public accounts in SECTIONS 1 and 58 of this bill.

ANALYSIS

General Provisions

C.S.S.B. 855 amends the Local Government Code to add temporary provisions set to expire January 1, 2019, which may be cited as the Texas Local Option Transportation Act and which provide for a county motor fuels tax for mobility improvement projects in certain counties. The bill establishes that the expiration date precludes the holding of an election or the imposition of a county motor fuels tax not authorized under the bill's provisions before the provisions expire. The bill prohibits a county, municipality, or metropolitan planning organization (MPO) from being penalized with a reduction in state or federal transportation funding, including funding from the state highway fund, the Texas mobility fund, the Texas highway beautification fund, general obligation bonds, or any other method of state or federal transportation financing, due to the imposition of a county motor fuels tax under the bill's provisions. The bill prohibits the Texas Department of Transportation (TxDOT) from reducing any allocation of state or federal traditional transportation funding to a TxDOT district because the district contains a county that imposes a county motor fuels tax for mobility improvement projects.

C.S.S.B. 855 prohibits a county imposing a county motor fuels tax under the bill's provisions from using revenue from the tax to pay a person or entity required by law to register as a lobbyist with the Texas Ethics Commission. The bill requires the Texas Local Option Transportation Act to be liberally construed to effect its purposes. The bill establishes that the expiration of the bill's provisions do not affect the enforcement of bonds, obligations, covenants, or other legal instruments issued or executed under the bill before its expiration; the continued imposition and collection of a county motor fuels tax authorized at an election held under the bill's provisions necessary to fulfill an obligation or other instrument issued or executed under the bill before its expiration; the performance of any mobility improvement project, including maintenance and operation of a project; or the administration of a county mobility improvement fund established under the bill for county motor fuels tax revenue. The bill prohibits a county from using county motor fuels tax revenue to acquire, construct, maintain, or otherwise directly fund a toll project; for an approved mobility improvement project if the revenue is used in order to reallocate other revenue toward a toll project; or to directly or indirectly hold, promote, or oppose an election

under provisions of the bill, including paying for promotional, educational, or advocacy materials.

C.S.S.B. 855 authorizes a political subdivision to contract or agree with another political subdivision to perform governmental functions and services in accordance with the bill's provisions. The bill authorizes a party to an interlocal contract to contract with an agency, as that term is defined under the Interagency Cooperation Act.

C.S.S.B. 855 requires the commissioners court, on or before the 90th day following the end of the fiscal year of a county that imposes a motor fuels tax under the bill, to submit a report to the executive director of TxDOT and to the state auditor. The bill requires the report to include the amount of revenue collected in the county under the bill's provisions; the amount and purpose of expenditures related to mobility improvement projects; and a description of the progress made toward completion of mobility improvement projects. The bill requires the county to publish the required report on the county's Internet website at the time the report is submitted to TxDOT. The bill establishes that, based on a risk assessment process in accordance with provisions regarding the state auditor, the financial transactions of a county regarding a motor fuels tax imposed under the bill and related mobility improvement projects are subject to audit by the state auditor. The bill requires an audited county to reimburse the state auditor for the expense of the audit. The bill defines "dealer," "diesel fuel," "gasoline," "motor fuel," "motor vehicle," "public highway," "sale," "department," "intermodal hub," "transit system," "metropolitan planning organization," "mobility improvement project," "transit authority" or "transportation authority," and "interlocal contract."

Elections; Project Selection; Equity

C.S.S.B. 855 requires all of the commissioners courts of those counties wholly or partly located in the boundaries of the same MPO, by order, to call an election on the issue of imposing a motor fuels tax under the bill's provisions if, at least 240 days before a uniform election date in November, a resolution or resolutions requesting that an election be called are adopted by the commissioners courts of one or more of those counties containing at least 66 percent of the total population of those counties, or, if at least 210 days before a uniform election date in November, a petition is submitted to those commissioners courts requesting that the election be called that is signed by the number of registered voters of those counties equal to at least 10 percent of the total number of votes cast in those counties for all candidates for governor in the most recent gubernatorial general election. The bill requires an election called under provisions of the bill by the commissioners courts of more than one county in the boundaries of the same MPO to be held on the same date. The bill authorizes a commissioners court to adopt an order calling an election only after holding three public hearings on the issue.

