

By: Truitt, Anchia, Branch, McClendon,
et al.

H.B. No. 9

Substitute the following for H.B. No. 9:

By: Pickett

C.S.H.B. No. 9

A BILL TO BE ENTITLED

AN ACT

relating to transportation funding in this state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. USE OF STATE HIGHWAY FUND

SECTION 1.01. Section 201.115(d), Transportation Code, is amended to read as follows:

(d) Notwithstanding Section 222.001, money in the state highway fund may be used to repay a loan under this section, if permissible under the Texas Constitution and appropriated by the legislature for that purpose.

SECTION 1.02. Section 222.001, Transportation Code, is amended to read as follows:

Sec. 222.001. USE OF STATE HIGHWAY FUND. (a) Money that is required to be used for public roadways by the Texas Constitution or federal law and that is deposited in the state treasury to the credit of the state highway fund, including money deposited to the credit of the state highway fund under Title 23, United States Code, may be used only:

(1) to improve the state highway system; or

(2) to mitigate adverse environmental effects that result directly from construction or maintenance of a state highway by the department [~~, or~~

~~(3) by the Department of Public Safety to police the state highway system and to administer state laws relating to~~

1 ~~traffic and safety on public roads]~~.

2 (b) If the Texas Constitution dedicates a portion of the net
3 revenue derived from the taxes imposed on motor fuels for the
4 purpose of constructing, maintaining, and operating passenger
5 rail, transit rail, and freight rail, the money may be used only to:

6 (1) improve a passenger or freight rail facility,
7 including a passenger or freight rail facility of:

8 (A) a transit authority under Chapter 451;

9 (B) a transportation authority under Chapter 452
10 or 460;

11 (C) a transit department under Chapter 453; or

12 (D) a regional mobility authority under Chapter
13 370; or

14 (2) mitigate adverse environmental effects that
15 result directly from construction or maintenance of a project
16 described in Subdivision (1).

17 (c) Except as otherwise provided by this code, money in the
18 state highway fund that is not described by Subsection (a) or (b)
19 may be used only to improve the state highway system.

20 SECTION 1.03. Section 222.073, Transportation Code, is
21 amended to read as follows:

22 Sec. 222.073. PURPOSES OF INFRASTRUCTURE BANK. To the
23 extent permissible under [~~Notwithstanding~~] Section 222.001, the
24 commission shall use money deposited in the bank to:

25 (1) encourage public and private investment in
26 transportation facilities both within and outside of the state
27 highway system, including facilities that contribute to the

1 multimodal and intermodal transportation capabilities of the
2 state; and

3 (2) develop financing techniques designed to:

4 (A) expand the availability of funding for
5 transportation projects and to reduce direct state costs;

6 (B) maximize private and local participation in
7 financing projects; and

8 (C) improve the efficiency of the state
9 transportation system.

10 SECTION 1.04. Section 222.002, Transportation Code, is
11 repealed.

12 SECTION 1.05. This article takes effect September 1, 2011.

13 ARTICLE 2. MOTOR FUELS TAXES

14 SECTION 2.01. Section 162.102, Tax Code, is amended to read
15 as follows:

16 Sec. 162.102. TAX RATE. Except as provided by Section
17 162.1025, the ~~The~~ gasoline tax rate is 20 cents for each net
18 gallon or fractional part on which the tax is imposed under Section
19 162.101.

20 SECTION 2.02. Subchapter B, Chapter 162, Tax Code, is
21 amended by adding Section 162.1025 to read as follows:

22 Sec. 162.1025. ANNUAL RATE CHANGE ACCORDING TO PRODUCER
23 PRICE INDEX. (a) In this section:

24 (1) "Producer price index" means the producer price
25 index for highway and street construction published by the United
26 States Department of Labor.

27 (2) "Producer price index percentage change" means the

1 percentage increase or decrease, not to exceed five percent, in the
2 producer price index of a given state fiscal year from the producer
3 price index of the preceding state fiscal year.

4 (b) Subject to Subsections (c) and (d), on October 1 of each
5 year, the rate of the gasoline tax imposed under this subchapter is
6 increased or decreased by an amount that is equal to the producer
7 price index percentage change for the preceding fiscal year
8 multiplied by the rate of the state gasoline tax on August 1 of that
9 year.

10 (c) If the computation required by Subsection (b) will
11 result in a tax rate that is less than 20 cents for each net gallon
12 or fractional part on which the tax is imposed under Section
13 162.101, the comptroller shall set the tax rate at 20 cents.

