

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Workman, Isaac

H.B. No. 2532

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of propane distribution system  
retailers; authorizing a fee.

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

SECTION 1. Title 3, Utilities Code, is amended by adding  
Subtitle C to read as follows:

SUBTITLE C. PROPANE GAS DISTRIBUTION SYSTEMS

CHAPTER 141. STANDARDS FOR DISTRIBUTION SYSTEM RETAILERS

Sec. 141.001. DEFINITIONS. In this chapter:

(1) "Allowable markup" means the two-calendar-year  
rolling average of the differences between the monthly reported  
E.I.A. retail prices per gallon during those two calendar years and  
the corresponding spot prices per gallon reported for the same two  
calendar years. The allowable markup for 2013 is \$1.48 per gallon.

(2) "Allowable spot price" means the average of the  
spot prices for the two months preceding the billing month. For the  
billing month of January 2013, the allowable spot price was \$0.844  
per gallon. The commission shall identify the allowable spot price  
each month and publish that price on the commission's website.

(3) "Commission" means the Railroad Commission of  
Texas or its successor agency.

(4) "Customer" means a retail customer of propane gas  
purchased from and delivered by a distribution system retailer  
through a propane gas system.

1           (5) "Distribution system retailer":

2               (A) means a retail propane dealer that:

3                   (i) owns or operates for compensation in  
4 this state a propane gas system; and

5                   (ii) has a Category E or K license issued by  
6 the applicable license and permit section of the commission; and

7               (B) does not include a person that furnishes  
8 propane gas only to the person, to the person's employees, or to the  
9 person's tenants as an incident of employment or tenancy, if the  
10 service is not resold to customers.

11           (6) "E.I.A. retail price" means the monthly U.S.  
12 Propane Residential Price as reported by the United States Energy  
13 Information Administration in dollars per gallon. In January 2013,  
14 the E.I.A. retail price was \$2.449 per gallon.

15           (7) "Propane gas" means a normally gaseous hydrocarbon  
16 defined as propane by the United States Energy Information  
17 Administration.

18           (8) "Propane gas system" means one or more propane  
19 storage containers, equipment, and facilities connected to a  
20 contiguous piping system through which propane gas is supplied by a  
21 distribution system retailer to at least 10 customers.

22           (9) "Rate" means the price per cubic foot of gas  
23 passing through the meter levied, charged, or collected by a  
24 distribution system retailer from a customer for propane gas  
25 provided through a propane gas system to the customer exclusive of  
26 any fees, taxes, or other charges. A conversion factor of 36.4  
27 cubic feet of propane gas per gallon shall be used for purposes of

1 determining a rate.

2 (10) "Spot price" means the Mont Belvieu, TX monthly  
3 Propane Spot Price FOB per gallon as reported by the United States  
4 Energy Information Administration in dollars per gallon. In  
5 January 2013, the spot price was \$0.838 per gallon.

6 Sec. 141.002. APPLICABILITY. This chapter applies only to  
7 a retail sale of propane gas made by a distribution system retailer  
8 through a propane gas system. This chapter does not apply to any  
9 other retail or wholesale sale of propane gas.

10 Sec. 141.003. RATE AND FEE CEILINGS. (a) In each billing  
11 month, a distribution system retailer shall charge a customer a  
12 just and reasonable rate for propane gas provided through a propane  
13 gas system to the customer. The just and reasonable rate may not  
14 exceed the allowable spot price plus the allowable markup. For a  
15 customer's bill that contains days in more than one month, the month  
16 with the most days covered by the bill shall be considered the  
17 billing month. The price per gallon shall be converted to the cubic  
18 foot rate by dividing the price per gallon by 36.4.

19 (b) In addition to the rate authorized by Subsection (a), a  
20 distribution system retailer may charge customers special fees for  
21 services, including connection, disconnection, account  
22 maintenance, late fees, and reconnection fees, if the fees are  
23 reasonable and customary. If a distribution system retailer  
24 charges a customer a fee for a service or occurrence described by  
25 this subsection that does not exceed the fees allowed for the  
26 services and occurrences described in Subdivisions (1)-(9), the  
27 amount of the fees shall qualify as reasonable and customary for the

purposes of this section. The services and occurrences and related allowable fees are as follows:

(1) a recurring monthly fee of \$12.50 to maintain an active gas service account with the distribution system retailer to be charged to a customer at a service address where the propane gas usage history during the preceding 12-month period exceeded 99 gallons;

(2) a recurring monthly fee of \$17.50 to maintain an active gas service account with the distribution system retailer to be charged to a customer at a service address where the propane gas usage history during the preceding 12-month period did not exceed 99 gallons;

(3) a fee of \$15 for a late payment received by the distribution system retailer, provided the bill was mailed or electronically transmitted 15 days before the date payment is due;

(4) a fee of \$25 to disconnect or terminate service from an active or delinquent account;

(5) a fee of \$65 for standard next available reconnect service for an active or delinquent account;

(6) a fee of \$125 for accelerated reconnect service;

(7) a fee of \$30 for a dishonored or canceled payment received;

(8) a fee of \$75 to initiate service to a new customer; and

(9) a fee of \$225 plus charges for the estimated amount of gas consumed and damages for attempted unauthorized gas consumption or diversion.

1       (c) The distribution system retailer may adjust the fee  
2 limits described by Subsection (b) up or down based on the 12-month  
3 changes in the Consumer Price Index for All Urban Consumers, U.S.  
4 City Average, All Items, CPI-U, Not Seasonally Adjusted, published  
5 by the Bureau of Labor Statistics of the United States Department of  
6 Labor or a similar index if that index is unavailable. For  
7 calculation purposes, the beginning base month is December 2012.

8       (d) Nothing in this section limits a distribution system  
9 retailer's ability to pass through to a customer as a separate  
10 charge on a pro rata actual-cost basis:

11           (1) a tax, other than taxes assessed on the basis of  
12 income, gross income, property, or margins; or

13           (2) an assessment, surcharge, levy, fee, or other  
14 charge imposed by a governmental entity, any one of which begins or  
15 is increased on or after January 1, 2013, either:

16                   (A) directly on a propane gas system or any  
17 portion; or

18                   (B) on a distribution system retailer by virtue  
19 of its ownership or operation of a propane gas system.

20       (e) A fee passed through to a customer under Subsection (d)  
21 shall be:

22           (1) passed through without any additional markup; and

23           (2) identified as a separate item on a customer's bill.

24       (f) Notwithstanding any other provision in this section,  
25 this subtitle does not apply to a new construction charge or an  
26 appliance repair charge.

27       Sec. 141.004. DISCONNECTION OF PROPANE GAS SERVICE. (a) A

1 distribution system retailer may not disconnect propane gas service  
2 to a residential customer on a weekend day or holiday officially  
3 observed by the State of Texas unless personnel of the distribution  
4 system retailer are available on that day to receive payments and  
5 reconnect service.

6 (b) A distribution system retailer may not disconnect  
7 propane gas service to a residential customer during an extreme  
8 weather emergency, as defined by Section 104.258. The distribution  
9 system retailer shall defer collection of the full payment of bills  
10 that are due during an extreme weather emergency, as defined by  
11 Section 104.258, until after the emergency is over.