C.S.S.B. 855 requires an election on the issue of imposing a motor fuels tax to be held on a uniform election date in November. The bill makes provisions regarding false and misleading campaign material applicable to an election called under the bill's provisions. The bill establishes that, for the purposes of the bill's provisions establishing population requirements with respect to the calling of an election, only the portion of a municipality's population located in the county may be used to determine municipal population, and municipal and county population is based on the most recent estimate published by the MPO in which the county or municipality is wholly or partly located. The bill authorizes the commissioners court of a county in which the majority of voters did not approve the imposition of a county motor fuels tax at an election held under the bill's provisions by order to call a subsequent election to impose the tax using the procedures described in the bill. The bill prohibits the commissioners court from calling such a subsequent election before the second anniversary of a previously held election.

C.S.S.B. 855 requires an order calling an election to list and generally describe the nature and scope of the proposed mobility improvement projects to be constructed, and to list the estimated cost, or portion of the cost, and the estimated completion date for the capital construction of each proposed project. The bill sets forth the required language for the ballot for an election on the issue of imposing a county motor fuels tax. The bill establishes that the estimated cost of construction of a mobility improvement project listed on a ballot is not a legally binding restriction on the actual and ultimate cost of financing the project. The bill prohibits a ballot

from permitting individual improvement projects to be voted on as separate options and requires all projects included on a ballot to be approved or rejected as a group.

C.S.S.B. 855 requires, in addition to other applicable ballot requirements, a ballot proposed in a county primarily served by a transit authority that is subject to provisions applicable only to the board of a subregion having a principal municipality with a population of more than 800,000 and that proposes using funds collected in the jurisdiction of the authority to finance the construction of an improvement project related to a rail project located outside of the jurisdiction of the authority to specify, in regard to each of those proposed projects, a general description of the proposed rail-related project; a list of estimated costs of the proposed project including maintenance and operating costs; an estimate of any increased cost of service in the jurisdiction of the authority resulting from the proposed project; and a limit on the amount of revenue raised through a motor fuels tax imposed under the bill that may be spent on the project.

C.S.S.B. 855 authorizes a county to propose for funding by imposition of a county motor fuels tax under the bill the construction of a new mobility improvement project and related maintenance and operations; the expansion, reconstruction, or rehabilitation of an existing improvement project; improvements in the maintenance and operation of an existing improvement project; or the retirement of existing debt of a transit agency related to an improvement project. The bill authorizes a county to only use funds collected from the imposition of a county motor fuels tax to fund mobility improvement projects consistent with the transportation plans and programs of the MPO in which the county is wholly or partly located. The bill requires a county to consider passenger rail corridors in selecting projects for funding under the bill's provisions. The bill requires the MPO in which the county is wholly or partly located to submit to the county, on or before the 30th day before the date the commissioners court determines which projects shall be proposed for funding, a list of eligible mobility improvement projects with a primary emphasis on passenger rail and major roadway improvements. The bill requires the commissioners court, on or before the 180th day before such an election is held, by order and in consultation with municipalities and transit agencies located or operating in the county, to determine in a public hearing which projects from the submitted list shall be proposed for funding from the imposition of a county motor fuels tax. The bill authorizes, at the discretion of the county, employees of TxDOT, the county, a municipality, an MPO, an airport, or a transit authority or transportation authority located or operating in the county to be asked to provide staff support services to the county to determine the projects to be proposed and constructed.

C.S.S.B. 855 requires a commissioners court to use its best efforts to ensure that improvement projects selected for funding benefit each municipality and unincorporated area in the county in approximate proportion to the amount of tax revenue generated in each, applicable only to a county or municipality located in a region served by an MPO that serves two adjacent counties each having a population of one million or more. The bill requires revenue from the imposition of a county motor fuels tax and collected within any municipality having territory located in a transportation authority funded by a dedicated sales tax and governed by a subregional board to be maintained in a single segregated account separate from tax revenue collected elsewhere in the county. The bill prohibits revenue maintained in the segregated account from being used outside the boundaries of the territory of that authority or the county unless the governing body of each municipality in the county with territory in the authority and the governing body of the transportation authority consent to the use.