14 (d) The rate of the gasoline tax imposed under this
15 subchapter may not be:

16 (1) increased by a total of more than three cents each
17 state fiscal biennium; or

18 (2) increased or decreased under this section on or
19 after September 1, 2022.

20 (e) Not later than September 1 of each year, the comptroller
21 shall:

22 (1) compute the new tax rate as provided by this
23 section;

24 (2) give the new tax rate to the secretary of state for
25 publication in the Texas Register; and

26 (3) notify each license holder under this subchapter
27 of the applicable new tax rate.

1 SECTION 2.03. Section 162.103(a), Tax Code, is amended to
2 read as follows:

3 (a) A backup tax is imposed at the rate prescribed by
4 Sections [~~Section~~] 162.102 and 162.1025 on:

5 (1) a person who obtains a refund of tax on gasoline by
6 claiming the gasoline was used for an off-highway purpose, but
7 actually uses the gasoline to operate a motor vehicle on a public
8 highway;

9 (2) a person who operates a motor vehicle on a public
10 highway using gasoline on which tax has not been paid; and

11 (3) a person who sells to the ultimate consumer
12 gasoline on which tax has not been paid and who knew or had reason to
13 know that the gasoline would be used for a taxable purpose.

14 SECTION 2.04. Section 162.113(e), Tax Code, is amended to
15 read as follows:

16 (e) A licensed distributor or licensed importer who makes
17 timely payments of the gasoline tax imposed under this subchapter
18 is entitled to retain an amount equal to 0.30 [~~1.75~~] percent of the
19 total taxes to be paid to the supplier or permissive supplier to
20 cover administrative expenses.

21 SECTION 2.05. Section 162.116(b), Tax Code, is amended to
22 read as follows:

23 (b) A supplier or permissive supplier that timely pays the
24 tax to this state may deduct from the amount of tax due a collection
25 allowance equal to one-half of one [~~two~~] percent of the amount of
26 tax payable to this state.

27 SECTION 2.06. Section 162.119(b), Tax Code, is amended to

1 read as follows:

2 (b) An importer of gasoline that timely files a return and
3 payment may deduct from the amount of tax payable with the return a
4 collection allowance equal to one-half of one [~~two~~] percent of the
5 amount of tax payable to this state.

6 SECTION 2.07. Section 162.127(f), Tax Code, is amended to
7 read as follows:

8 (f) After examination of the refund claim, the comptroller,
9 before issuing a refund warrant, shall deduct from the amount of the
10 refund the one-half of one [~~two~~] percent deducted originally by the
11 license holder on the first sale or distribution of the gasoline.

12 SECTION 2.08. Section 162.202, Tax Code, is amended to read
13 as follows:

14 Sec. 162.202. TAX RATE. Except as provided by Section
15 162.2025, the [~~The~~] diesel fuel tax rate is 20 cents for each net
16 gallon or fractional part on which the tax is imposed under Section
17 162.201.

18 SECTION 2.09. Subchapter C, Chapter 162, Tax Code, is
19 amended by adding Section 162.2025 to read as follows:

20 Sec. 162.2025. ANNUAL RATE CHANGE ACCORDING TO PRODUCER
21 PRICE INDEX. (a) In this section:

22 (1) "Producer price index" means the producer price
23 index for highway and street construction published by the United
24 States Department of Labor.

25 (2) "Producer price index percentage change" means the
26 percentage increase or decrease, not to exceed five percent, in the
27 producer price index of a given state fiscal year from the producer

1 price index of the preceding state fiscal year.

2 (b) Subject to Subsections (c) and (d), on October 1 of each
3 year, the rate of the diesel fuel tax imposed under this subchapter
4 is increased or decreased by an amount that is equal to the producer
5 price index percentage change for the preceding fiscal year
6 multiplied by the rate of the state diesel fuel tax on August 1 of
7 that year.

8 (c) If the computation required by Subsection (b) will
9 result in a tax rate that is less than 20 cents for each net gallon
10 or fractional part on which the tax is imposed under Section
11 162.201, the comptroller shall set the tax rate at 20 cents.

12 (d) The rate of the diesel fuel tax imposed under this
13 subchapter may not be:

14 (1) increased by a total of more than three cents each
15 state fiscal biennium; or

16 (2) increased or decreased under this section on or
17 after September 1, 2022.

18 (e) Not later than September 1 of each year, the comptroller
19 shall:

20 (1) compute the new tax rate as provided by this
21 section;

22 (2) give the new tax rate to the secretary of state for
23 publication in the Texas Register; and

24 (3) notify each license holder under this subchapter
25 of the applicable new tax rate.