12 Sec. 141.005. CONTINUITY OF SERVICE. (a) A distribution  
13 system retailer shall make all reasonable efforts to prevent  
14 interruptions of service. When an interruption occurs, the  
15 distribution system retailer shall reestablish service within the  
16 shortest possible time consistent with prudent operating  
17 principles so that the smallest number of customers are affected.

18 (b) Excluding service interruptions under Section 141.006,  
19 a distribution system retailer shall keep complete records of all  
20 emergency and scheduled service interruptions lasting more than six  
21 hours and affecting more than two customers. The records must  
22 describe the cause, date, length, and location of each  
23 interruption, the approximate number of customers affected by the  
24 interruption, and, in the case of an emergency interruption, the  
25 remedy and steps taken to prevent a recurrence, if applicable. The  
26 distribution system retailer shall submit copies of the service  
27 interruption records to the commission quarterly.

(c) The distribution system retailer shall notify the commission in writing not later than 48 hours after an interruption in service that affects the entire propane gas system, lasts more than four hours, represents an existing or probable hazard to persons or property, and requires immediate repair or continuous action until the conditions are no longer hazardous. The notice shall include the distribution system report of a service interruption. A written report of a service interruption in another form, including a part of a safety report, is sufficient to comply with this subsection.

(d) The commission shall establish and maintain a toll-free telephone number to enable a customer to notify the commission of a service interruption that does not involve a refusal to serve under Section 141.006 and to notify the commission that the customer believes the distribution system retailer is charging an amount greater than allowed by law. The commission shall immediately investigate the notification. A distribution system retailer shall notify the customer of the commission phone number on each billing statement.

(e) To restore and maintain service, the commission may assume temporary receivership of a propane gas system that experiences a service interruption that affects the entire propane gas system and that:

(1) continues to affect the entire propane gas system after the distribution system retailer has had direct access to and control of the system for more than 48 hours after the service interruption began;

1           (2) occurs more than three times in one month; or

2           (3) is the result of the distribution system  
3 retailer's failure or refusal to replenish the primary propane tank  
4 for a reason other than a general local market disruption, a  
5 restriction on wholesale propane supplies, mechanical failure,  
6 criminal activity, or an act of God.

7           (f) The commission may draw down all or part of the  
8 financial surety posted under Section 141.009, as required, to  
9 restore and maintain service under Subsection (e).

10           (g) If the commission assumes temporary receivership of a  
11 propane gas system under Subsection (e), it shall notify the  
12 distribution system retailer and shall take whatever action is  
13 necessary and appropriate to reestablish service to affected  
14 customers. The commission shall provide the distribution system  
15 retailer 72 hours to prepare and submit a plan to avoid continuing  
16 receivership.

17           (h) If a distribution system retailer's inability to  
18 fulfill its financial obligations is the cause of a service  
19 interruption described by Subsection (e), the commission may  
20 delegate the operation of the propane gas system to a receiver who  
21 agrees to operate the system. The receiver shall operate the system  
22 until relieved by order of the commission. A receiver ordered by the  
23 commission to assume operational control over a system shall  
24 operate the system in accordance with law. The commission shall,  
25 from the proceeds of the financial surety and no other source, and  
26 to the extent available, pay the receiver all reasonable costs,  
27 including reasonable legal fees, associated with accepting the



assignment and the resumption and stabilization of system operations plus a markup of 50 percent. Upon assuming operational control of the system, the receiver shall earn, accrue, and receive all gas system revenues pertaining to propane gas service provided to system customers accruing from that date until the date it relinquishes operational control of the system. The receiver is not liable for debt associated with the propane gas system that was incurred before the date the receiver assumed operational control of the system or debt the relieved distribution system retailer incurred before the date the receiver assumed operational control of the system.

(i) If the commission determines that the distribution system retailer is able to resume operation of the system, the commission shall notify the distribution system retailer of its determination and allow the resumption of operation after the distribution system retailer replaces the amount of the financial surety that was used in receivership. The distribution system retailer, or a party claiming title to the system by, through, or under the retailer, shall reimburse the commission for direct costs the commission may have incurred as a result of receivership and all unpaid money accrued or owed to the receiver under this section.

Sec. 141.006. GROUNDS FOR REFUSAL TO SERVE. (a) A distribution system retailer may refuse service to an applicant for new service or to an existing customer for continued service or reconnection if:

(1) an applicant or customer fails to pay fees, advances, contributions, or deposits required for service under the

1 distribution system retailer's policies;

2 (2) an applicant or customer fails to furnish a  
3 service or meter location specified for service by the distribution  
4 system retailer;

5 (3) the existence or repeated creation of an unsafe  
6 condition, such as impaired meter access or a leak in the  
7 applicant's piping system, may potentially create bodily harm or  
8 endanger life or property in the distribution system retailer's  
9 opinion;

10 (4) an applicant, customer, or service location owner  
11 is delinquent in payment for services provided by a distribution  
12 system retailer service location owner; or

13 (5) a current resident or occupant of the premises to  
14 receive service is delinquent in payment for services provided by a  
15 distribution system retailer.

16 (b) The right to refuse service ends when the cause for the  
17 refusal to serve is corrected.

18 Sec. 141.007. REASONABLE TIME TO BEGIN SERVICE. A  
19 distribution system retailer may delay providing service following  
20 an application or execution of an agreement for service for a  
21 reasonable amount of time considering required approvals,  
22 inspections, or permits, the extent of the facilities to be built,  
23 and the distribution system retailer's workload at the time.

24 Sec. 141.008. CUSTOMER COMPLAINTS. (a) A distribution  
25 system retailer that receives a written complaint shall promptly  
26 and suitably investigate the complaint and advise the complainant  
27 of the results of the investigation. A distribution system

retailer shall keep for at least three years after the final disposition of each complaint a record that includes each complainant's name and address, the date and nature of the complaint, and the adjustment or disposition of the complaint. A distribution system retailer is not required to keep a record of a complaint that does not require the distribution system retailer to take specific further action. A distribution system retailer shall notify each complainant of the right to file a complaint with the commission if the complainant is not satisfied by the distribution system retailer's resolution of the matter.

(b) On receipt of a written complaint from the commission on behalf of a customer, a distribution system retailer promptly and suitably shall investigate and notify the commission and complainant of the results of the investigation. An initial response must be made not later than the third business day after the date the distribution system retailer receives the complaint electronically delivered to a minimum of two electronic addresses designated by the distribution system retailer. A distribution system retailer shall send a final and complete response to the commission and complainant not later than the 15th day after the date the complaint was received, unless the commission grants additional time before the expiration of the 15-day period.

(c) The commission may impose sanctions on a distribution system retailer if, after an investigation, the commission determines that the distribution system retailer has violated Section 141.003. Sanctions may include:

(1) ordering a distribution system retailer to refund

1 the amounts of any overcharges to the distribution system  
2 retailer's customers; or

3 (2) drawing down all or a portion of the financial  
4 surety for the purpose of refunding the amounts of any overcharges  
5 to the distribution system retailer's customers not refunded before  
6 the 61st day after the date the commission orders a refund.