C.S.S.B. 855 prohibits tax revenue collected in an area outside the territory of a transportation authority funded by a dedicated sales tax and governed by a subregional board from being used in the territory of that authority or outside the county unless the commissioners court of the county or the governing bodies of two or more municipalities representing 60 percent or more of the population of the county outside of the territory of the authority consent to the use. The bill requires the governing body of any authority, county, or municipality required to provide its consent regarding the use of revenue collected under the bill to indicate by order, resolution, or other formal action whether the consent is granted before the commissioners court selects a mobility improvement project. The bill prohibits the governing body of a municipality or authority, on final approval of the project by the commissioners court, from rescinding its consent if it has been given.

County Motor Fuels Tax

C.S.S.B. 855 requires the county, if approved by a majority of the votes cast in a county at an election held under provisions of the bill, to impose and collect a tax at a rate of 10 cents per gallon on the sale of gasoline and diesel fuel sold in the county by a person, including a dealer, distributor, supplier, or permissive supplier, engaged in the sale of motor fuels used to propel a motor vehicle on the public highways of Texas. The bill establishes that the tax is added to the selling price of the fuel and is part of the price of the fuel, is a debt owed to the seller, and is recoverable at law in the same manner as the fuel charge for gasoline or diesel fuel. The bill establishes that the county motor fuels tax is in addition to the state motor fuels tax and is to be collected in conjunction with that tax when gasoline or diesel fuel is removed from a terminal using the terminal rack, other than by bulk transfer, to be sold or delivered into a county that has imposed the county motor fuels tax. The bill requires a county to discontinue the collection of a county motor fuels tax if all of the mobility improvement projects approved by the voters of a county are accepted by the governmental entity that contracted for the projects; if all of the bonds issued for improvement projects are paid in full; and if additional revenue from the continued collection of the tax is not necessary for ongoing maintenance and operation of improvement projects, including the financial impact a new improvement project may have on an existing transit system as specified by an interlocal agreement.

C.S.S.B. 855 requires the comptroller of public accounts to administer, collect, and enforce a county tax imposed on the sale of gasoline or diesel fuel approved in accordance with provisions of the bill. The bill requires the tax to be exclusively administered, collected, and enforced in conformance with state law governing the tax assessed on the sale of gasoline and diesel fuel. The bill establishes that references in that law to motor fuel taxes imposed under those provisions also include taxes imposed under the bill's provisions and that the definitions and exemptions in that law are applicable to the county motor fuels tax. The bill authorizes the comptroller to adopt reasonable rules and prescribe forms consistent with the bill's provisions and provisions of state law regarding motor fuel taxes, for the administration, collection, reporting, and enforcement of these provisions. The bill establishes that the county motor fuels tax takes effect on the first day of the first calendar quarter following the expiration of the first complete quarter occurring after the date of election authorizing the order imposing the tax. The bill authorizes the comptroller, if the comptroller determines the tax will take effect before the comptroller can reasonably take the action required to begin collecting the tax, to delay the effective date until the first day of the first calendar quarter following the date the comptroller declares readiness to begin collection.

C.S.S.B. 855 requires a county to adopt rules and prescribe forms for the collection of an authorized county motor fuels tax. The bill requires a person required to collect such a tax to report and send the tax to the county as provided by the county. The bill authorizes a county imposing such a tax to prescribe monetary penalties, including interest charges, for failure to keep records required by rules adopted under these provisions, failure to report when required, or failure to pay the tax when due. The bill authorizes a county attorney, criminal district attorney, or district attorney to bring suit against a person to enforce provisions regarding the imposition of a county motor fuels tax. The bill requires the comptroller, before making a distribution to a county of the county's share of the county motor fuels taxes collected by the comptroller, to deduct any costs incurred by the comptroller related to the comptroller's preparations to administer, collect, and enforce that tax. The bill requires each county approving the imposition of a tax on the sale of gasoline or diesel fuel to be charged a pro rata amount for the comptroller's costs in preparing to administer, collect, and enforce the tax. The bill specifies that if only one county elects to approve the imposition of a tax on the sale of gasoline or diesel fuel in its jurisdiction, that county shall bear all of the costs incurred by the comptroller but may recover pro rata shares of this cost from other counties approving the imposition of the tax.