26 SECTION 2.10. Section 162.203(a), Tax Code, is amended to
27 read as follows:

1 (a) A backup tax is imposed at the rate prescribed by
2 Sections [~~Section~~] 162.202 and 162.2025 on:

3 (1) a person who obtains a refund of tax on diesel fuel
4 by claiming the diesel fuel was used for an off-highway purpose, but
5 actually uses the diesel fuel to operate a motor vehicle on a public
6 highway;

7 (2) a person who operates a motor vehicle on a public
8 highway using diesel fuel on which tax has not been paid; and

9 (3) a person who sells to the ultimate consumer diesel
10 fuel on which a tax has not been paid and who knew or had reason to
11 know that the diesel fuel would be used for a taxable purpose.

12 SECTION 2.11. Section 162.214(e), Tax Code, is amended to
13 read as follows:

14 (e) A licensed distributor or licensed importer who makes
15 timely payments of the diesel fuel tax imposed under this
16 subchapter is entitled to retain an amount equal to 0.30 [~~1.75~~]
17 percent of the total taxes to be paid to the supplier or permissive
18 supplier to cover administrative expenses.

19 SECTION 2.12. Section 162.217(b), Tax Code, is amended to
20 read as follows:

21 (b) A supplier or permissive supplier that timely pays the
22 tax to this state may deduct from the amount of tax due a collection
23 allowance equal to one-half of one [~~two~~] percent of the amount of
24 tax payable to this state.

25 SECTION 2.13. Section 162.220(b), Tax Code, is amended to
26 read as follows:

27 (b) An importer of diesel fuel that timely files a return

1 and payment may deduct from the amount of tax payable with the
2 return a collection allowance equal to one-half of one [~~two~~]
3 percent of the amount of tax payable to this state.

4 SECTION 2.14. Section 162.229(f), Tax Code, is amended to
5 read as follows:

6 (f) After examination of the refund claim, the comptroller,
7 before issuing a refund warrant, shall deduct from the amount of the
8 refund the one-half of one [~~two~~] percent deducted originally by the
9 license holder on the first sale or distribution of the diesel fuel.

10 SECTION 2.15. Section 162.308(c), Tax Code, is amended to
11 read as follows:

12 (c) The tax on one-half of one percent of the taxable
13 gallons of liquefied gas sold in this state shall be allocated to
14 the licensed dealer making the sale for the expense of collecting,
15 accounting for, reporting, and timely remitting the taxes collected
16 and for keeping the records. The allocation allowance shall be
17 deducted by the licensed dealer when paying the tax to this state.

18 SECTION 2.16. Section 162.311(c), Tax Code, is amended to
19 read as follows:

20 (c) A licensed interstate trucker is entitled to a refund of
21 the amount of the liquefied gas tax paid under this subchapter on
22 each gallon of liquefied gas subsequently used outside this state.
23 On verification by the comptroller that the interstate trucker's
24 report was timely filed with all information required, the
25 comptroller shall issue a warrant to the interstate trucker for the
26 amount of the refund less the one-half of one percent deducted
27 originally by the licensed dealer making the sale. An interstate

1 trucker who fails to file an interstate trucker report by the 25th
2 day of the month following the end of a calendar quarter forfeits
3 the right to a refund.

4 SECTION 2.17. Sections 2.01, 2.02, 2.03, 2.08, 2.09, and
5 2.10 of this article take effect only if the constitutional
6 amendment proposed by the 81st Legislature, Regular Session, 2009,
7 prescribing the purposes for which revenue from motor vehicle
8 registration fees and taxes on motor fuels and lubricants and
9 certain revenues received by the federal government may be used and
10 authorizing the legislature to provide for automatic adjustments of
11 the rates of motor fuels taxes is approved by the voters. If that
12 amendment is not approved by the voters, those sections of this
13 article have no effect.

14 SECTION 2.18. If this Act receives the vote necessary for
15 immediate effect, Sections 2.04, 2.05, 2.06, 2.07, 2.11, 2.12,
16 2.13, 2.14, 2.15, and 2.16 of this article take effect June 1, 2009.

17 ARTICLE 3. EFFECTIVE DATE

18 SECTION 3.01. Except as otherwise provided by this Act,
19 this Act takes effect immediately if it receives a vote of
20 two-thirds of all the members elected to each house, as provided by
21 Section 39, Article III, Texas Constitution. If this Act does not
22 receive the vote necessary for immediate effect, this Act takes
23 effect September 1, 2009.