7 Sec. 141.009. PERFORMANCE GUARANTEE. A distribution system  
8 retailer shall post, in favor of the commission, financial surety  
9 in the form of a letter of credit, bond, or other acceptable form of  
10 financial surety with the commission in an amount equal to the  
11 lesser of \$3 multiplied by the number of gallons of aggregate  
12 storage capacity in all of the propane gas systems operated by the  
13 distribution system retailer or \$50,000. The issuer of the  
14 financial surety used to meet this requirement shall honor the  
15 financial surety if the issuer receives from the commission notice  
16 that the financial surety is due and payable. The commission may  
17 draw down all or a portion of the financial surety. The distribution  
18 system retailer shall provide the commission with verification of  
19 the adequacy of the financial surety, and the commission may order  
20 the distribution system retailer to adjust the amount of the  
21 financial surety annually.

22 Sec. 141.010. RULES. The commission shall adopt rules  
23 necessary to implement this chapter.

24 Sec. 141.011. DISCLOSURE TO HOMEOWNERS. (a) A  
25 distribution system retailer shall record in the real property  
26 records of each county in which the distribution system retailer  
27 owns or operates a propane gas system a notice of disclosure of the

1 existence of the propane gas system and the service the retailer  
2 provides. The notice shall include:

3 (1) a service map reflecting the location of the  
4 subdivisions or areas the distribution system retailer serves in  
5 the county;

6 (2) a copy of this chapter or a summary of the  
7 customer's rights under this chapter; and

8 (3) for development agreements entered into after  
9 September 1, 2013, a statement disclosing the existence of any  
10 financial interest held by a homeowners' association, municipal  
11 utility district, or developer in the propane gas system.

12 (b) If a person proposes to sell or convey real property  
13 located in a propane gas system service area owned by a distribution  
14 system retailer, the person must give to the purchaser written  
15 notice as prescribed by this subsection. The notice must include a  
16 copy of the notice recorded in the real property records as required  
17 by Subsection (a), must be executed by the seller, and must read as  
18 follows: "The real property, described below, that you are about to  
19 purchase may be located in a propane gas system service area, which  
20 is authorized by law to provide propane gas service to the  
21 properties in the area pursuant to Chapter 141, Utilities Code. If  
22 your property is located in a propane gas system service area, there  
23 may be special costs or charges that you will be required to pay  
24 before you can receive propane gas service. There may be a period  
25 required to construct lines or other facilities necessary to  
26 provide propane gas service to your property. You are advised to  
27 determine if the property is in a propane gas system service area

1 and contact the distribution system retailer to determine the cost  
2 that you will be required to pay and the period, if any, that is  
3 required to provide propane gas service to your property.

4 "The undersigned purchaser hereby acknowledges receipt of  
5 the foregoing notice at or before the execution of a binding  
6 contract for the purchase of the real property described in the  
7 notice or at closing of purchase of the real property.

8 \_\_\_\_\_  
9 Date

10 \_\_\_\_\_  
11 Signature of Purchaser"

12 (c) Each county shall accept and record in its real property  
13 records a distribution system retailer's service map presented to  
14 the county clerk under this section if the map meets filing  
15 requirements, does not exceed 11 inches by 17 inches in size, and is  
16 accompanied by the appropriate fee. The recording required by this  
17 section must be completed not later than the later of January 1,  
18 2014, or the 90th day after the date a distribution system retailer  
19 completes construction of a new propane gas system in the county.

20 SECTION 2. This Act takes effect September 1, 2013.

# ADOPTED

MAY 21 2013

*Atty. Gen.*  
Secretary of the Senate

By: *Fraser*

H.B. No. 2532

Substitute the following for H.B. No. 2532:

By: *Fraser*

C.S. H.B. No. 2532

## A BILL TO BE ENTITLED

1 AN ACT

2 relating to the regulation of propane distribution system  
3 retailers; authorizing a fee.

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

5 SECTION 1. Title 3, Utilities Code, is amended by adding  
6 Subtitle C to read as follows:

7 SUBTITLE C. PROPANE GAS DISTRIBUTION SYSTEMS

8 CHAPTER 141. STANDARDS FOR DISTRIBUTION SYSTEM RETAILERS

9 Sec. 141.001. DEFINITIONS. In this chapter:

10 (1) "Allowable markup" means the two-calendar-year  
11 rolling average of the differences between the monthly E.I.A.  
12 retail prices per gallon reported during the two calendar years  
13 immediately preceding the calendar year in which a billing month  
14 occurs and the corresponding spot prices per gallon reported for  
15 the same month an E.I.A. retail price was reported during those two  
16 calendar years. As an example of the calculated allowable markup,  
17 for 2013, the allowable markup is \$1.48 per gallon.

18 (2) "Allowable spot price" means the average of the  
19 spot prices for the two months preceding the billing month. As an  
20 example of the calculated allowable spot price, for the billing  
21 month of January 2013, the allowable spot price was \$0.844 per  
22 gallon. The commission shall identify the allowable spot price each  
23 month and publish that price on the commission's website.

24 (3) "Commission" means the Railroad Commission of

1 Texas or its successor agency.

2 (4) "Customer" means a retail customer of propane gas  
3 purchased from and delivered by a distribution system retailer  
4 through a propane gas system.

5 (5) "Distribution system retailer":

6 (A) means a retail propane dealer that:

7 (i) owns or operates for compensation in  
8 this state a propane gas system; and

9 (ii) has a Category E or K license issued by  
10 the applicable license and permit section of the commission; and

11 (B) does not include a person that furnishes  
12 propane gas only to the person, to the person's employees, or to the  
13 person's tenants as an incident of employment or tenancy, if the  
14 service is not resold to customers.

15 (6) "E.I.A. retail price" means the monthly U.S.  
16 Propane Residential Price as reported by the United States Energy  
17 Information Administration or its successor agency in dollars per  
18 gallon. As an example of the calculated E.I.A. retail price, for  
19 January 2013, the E.I.A. retail price was \$2.449 per gallon.

20 (7) "Propane gas" means a normally gaseous hydrocarbon  
21 defined as propane by the United States Energy Information  
22 Administration or its successor agency.

23 (8) "Propane gas system" means one or more propane  
24 storage containers, equipment, and facilities connected to a  
25 contiguous piping system through which propane gas is supplied by a  
26 distribution system retailer to at least 10 customers.

27 (9) "Rate" means the price per cubic foot of gas



1 passing through the meter levied, charged, or collected by a  
2 distribution system retailer from a customer for propane gas  
3 provided through a propane gas system to the customer exclusive of  
4 any fees, taxes, or other charges. A conversion factor of 36.4  
5 cubic feet of propane gas per gallon shall be used for purposes of  
6 determining a rate.

7           (10) "Spot price" means the Mont Belvieu, TX monthly  
8 Propane Spot Price FOB per gallon as reported by the United States  
9 Energy Information Administration or its successor agency in  
10 dollars per gallon. In January 2013, the spot price was \$0.838 per  
11 gallon.

12           Sec. 141.002. APPLICABILITY. This chapter applies only to  
13 the retail sale of propane gas made by a distribution system  
14 retailer through a propane gas system. This chapter does not apply  
15 to any other retail or wholesale sale of propane gas.

16           Sec. 141.003. RATE AND FEE CEILINGS. (a) In each billing  
17 month, a distribution system retailer shall charge a customer a  
18 just and reasonable rate for propane gas provided through a propane  
19 gas system to the customer. For the purposes of this section, a just  
20 and reasonable rate charged monthly for propane gas is a rate for  
21 propane gas provided through a propane gas system to the customer if  
22 it is less than or equal to the allowable spot price plus the  
23 allowable markup. For a customer's bill that contains days in more  
24 than one month, the month with the most days covered by the bill  
25 shall be considered the billing month. The price per gallon shall  
26 be converted to the cubic foot rate by dividing the price per gallon  
27 by 36.4.