C.S.S.B. 855 requires the comptroller, before adopting rules as provided by the bill, to consult with representatives of the entities that would be required to collect and remit a county motor fuels tax and file reports with the comptroller relating to that tax, and representatives of counties in which the voters have approved the imposition of such a tax. The bill requires the adopted rules to provide for the uniform administration and reporting of all motor fuels taxes imposed by a county under the bill. The bill prohibits a county from imposing requirements on an entity required to collect a county motor fuels tax that are not specifically authorized by the rules

adopted under the bill. The bill authorizes the adopted rules to require the comptroller to report sufficient information to each county imposing a county motor fuels tax to ensure proper allocation of revenue by the county under the bill, and prohibits the rules from requiring the comptroller to report proprietary information collected from an individual taxpayer in a way that would be subject to public disclosure, and from authorizing a county imposing a county motor fuels tax to contract with a private entity to perform any duty or responsibility associated with the collection, enforcement, or administration of the tax.

C.S.S.B. 855 requires the comptroller to deposit the county taxes collected by the comptroller under the bill and under state law regarding motor fuel taxes, in trust in the separate suspense account of the county for which the taxes were collected. The bill requires the comptroller each month to distribute to the county treasurer, payable to the county and for deposit in the county mobility improvement fund, the county's share of the taxes collected by the comptroller under the bill and that law. The bill requires the comptroller, before making a distribution to a county, to also deduct an amount not to exceed two percent of the amount of the taxes collected for the county during the period for which a distribution is made as the state's charge for its services. The bill requires the comptroller to credit the amount deducted to the general revenue fund. The bill requires the comptroller to adjust the percentage of the amount deducted each state fiscal year considering the projected expenditures necessary for the collection, administrative, and enforcement functions related to the county motor fuels tax.

C.S.S.B. 855 authorizes the comptroller to retain in the suspense account of a county a portion of the county's share of the tax collected for the county under the bill and under state law regarding motor fuel taxes, not to exceed five percent of the amount distributed to the county. The bill prohibits the amount that may be retained by a county that has abolished the tax from exceeding five percent of the final distribution to the county at the time of the termination of the collection of the tax. The bill authorizes the comptroller, from the amounts retained in a county's suspense account, to correct erroneous deposits to the account, make refunds for overpayments to the account, and redeem dishonored checks and drafts deposited to the credit of the account. The bill requires the comptroller, before the fourth anniversary of the effective date of the abolition of a county tax collected under the bill and applicable state law, to send to the county the remainder of the money in the county's account and to close the account. The bill requires interest earned on all deposits made by the comptroller under provisions of the bill to be credited to the suspense account of the county.

County Mobility Improvement Fund

C.S.S.B. 855 requires the commissioners court of each county imposing a county motor fuels tax by order to establish a county mobility improvement fund separate and apart from the county's general fund account. The bill requires the county to deposit in the fund money distributed to the county by the comptroller as the county's share of the county motor fuels taxes collected. The bill requires the county to establish segregated accounts in the fund for each approved mobility improvement project and for funds collected in the jurisdiction of a transit authority or transportation authority funded through a dedicated sales tax and operating under provisions relating to a subregional board in a subregion having a principal municipality with a population of more than 800,000 or under provisions relating to a coordinated county transportation authority. The bill establishes that money in the fund, including any interest earned, is the property of the county depositing the money and may be spent only as provided by provisions of the bill.

C.S.S.B. 855 authorizes a county to use money in its county mobility improvement fund to:

- reimburse or pay, without issuing bonds or other obligations or otherwise creating debt, the costs of planning, acquiring, establishing, developing, constructing, or renovating improvement projects in the county that were approved at an election under provisions of the bill;
- pay the principal of, interest on, or other costs relating to bonds or other obligations the county issues for the purpose of financing improvement projects in the county that were approved at such an election;
- pay amounts due and owing to a transit authority or transportation authority under a contract or interlocal agreement between the county and the authority under which the

authority agrees to provide, develop, construct, install, and operate passenger rail facilities and services inside and outside the county and to issue bonds and other obligations secured by and payable from the amounts due from the county under the contract or interlocal agreement for the purpose of financing the capital costs of the facilities, if a county motor fuels tax was approved for that purpose at an election under the bill;

- pay amounts due and owing to a municipality under a contract or interlocal agreement between the county and the municipality under which the municipality agrees to provide, develop, or construct improvement projects located inside the municipality;
- pay amounts owed to a transit agency to accelerate the retirement of outstanding debt; and
- reimburse or pay the actual and customary costs of financial administration of the fund.