1        (b) In addition to the rate authorized by Subsection (a), a  
2 distribution system retailer may charge customers special fees for  
3 services, including a connection fee, a disconnection fee, a  
4 monthly account fee to maintain an active account, a late payment  
5 fee, a disconnect or termination fee, a reconnection fee, an  
6 accelerated reconnection fee, a dishonored or canceled payment fee,  
7 a service initiation fee, and a tampering fee or an unauthorized gas  
8 consumption or diversion fee, if the fees are reasonable and  
9 customary. For purposes of this section, the fees described above  
10 that were charged or adopted by a distribution system retailer as of  
11 January 1, 2013, as adjusted pursuant to Subsection (c), are deemed  
12 reasonable and customary for that distribution system retailer and  
13 its successors regarding any systems owned or operated currently or  
14 in the future.

15        (c) The distribution system retailer may adjust the fees  
16 described by Subsection (b) up or down based on the 12-month changes  
17 in the Consumer Price Index for All Urban Consumers, U.S. City  
18 Average, All Items, CPI-U, Not Seasonally Adjusted, published by  
19 the Bureau of Labor Statistics of the United States Department of  
20 Labor or a similar index if that index is unavailable. For  
21 calculation purposes, the beginning base month is December 2012.

22        (d) Nothing in this section limits a distribution system  
23 retailer's ability to pass through to a customer as a separate  
24 charge on a pro rata actual-cost basis:

25                (1) a tax, other than a tax assessed on the basis of  
26 income, gross income, property, or margins;

27                (2) an assessment, surcharge, levy, fee, or other

1 charge imposed by a governmental entity, any one of which begins or  
2 is increased on or after January 1, 2013, either:

3 (A) directly on a propane gas system or any  
4 portion; or

5 (B) on a distribution system retailer by virtue  
6 of its ownership or operation of a propane gas system; or

7 (3) a sales tax or franchise fee.

8 (e) A fee passed through to a customer under Subsection (d)  
9 shall be:

10 (1) passed through without any additional markup; and

11 (2) identified as a separate item on a customer's bill.

12 (f) Notwithstanding any other provision in this section,  
13 this subtitle does not apply to a new gas line construction charge,  
14 a gas line repair charge, or an appliance repair charge.

15 (g) In the event either or both the E.I.A. retail price or  
16 the Mont Belvieu, TX monthly Propane Spot Price FOB per gallon cease  
17 to be available, the commission shall designate a reasonably  
18 similar available substitute index or indices as necessary for  
19 purposes of calculation of the rate deemed just and reasonable for  
20 purposes of this section. Until the commission publishes an order  
21 designating the substitute index or indices, distribution system  
22 retailers shall charge a rate not to exceed the most recent  
23 available allowable markup plus the most recent available Mont  
24 Belvieu, TX monthly Propane Spot Price FOB per gallon. If the Mont  
25 Belvieu, TX monthly Propane Spot Price FOB per gallon is not  
26 available from the United States Energy Information  
27 Administration, the distribution system retailer, for the purpose

1 of defining the spot price, may identify and use the Mont Belvieu,  
2 TX monthly Propane Spot Price FOB per gallon as reported by an  
3 alternative publicly available published source.

4 Sec. 141.004. DISCONNECTION OF PROPANE GAS SERVICE. (a) A  
5 distribution system retailer may not disconnect propane gas service  
6 to a residential customer on a weekend day or holiday officially  
7 observed by the State of Texas unless personnel of the distribution  
8 system retailer are available on that day to receive payments and  
9 reconnect service.

10 (b) A distribution system retailer may not disconnect  
11 propane gas service to a residential customer during an extreme  
12 weather emergency, as defined by Section 104.258. The distribution  
13 system retailer shall defer collection of the full payment of bills  
14 that are due during an extreme weather emergency, as defined by  
15 Section 104.258, until after the emergency is over.

16 Sec. 141.005. CONTINUITY OF SERVICE. (a) A distribution  
17 system retailer shall make all reasonable efforts to prevent  
18 interruptions of service. When an interruption occurs, the  
19 distribution system retailer shall reestablish service within the  
20 shortest possible time consistent with prudent operating  
21 principles so that the smallest number of customers are affected.

22 (b) Excluding service interruptions under Section 141.006,  
23 a distribution system retailer shall keep complete records of all  
24 emergency and scheduled service interruptions lasting more than six  
25 hours and affecting more than two customers. The records must  
26 describe the cause, date, length, and location of each  
27 interruption, the approximate number of customers affected by the

1 interruption, and, in the case of an emergency interruption, the  
2 remedy and steps taken to prevent a recurrence, if applicable. The  
3 distribution system retailer shall submit copies of the service  
4 interruption records to the commission quarterly.

5 (c) The distribution system retailer shall notify the  
6 commission in writing not later than 48 hours after an interruption  
7 in service that affects the entire propane gas system, lasts more  
8 than four hours, represents an existing or probable hazard to  
9 persons or property, and requires immediate repair or continuous  
10 action until the conditions are no longer hazardous. The notice  
11 shall include the distribution system report of a service  
12 interruption. A written report of a service interruption in another  
13 form, including a part of a safety report, is sufficient to comply  
14 with this subsection.

15 (d) The commission shall establish and maintain a toll-free  
16 telephone number to enable a customer to notify the commission of a  
17 service interruption that does not involve a refusal to serve under  
18 Section 141.006. The commission shall immediately investigate the  
19 notification. A distribution system retailer shall notify the  
20 customer of the commission phone number on each billing statement.

21 (e) To restore and maintain service, the commission may  
22 assume temporary operational control of a propane gas system that  
23 experiences a service interruption that affects the entire propane  
24 gas system and that:

25 (1) continues to affect the entire propane gas system  
26 after the distribution system retailer has had direct access to and  
27 control of the system for more than 48 hours after the service

1 interruption began;

2 (2) occurs more than three times in one month; or

3 (3) is the result of the distribution system  
4 retailer's failure or refusal to replenish the primary propane tank  
5 for a reason other than a general local market disruption, a  
6 restriction on wholesale propane supplies, mechanical failure,  
7 criminal activity, or an act of God.

8 (f) The commission may draw down all or part of the  
9 financial surety posted under Section 141.009, as required, to  
10 restore and maintain service under Subsection (e).

11 (g) At the request of the commission, the attorney general  
12 shall bring suit for the appointment of a receiver to collect the  
13 assets and carry on the business of a distribution system retailer  
14 that:

15 (1) has abandoned operation of its facilities;

16 (2) informs the commission that the owner is  
17 abandoning the system; or

18 (3) experiences a service interruption as described  
19 under Subsection (e).

20 (h) The court shall appoint a receiver if an appointment is  
21 necessary to guarantee:

22 (1) the collection of assessments, fees, penalties, or  
23 interest; or

24 (2) continuous and adequate service to the customers  
25 of the utility.

26 (i) The receiver shall execute a bond to assure the proper  
27 performance of the receiver's duties in an amount to be set by the

1 court.

2 (j) After appointment and execution of bond, the receiver  
3 shall take possession of the assets of the utility specified by the  
4 court. Until discharged by the court, the receiver shall perform  
5 the duties that the court directs to preserve the assets and carry  
6 on the business of the utility and shall strictly observe the final  
7 order involved.

8 (k) On a showing of good cause by the distribution system  
9 retailer, the court may dissolve the receivership and order the  
10 assets and control of the business returned to the distribution  
11 system retailer.

12 (l) Notwithstanding Section 64.021, Civil Practice and  
13 Remedies Code, a receiver appointed under this section may seek  
14 commission approval to acquire the distribution system retailer's  
15 facilities.

16 (m) Subject to the approval of the court and after giving  
17 notice to all interested parties, the receiver may sell or  
18 otherwise dispose of all or part of the real or personal property of  
19 a propane gas system against which a proceeding has been brought  
20 under this subchapter to pay the costs incurred in the operation of  
21 the receivership. The costs include:

22 (1) payment of fees to the receiver for the receiver's  
23 services;

24 (2) payment of fees to attorneys, accountants,  
25 engineers, or any other persons or entities that provide goods or  
26 services necessary to the operation of the receivership; and

27 (3) payment of costs incurred ensuring that any

1 property owned or controlled by a distribution system retailer is  
2 not used in violation of a final order of the court.

3 Sec. 141.006. GROUNDS FOR REFUSAL TO SERVE. (a) A  
4 distribution system retailer may refuse service to an applicant for  
5 new service or to an existing customer for continued service or  
6 reconnection if:

7 (1) an applicant or customer fails to pay fees,  
8 advances, contributions, or deposits required for service under the  
9 distribution system retailer's policies;

10 (2) an applicant or customer fails to furnish a  
11 service or meter location specified for service by the distribution  
12 system retailer;

13 (3) the existence or repeated creation of an unsafe  
14 condition, such as impaired meter access or a leak in the  
15 applicant's piping system, may potentially create bodily harm or  
16 endanger life or property in the distribution system retailer's  
17 opinion;

18 (4) an applicant, customer, or service location owner  
19 is delinquent in payment for services provided by a distribution  
20 system retailer service location owner; or

21 (5) a current resident or occupant of the premises to  
22 receive service is delinquent in payment for services provided by a  
23 distribution system retailer.

24 (b) The right to refuse service ends when the cause for the  
25 refusal to serve is corrected.

26 Sec. 141.007. REASONABLE TIME TO BEGIN SERVICE. A  
27 distribution system retailer may delay providing service following



1 an application or execution of an agreement for service for a  
2 reasonable amount of time considering required approvals,  
3 inspections, or permits, the extent of the facilities to be built,  
4 and the distribution system retailer's workload at the time.

5       Sec. 141.008. CUSTOMER COMPLAINTS. (a) A distribution  
6 system retailer that receives a written complaint shall promptly  
7 and suitably investigate the complaint and advise the complainant  
8 of the results of the investigation. A distribution system  
9 retailer shall keep for at least three years after the final  
10 disposition of each complaint a record that includes each  
11 complainant's name and address, the date and nature of the  
12 complaint, and the adjustment or disposition of the complaint. A  
13 distribution system retailer is not required to keep a record of a  
14 complaint that does not require the distribution system retailer to  
15 take specific further action. A distribution system retailer shall  
16 notify each complainant of the right to file a complaint with the  
17 commission if the complainant is not satisfied by the distribution  
18 system retailer's resolution of the matter.

19       (b) On receipt of a written complaint from the commission on  
20 behalf of a customer, a distribution system retailer promptly and  
21 suitably shall investigate and notify the commission and  
22 complainant of the results of the investigation. An initial  
23 response must be made not later than the third business day after  
24 the date the distribution system retailer receives the complaint  
25 electronically delivered to a minimum of two electronic addresses  
26 designated by the distribution system retailer. A distribution  
27 system retailer shall send a final and complete response to the

1 commission and complainant not later than the 15th day after the  
2 date the complaint was received, unless the commission grants  
3 additional time before the expiration of the 15-day period.

4 (c) The commission may impose sanctions on a distribution  
5 system retailer if, after an investigation, the commission  
6 determines that the distribution system retailer has violated  
7 Section 141.003. Sanctions may include:

8 (1) adopting an order requiring a distribution system  
9 retailer to refund the amounts of any overcharges to the  
10 distribution system retailer's customers;

11 (2) drawing down all or a portion of the financial  
12 surety for the purpose of refunding the amounts of any overcharges  
13 to the distribution system retailer's customers not refunded before  
14 the 61st day after the date the commission orders a refund; or

15 (3) adopting an order setting rates and fees for the  
16 distribution system retailer in accordance with Section 141.003.

17 Sec. 141.009. PERFORMANCE GUARANTEE. A distribution system  
18 retailer shall post, in favor of the commission, financial surety  
19 in the form of a letter of credit, bond, or other acceptable form of  
20 financial surety with the commission in an amount equal to the  
21 lesser of \$3 multiplied by the number of gallons of aggregate  
22 storage capacity in all of the propane gas systems operated by the  
23 distribution system retailer or \$50,000. The issuer of the  
24 financial surety used to meet this requirement shall honor the  
25 financial surety if the issuer receives from the commission notice  
26 that the financial surety is due and payable. The commission may  
27 draw down all or a portion of the financial surety. The distribution

1 system retailer shall provide the commission with verification of  
2 the adequacy of the financial surety, and the commission may order  
3 the distribution system retailer to adjust the amount of the  
4 financial surety annually.

5 Sec. 141.010. DISCLOSURE TO HOMEOWNERS. (a) A  
6 distribution system retailer shall record in the real property  
7 records of each county in which the distribution system retailer  
8 owns or operates a propane gas system a notice of disclosure of the  
9 existence of the propane gas system and the service the retailer  
10 provides. The notice shall include:

11 (1) a service map reflecting the location of the  
12 subdivisions or areas the distribution system retailer serves in  
13 the county;

14 (2) a copy of this chapter or a summary of the  
15 customer's rights under this chapter; and

16 (3) for development agreements entered into after  
17 September 1, 2013, a statement disclosing the existence of any  
18 financial interest held by a homeowners' association, municipal  
19 utility district, or developer in the propane gas system.

20 (b) If a person proposes to sell or convey real property  
21 located in a propane gas system service area owned by a distribution  
22 system retailer, the person must give to the purchaser written  
23 notice as prescribed by this subsection. The notice must include a  
24 copy of the notice recorded in the real property records as required  
25 by Subsection (a), must be executed by the seller, and must read as  
26 follows: "The real property, described below, that you are about to  
27 purchase may be located in a propane gas system service area, which

1 is authorized by law to provide propane gas service to the  
2 properties in the area pursuant to Chapter 141, Utilities Code. If  
3 your property is located in a propane gas system service area, there  
4 may be special costs or charges that you will be required to pay  
5 before you can receive propane gas service. There may be a period  
6 required to construct lines or other facilities necessary to  
7 provide propane gas service to your property. You are advised to  
8 determine if the property is in a propane gas system service area  
9 and contact the distribution system retailer to determine the cost  
10 that you will be required to pay and the period, if any, that is  
11 required to provide propane gas service to your property.

12 "The undersigned purchaser hereby acknowledges receipt of  
13 the foregoing notice at or before the execution of a binding  
14 contract for the purchase of the real property described in the  
15 notice or at closing of purchase of the real property.