C.S.S.B. 855 authorizes a contract or interlocal agreement entered into between a county and a transit authority or transportation authority, for purposes relating to rail facilities and services, to have those terms and provisions and to impose and contain requirements, grants, and limitations, as the county and the transit authority or transportation authority may mutually agree, including the power of the transit authority or transportation authority to pledge as security for its bonds all amounts less agreed costs of collection deposited to the county's local option transportation fund, if such a pledge was approved at an election under provisions of the bill regarding the fund. The bill authorizes bonds or other obligations issued by a county under these provisions to be made payable from money in the county's county mobility improvement fund, subject to any limitations contained in a contract or interlocal agreement between the county and a transit authority or transportation authority, and from any other sources of revenue of the county that are lawfully available. The bill requires bonds or other obligations issued by a transit authority or transportation authority under a contract or interlocal agreement to be payable from and secured by the money in the county's county mobility improvement fund and the revenue received from the operation of the passenger rail services financed by the bonds or other obligations, and prohibits those bonds or other obligations from including any revenue the transit authority or transportation authority receives from a dedicated sales tax or the operation of any other passenger rail or bus system or related services.

C.S.S.B. 855 authorizes bonds or other obligations issued by a county under these provisions or by a transit authority or transportation authority under a contract or interlocal agreement to mature serially or otherwise not more than 30 years after the date of issuance. The bill requires any bonds or other obligations issued by a county or by a transit authority or transportation authority under these provisions, and the proceedings authorizing the bonds or other obligations, to be submitted to the attorney general for review and approval under provisions regarding examination and registration of public securities. The bill prohibits a county from using money in the county mobility improvement fund to finance the construction of an improvement project not approved by the voters in an election under the bill or from using funds approved for a particular improvement project to fund a different project.

Transit and Transportation Authorities

C.S.S.B. 855 prohibits a subregion of a transportation authority governed by provisions relating to a subregional board of a subregion having a principal municipality with a population of more than 800,000 from using any proceeds from a sales and use tax imposed under those provisions, or any other revenue of the authority under those provisions, for an improvement project under the bill without the favorable vote of four-fifths of the members of the subregional board. The bill prohibits a county acting under the bill's provisions from directly operating or providing passenger rail services or any service expressly reserved by a transit authority or a transportation authority that serves the county. The bill prohibits a county motor fuels tax from being used to establish or fund services of a transit authority or a transportation authority created on or after January 1, 2009. The bill establishes that the Texas Local Option Transportation Act does not authorize the creation of a transit authority or a transportation authority.

Interlocal Cooperation Act

C.S.S.B. 855 amends the Government Code to add a temporary provision, set to expire January 1, 2012, authorizing the comptroller to enter into an interlocal contract with one or more local governments or political subdivisions to collect, administer, and enforce a county motor fuels tax enacted under the Texas Local Option Transportation Act and any other related law.

Conforming Changes Pertaining to Imposition of a County Motor Fuels Tax

C.S.S.B. 855 amends the Tax Code to provide for the administration, collection, and enforcement of a county motor fuels tax in conformance with the law governing the tax assessed on the sale of gasoline and diesel fuel. The bill defines "county diesel fuel tax," "county gasoline tax," "state diesel fuel tax," "state gasoline tax," and "taxing county."

Transition Provisions

C.S.S.B. 855 establishes, effective on passage, or, if the bill does not receive the necessary vote, on August 31, 2009, that the comptroller's duties and responsibilities for the collection, administration, and enforcement of a county motor fuels tax as authorized by the Texas Local Option Transportation Act, are specifically contingent on the comptroller receiving sufficient funding in advance of the effective date of any motor fuels tax imposed by a county to adequately cover the comptroller's initial implementation costs. The bill establishes the legislature's intent that the initial implementation costs be funded through an interlocal agreement between the comptroller and one or more local entities. The bill establishes that the comptroller's duties and responsibilities under the bill are specifically contingent on the approval and execution of that agreement by the parties in a manner that results in funding being available to the comptroller on or before September 1, 2009. The bill establishes that if the comptroller does not receive funding in a timely manner as determined by the comptroller, the comptroller is not required to enforce the provisions of the bill related to a county motor fuels tax.