16 \_\_\_\_\_  
17 Date

18 \_\_\_\_\_  
19 Signature of Purchaser"

20 (c) Each county shall accept and record in its real property  
21 records a distribution system retailer's service map presented to  
22 the county clerk under this section if the map meets filing  
23 requirements, does not exceed 11 inches by 17 inches in size, and is  
24 accompanied by the appropriate fee. The recording required by this  
25 section must be completed not later than the later of January 1,  
26 2014, or the 90th day after the date a distribution system retailer  
27 completes construction of a new propane gas system in the county.

1           SECTION 2.   This Act takes effect September 1, 2013.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**May 21, 2013**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB2532** by Workman (Relating to the regulation of propane distribution system retailers; authorizing a fee.), **As Passed 2nd House**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2532, As Passed 2nd House: a negative impact of (\$480,584) through the biennium ending August 31, 2015.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2014	(\$240,292)
2015	(\$240,292)
2016	(\$240,292)
2017	(\$240,292)
2018	(\$240,292)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2013
2014	(\$240,292)	3.0
2015	(\$240,292)	3.0
2016	(\$240,292)	3.0
2017	(\$240,292)	3.0
2018	(\$240,292)	3.0

**Fiscal Analysis**

The bill would establish standards for distribution system retailers who supply propane gas to residential or commercial end users, bringing those entities under the ratemaking jurisdiction of the Railroad Commission. The bill would apply to systems that supply propane gas through a

contiguous piping system to at least 10 customers. The bill would not apply to retail or wholesale sale of propane gas.

Fees and rates charged by distribution system retailers would be regulated by statutory provisions set forth in the bill. In addition, the bill would prohibit the disconnection of service in certain circumstances. The bill would also provide for customer complaint handling. The Railroad Commission would be required to establish a toll-free number for customers to report service interruptions not caused by a distribution system retailer's refusal to serve. The Railroad Commission would be required to immediately investigate such reports, and the agency would be authorized to coordinate a refund to the customer, when applicable. The Railroad Commission also would be required to analyze spot prices (the average price for the two months preceding a billing month) and to post data on the agency's website.

The bill would require that each distribution system retailer submit to the Railroad Commission, on a quarterly basis, records of emergency and scheduled service interruptions lasting more than four hours and affecting more than two customers. If an entire distribution system experiences an interruption of service, the bill would authorize the Railroad Commission to assume temporary receivership of the system under certain conditions. The bill would provide for the Railroad Commission to request the Attorney General to bring suit for the appointment of a third-party receiver of a system. A court would appoint a receiver in certain circumstances.

The bill would provide for a performance guarantee (surety payment) to be posted with the Railroad Commission by each distribution system retailer in an amount equal to the lesser of \$3 multiplied by the number of gallons of aggregate storage capacity in all of the propane gas systems operated by the retailer or \$50,000. The Railroad Commission would have the ability to call the letter of credit, and would be required to verify and adjust the amount of the surety annually.

The bill would require propane distribution system retailers to record a notice of disclosure of the existence of the propane gas system in the real property records in each county in which the retailers own or operate propane gas systems, including a map of the location of the areas the retailer serves.

The bill would take effect on September 1, 2013.

## Methodology

The Railroad Commission reports that there are 74 propane distribution systems operated by 10 liquid propane (LP) gas licensees. This analysis assumes that those systems would have their rates set in the same way natural gas utilities have their rates set, which is by the Railroad Commission. Currently, LP-Gas licensees are subject to Railroad Commission jurisdiction only for licensing and safety.

The Railroad Commission would be expected to incur costs in assuming ratemaking jurisdiction for propane distribution systems upon passage of the bill. Costs would result from general ratemaking responsibilities, the establishment of a toll-free number, investigations by the Railroad Commission, handling customer complaints, refund coordination, the establishment of annual price ceilings, responsibilities related to the assumption of temporary receivership of systems (if applicable), monitoring ongoing activity, reviewing reports submitted to the agency by retail distribution systems, and handling financial assurance requirements established in the bill.

It is estimated that the Railroad Commission would need 3.0 FTEs to carry out the responsibilities the agency would assume upon passage of the bill. Positions added would include a financial analyst, a research specialist, and an auditor. Costs for the additional FTEs would total \$240,292 annually. This estimate assumes such costs would be paid out of the General Revenue Fund because the bill does not provide for the recovery of costs incurred by the Railroad Commission.

Any additional workload to the Office of the Attorney General is expected to be absorbed using existing agency resources.

## Local Government Impact

No significant fiscal implication to units of local government is anticipated. This analysis assumes that any costs to counties in accepting the real property records and maps as required by the bill could be recovered by counties through the imposition of filing fees on propane distribution system retailers.

**Source Agencies:** 302 Office of the Attorney General, 455 Railroad Commission, 304  
Comptroller of Public Accounts

**LBB Staff:** UP, SD, SZ, ZS, TL



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**May 18, 2013**

**TO:** Honorable Troy Fraser, Chair, Senate Committee on Natural Resources

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB2532** by Workman (Relating to the regulation of propane distribution system retailers; authorizing a fee.), **Committee Report 2nd House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2532, Committee Report 2nd House, Substituted: a negative impact of (\$480,584) through the biennium ending August 31, 2015.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2014	(\$240,292)
2015	(\$240,292)
2016	(\$240,292)
2017	(\$240,292)
2018	(\$240,292)

**All Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from <i>General Revenue Fund</i> 1</b>
2014	(\$240,292)
2015	(\$240,292)
2016	(\$240,292)
2017	(\$240,292)
2018	(\$240,292)

Fiscal Year	Change in Number of State Employees from FY 2013
2014	3.0
2015	3.0
2016	3.0
2017	3.0
2018	3.0

**Fiscal Analysis**

The bill would establish standards for distribution system retailers who supply propane gas to residential or commercial end users, bringing those entities under the ratemaking jurisdiction of the Railroad Commission. The bill would apply to systems that supply propane gas through a contiguous piping system to at least 10 customers. The bill would not apply to retail or wholesale sale of propane gas.

Fees and rates charged by distribution system retailers would be regulated by statutory provisions set forth in the bill. In addition, the bill would prohibit the disconnection of service in certain circumstances. The bill would also provide for customer complaint handling. The Railroad Commission would be required to establish a toll-free number for customers to report service interruptions not caused by a distribution system retailer's refusal to serve. The Railroad Commission would be required to immediately investigate such reports, and the agency would be authorized to coordinate a refund to the customer, when applicable. The Railroad Commission also would be required to analyze spot prices (the average price for the two months preceding a billing month) and to post data on the agency's website.

The bill would require that each distribution system retailer submit to the Railroad Commission, on a quarterly basis, records of emergency and scheduled service interruptions lasting more than four hours and affecting more than two customers. If an entire distribution system experiences an interruption of service, the bill would authorize the Railroad Commission to assume temporary receivership of the system under certain conditions. The bill would provide for the Railroad Commission to request the Attorney General to bring suit for the appointment of a third-party receiver of a system. A court would appoint a receiver in certain circumstances.

The bill would provide for a performance guarantee (surety payment) to be posted with the Railroad Commission by each distribution system retailer in an amount equal to the lesser of \$3 multiplied by the number of gallons of aggregate storage capacity in all of the propane gas systems operated by the retailer or \$50,000. The Railroad Commission would have the ability to call the letter of credit, and would be required to verify and adjust the amount of the surety annually.

The bill would require propane distribution system retailers to record a notice of disclosure of the existence of the propane gas system in the real property records in each county in which the retailers own or operate propane gas systems, including a map of the location of the areas the retailer serves.

The bill would take effect on September 1, 2013.

**Methodology**

The Railroad Commission reports that there are 74 propane distribution systems operated by 10 liquid propane (LP) gas licensees. This analysis assumes that those systems would have their rates set in the same way natural gas utilities have their rates set, which is by the Railroad Commission. Currently, LP-Gas licensees are subject to Railroad Commission jurisdiction only for licensing and safety.

The Railroad Commission would be expected to incur costs in assuming ratemaking jurisdiction for propane distribution systems upon passage of the bill. Costs would result from general ratemaking responsibilities, the establishment of a toll-free number, investigations by the Railroad Commission, handling customer complaints, refund coordination, the establishment of annual price ceilings, responsibilities related to the assumption of temporary receivership of systems (if applicable), monitoring ongoing activity, reviewing reports submitted to the agency by retail distribution systems, and handling financial assurance requirements established in the bill.

It is estimated that the Railroad Commission would need 3.0 FTEs to carry out the responsibilities the agency would assume upon passage of the bill. Positions added would include a financial analyst, a research specialist, and an auditor. Costs for the additional FTEs would total \$240,292 annually. This estimate assumes such costs would be paid out of the General Revenue Fund because the bill does not provide for the recovery of costs incurred by the Railroad Commission.

Any additional workload to the Office of the Attorney General is expected to be absorbed using existing agency resources.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated. This analysis assumes that any costs to counties in accepting the real property records and maps as required by the bill could be recovered by counties through the imposition of filing fees on propane distribution system retailers.

**Source Agencies:** 302 Office of the Attorney General, 455 Railroad Commission, 304  
Comptroller of Public Accounts

**LBB Staff:** UP, SZ, ZS, TL

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 14, 2013

**TO:** Honorable Troy Fraser, Chair, Senate Committee on Natural Resources

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB2532** by Workman (Relating to the regulation of propane distribution system retailers; authorizing a fee.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2532, As Engrossed: a negative impact of (\$695,036) through the biennium ending August 31, 2015.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2014	(\$347,518)
2015	(\$347,518)
2016	(\$347,518)
2017	(\$347,518)
2018	(\$347,518)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1
2014	(\$347,518)
2015	(\$347,518)
2016	(\$347,518)
2017	(\$347,518)
2018	(\$347,518)

<b>Fiscal Year</b>	<b>Change in Number of State Employees from FY 2013</b>
2014	4.0
2015	4.0
2016	4.0
2017	4.0
2018	4.0

## **Fiscal Analysis**

This bill would establish standards for distribution system retailers who supply propane gas to residential or commercial end users, bringing those entities under the ratemaking jurisdiction of the Railroad Commission. The bill would apply to systems that supply propane gas through a contiguous piping system to at least 10 customers. The bill would not apply to retail or wholesale sale of propane gas.

Fees charged by distribution system retailers would be regulated by statutory provisions set forth in the bill. Rate and ceiling fees on distributions system retailers would be established. In addition, the bill would prohibit the disconnection of service in certain circumstances. The bill would also provide for customer complaint handling. The Railroad Commission would be required to establish a toll-free number for customers to report service interruptions not caused by a distribution system retailer's refusal to serve. The Railroad Commission would be required to immediately investigate such reports, and the agency would be authorized to coordinate a refund to the customer, when applicable. The Railroad Commission also would be required to analyze spot prices (the average price for the two months preceding a billing month) and to post data on the agency's website.

The bill would require the Railroad Commission to adopt rules to annually adjust price ceilings and to notify distribution system retailers of such annual price ceiling adjustments. If an entire distribution system experiences an interruption of service, the bill would authorize the Railroad Commission to assume temporary receivership of the system under certain conditions, and the agency would be authorized to temporarily designate a third party to operate the system.

The bill would require that each distribution system retailer submit to the Railroad Commission, on a quarterly basis, records of emergency and scheduled service interruptions lasting more than four hours and affecting more than two customers.

The bill would provide for a performance guarantee (surety payment) to be posted with the Railroad Commission by each distribution system retailer in an amount equal to the lesser of \$3 multiplied by the number of gallons of aggregate storage capacity in all of the propane gas systems operated by the retailer or \$50,000. The Railroad Commission would have the ability to call the letter of credit, and would be required to verify and adjust the amount of the surety annually.

The bill would require propane distribution system retailers to record a notice of disclosure of the existence of the propane gas system in the real property records in each county in which the retailers own or operate propane gas systems, including a map of the location of the areas the retailer serves.

The bill would take effect on September 1, 2013.

## **Methodology**

The Railroad Commission reports that 74 propane distribution systems operated by 10 liquid propane (LP) gas licensees. This analysis assumes that those systems would have their rates set in the same way natural gas utilities have their rates set, which is by the Railroad Commission. Currently, LP-Gas licensees are subject to Railroad Commission jurisdiction only for licensing and safety.

The Railroad Commission would be expected to incur costs in assuming ratemaking jurisdiction for propane distribution systems upon passage of the bill. Costs would result from general ratemaking responsibilities, the establishment of a toll-free number, investigations by the Railroad Commission, handling customer complaints, refund coordination, the establishment of annual price ceilings, responsibilities related to the assumption of temporary receivership of systems (if applicable), monitoring ongoing activity, reviewing reports submitted to the agency by retail distribution systems, and handling financial assurance requirements established in the bill.

It is estimated that the Railroad Commission would need 4.0 FTEs to carry out the responsibilities the agency would assume upon passage of the bill. Positions added would include a financial analyst, a research specialist, an auditor, and an attorney. Costs for the additional FTEs would total \$347,518 annually. This estimate assumes such costs would be paid out of the General Revenue Fund because the bill does not provide for the recovery of costs incurred by the Railroad Commission.

## **Local Government Impact**

No significant fiscal implication to units of local government is anticipated. This analysis assumes that any costs to counties in accepting the real property records and maps as required by the bill could be recovered by counties through the imposition of filing fees on propane distribution system retailers.

**Source Agencies:** 304 Comptroller of Public Accounts, 455 Railroad Commission

**LBB Staff:** UP, SZ, ZS, TL

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**April 29, 2013**

**TO:** Honorable Jim Keffer, Chair, House Committee on Energy Resources

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB2532** by Workman (Relating to the regulation of propane distribution system retailers; authorizing a fee.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2532, Committee Report 1st House, Substituted: a negative impact of (\$695,036) through the biennium ending August 31, 2015.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2014	(\$347,518)
2015	(\$347,518)
2016	(\$347,518)
2017	(\$347,518)
2018	(\$347,518)

**All Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from <i>General Revenue Fund</i> 1</b>
2014	(\$347,518)
2015	(\$347,518)
2016	(\$347,518)
2017	(\$347,518)
2018	(\$347,518)

<b>Fiscal Year</b>	<b>Change in Number of State Employees from FY 2013</b>
2014	4.0
2015	4.0
2016	4.0
2017	4.0
2018	4.0

**Fiscal Analysis**

This bill would establish standards for distribution system retailers who supply propane gas to residential or commercial end users, bringing those entities under the ratemaking jurisdiction of the Railroad Commission. The bill would apply to systems that supply propane gas through a contiguous piping system to at least 10 customers. The bill would not apply to retail or wholesale sale of propane gas.