C.S.S.B. 855 prohibits a county from imposing a county motor fuels tax before the effective date of rules adopted by the comptroller to administer, collect, and enforce the tax. The bill requires the comptroller to adopt the rules required by the bill before the first anniversary of the date on which an interlocal agreement for the funding of the initial implementation costs, as specified by the bill, is entered into.

C.S.S.B. 855 authorizes money collected from a county motor fuels tax authorized by the bill to, unless otherwise authorized by the Texas Constitution, to be used only for acquiring rights-of-way, for constructing, maintaining, and policing public roadways, and for administering laws related to the supervision of traffic and safety on those roads. The bill requires the county, if the Texas Constitution does not authorize the use of money collected under the county motor fuel tax for transportation uses other than those described above, to deposit such money into an account separate from the money collected under other provisions of the Texas Local Option Transportation Act, and authorizes the county to use the money only for the purposes described above. The bill requires the county, if the Texas Constitution requires that one-fourth of the county motor fuels tax be allocated to the available school fund, to deposit such money into an account separate from the money collected under other provisions of the bill and to allocate the money to the comptroller for deposit in the state treasury for the purpose required by the constitution.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2009.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.S.B. 855 relates to a county motor fuels tax for mobility improvement projects in certain counties, whereas the original relates to local options for mobility improvement projects in certain counties and municipalities. The substitute requires all of the commissioners courts of those counties that are wholly or partly located in the boundaries of the same metropolitan planning organization to call an election on the issue of imposing a motor fuels tax if a resolution requesting an election contains at least 66 percent of the total population of those counties, among other options, whereas the original authorizes a county to which the bill applies to call an

election on the issue of imposing one or more of the following methods of local option funding: a motor fuel tax; a mobility improvement fee; a parking management fee; an annual motor vehicle emissions fee; a driver's license renewal fee; and a Texas new resident roadway impact fee. The original also required a county to which the bill applies to call an election if two or more municipalities representing 60 percent of the population within a county adopt a resolution requesting the county call an election. The substitute establishes general provisions regarding elections, project selection, and equity, whereas the original establishes such provisions for each of six regions: North Texas Region, Alamo Region, Capital Region, West Texas Border Region, South Texas Region, and Coastal Bend Region.

C.S.S.B. 855 provides for a county to impose and collect a motor fuels tax at a rate of 10 cents per gallon on the sale of gasoline or diesel fuel rather than a rate of 2, 4, 6, 8, or 10 cents per gallon as in the original. The substitute provides for a county commissioners court to approve mobility improvement projects from a list submitted by the metropolitan planning organization, whereas the original establishes a project selection advisory committee or project selection and ballot committee, depending on the region, to recommend projects to be placed on the ballot. The substitute requires an election to be held on a uniform election date in November, whereas the original requires an election to be held on a uniform election date in November or May, depending on the region. The substitute requires a county to establish a county mobility improvement fund, rather than a local option transportation fund as in the original, and establishes general provisions regarding the use of the fund. The substitute adds a provision not included in the original to authorize a county to use the fund to pay amounts owed to a transit agency to accelerate the retirement of outstanding debt. The substitute adds a provision not included in the original to prohibit revenue from a county motor fuels tax to be used to fund a toll project or to pay for certain promotional or advocacy materials.

C.S.S.B. 855 and the original provide for a county motor fuels tax to be administered, collected, and enforced in conformance with Tax Code provisions governing the tax assessed on the sale of gasoline and diesel fuel, but the substitute adds provisions not included in the original to set forth the conforming provisions in the Tax Code. The substitute adds a provision not included in the original to make the comptroller's responsibilities for the tax contingent on the comptroller receiving sufficient funding to adequately cover the comptroller's initial implementation costs and to provide for the comptroller and one or more local entities to enter into an interlocal agreement to fund those costs. The substitute adds provisions not included in the original setting a deadline for the adoption, by the comptroller, of the rules required by the bill and prohibits a county from imposing a motor fuels tax under the bill before the effective date of those rules. The substitute adds provisions not included in the original making use and deposit of money collected from a county motor fuels tax under the bill contingent on the authorizations and requirements of the Texas Constitution.

C.S.S.B. 855 differs from the original by making the bill take effect September 1, 2009, except as otherwise provided, rather than making the bill take effect contingent on voter approval of the constitutional amendment limiting the purposes for which revenue from taxes on motor fuels and lubricants may be used, as in the original.