Fees charged by distribution system retailers would be regulated by statutory provisions set forth in the bill. Rate and ceiling fees on distributions system retailers would be established. In addition, the bill would prohibit the disconnection of service in certain circumstances. The bill would also provide for customer complaint handling. The Railroad Commission would be required to establish a toll-free number for customers to report service interruptions not caused by a distribution system retailer's refusal to serve. The Railroad Commission would be required to immediately investigate such reports, and the agency would be authorized to coordinate a refund to the customer, when applicable. The Railroad Commission also would be required to analyze spot prices (the average price for the two months preceding a billing month) and to post data on the agency's website.

The bill would require the Railroad Commission to adopt rules to annually adjust price ceilings and to notify distribution system retailers of such annual price ceiling adjustments. If an entire distribution system experiences an interruption of service, the bill would authorize the Railroad Commission to assume temporary receivership of the system under certain conditions, and the agency would be authorized to temporarily designate a third party to operate the system.

The bill would require that each distribution system retailer submit to the Railroad Commission, on a quarterly basis, records of emergency and scheduled service interruptions lasting more than four hours and affecting more than two customers.

The bill would provide for a performance guarantee (surety payment) to be posted with the Railroad Commission by each distribution system retailer in an amount equal to the lesser of \$3 multiplied by the number of gallons of aggregate storage capacity in all of the propane gas systems operated by the retailer or \$50,000. The Railroad Commission would have the ability to call the letter of credit, and would be required to verify and adjust the amount of the surety annually.

The bill would require propane distribution system retailers to record a notice of disclosure of the existence of the propane gas system in the real property records in each county in which the retailers own or operate propane gas systems, including a map of the location of the areas the retailer serves.

The bill would take effect on September 1, 2013.



## **Methodology**

The Railroad Commission reports that 74 propane distribution systems operated by 10 liquid propane (LP) gas licensees. This analysis assumes that those systems would have their rates set in the same way natural gas utilities have their rates set, which is by the Railroad Commission. Currently, LP-Gas licensees are subject to Railroad Commission jurisdiction only for licensing and safety.

The Railroad Commission would be expected to incur costs in assuming ratemaking jurisdiction for propane distribution systems upon passage of the bill. Costs would result from general ratemaking responsibilities, the establishment of a toll-free number, investigations by the Railroad Commission, handling customer complaints, refund coordination, the establishment of annual price ceilings, responsibilities related to the assumption of temporary receivership of systems (if applicable), monitoring ongoing activity, reviewing reports submitted to the agency by retail distribution systems, and handling financial assurance requirements established in the bill.

It is estimated that the Railroad Commission would need 4.0 FTEs to carry out the responsibilities the agency would assume upon passage of the bill. Positions added would include a financial analyst, a research specialist, an auditor, and an attorney. Costs for the additional FTEs would total \$347,518 annually. This estimate assumes such costs would be paid out of the General Revenue Fund because the bill does not provide for the recovery of costs incurred by the Railroad Commission.

## **Local Government Impact**

No significant fiscal implication to units of local government is anticipated. This analysis assumes that any costs to counties in accepting the real property records and maps as required by the bill could be recovered by counties through the imposition of filing fees on propane distribution system retailers.

**Source Agencies:** 304 Comptroller of Public Accounts, 455 Railroad Commission

**LBB Staff:** UP, SZ, ZS, TL

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**April 16, 2013**

**TO:** Honorable Jim Keffer, Chair, House Committee on Energy Resources

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB2532** by Workman (Relating to the regulation of propane distribution retailers.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2532, As Introduced: a negative impact of (\$695,036) through the biennium ending August 31, 2015.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2014	(\$347,518)
2015	(\$347,518)
2016	(\$347,518)
2017	(\$347,518)
2018	(\$347,518)

**All Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from <i>General Revenue Fund</i> 1</b>
2014	(\$347,518)
2015	(\$347,518)
2016	(\$347,518)
2017	(\$347,518)
2018	(\$347,518)

<b>Fiscal Year</b>	<b>Change in Number of State Employees from FY 2013</b>
2014	4.0
2015	4.0
2016	4.0
2017	4.0
2018	4.0

## **Fiscal Analysis**

This bill would establish standards for distribution system retailers who supply propane gas to residential or commercial end users, bringing those entities under the ratemaking jurisdiction of the Railroad Commission. The bill would apply to systems that supply propane gas through a contiguous piping system to at least 10 customers. The bill would not apply to retail or wholesale sale of propane gas.

Fees charged by distribution system retailers would be regulated by statutory provisions set forth in the bill. In addition, the bill would prohibit the disconnection of service in certain circumstances. The bill would also provide for customer complaint handling. The Railroad Commission would be required to establish a toll-free number for customers to report service interruptions not caused by a distribution system retailer's refusal to serve. The Railroad Commission would be required to immediately investigate such reports, and the agency would be authorized to coordinate a refund to the customer, when applicable.

The bill would require the Railroad Commission to adopt rules to annually adjust price ceilings and to notify distribution system retailers of such annual price ceiling adjustments. If an entire distribution system experiences an interruption of service, the bill would authorize the Railroad Commission to assume temporary receivership of the system under certain conditions, and the agency would be authorized to temporarily designate a third party to operate the system.

The bill would require that each distribution system retailer submit to the Railroad Commission, on a quarterly basis, records of emergency and scheduled service interruptions lasting more than four hours and affecting more than two customers.

The bill would provide for a performance guarantee (surety payment) to be posted with the Railroad Commission by each distribution system retailer in an amount equal to the lesser of \$3 multiplied by the number of gallons of aggregate storage capacity in all of the propane gas systems operated by the retailer or \$250,000. The Railroad Commission would have the ability to call the letter of credit, and would be required to verify and adjust the amount of the surety annually.

The bill would take effect on September 1, 2013.

## **Methodology**

The Railroad Commission reports that 74 propane distribution systems operated by 10 liquid propane (LP) gas licensees. This analysis assumes that those systems would have their rates set in the same way natural gas utilities have their rates set, which is by the Railroad

Commission. Currently, LP-Gas licensees are subject to Railroad Commission jurisdiction only for licensing and safety.

The Railroad Commission would be expected to incur costs in assuming ratemaking jurisdiction for propane distribution systems upon passage of the bill. Costs would result from general ratemaking responsibilities, the establishment of a toll-free number, investigations by the Railroad Commission, handling customer complaints, refund coordination, the establishment of annual price ceilings, responsibilities related to the assumption of temporary receivership of systems (if applicable), monitoring ongoing activity, reviewing reports submitted to the agency by retail distribution systems, and handling financial assurance requirements established in the bill.

It is estimated that the Railroad Commission would need 4.0 FTEs to carry out the responsibilities the agency would assume upon passage of the bill. Positions added would include a financial analyst, a research specialist, an auditor, and an attorney. Costs for the additional FTEs would total \$347,518 annually. This estimate assumes such costs would be paid out of the General Revenue Fund because the bill does not provide for the recovery of costs incurred by the Railroad Commission.

### **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 455 Railroad Commission

**LBB Staff:** UP, SZ, ZS, TL