BILL ANALYSIS

S.B. 771
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Ways & Means
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The bill sponsor has informed the committee that the fuel used to power and operate auxiliary power units (APUs) and power take-off (PTO) equipment is taxed differently depending on whether the fuel is gasoline or diesel, even though both fuel types are performing the same function. The bill sponsor has further informed the committee that under current law diesel fuel used to power APUs and PTO equipment is not eligible for a credit or refund for the motor fuel tax used to power an APU or PTO, even though the fuel is not used to propel a vehicle on the highway. S.B. 771 seeks to restore a consistent tax treatment for gasoline and diesel when used for the same function by reinstating the applicable credit or refund for motor fuels tax paid on diesel used to operate APUs and PTO equipment.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

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

ANALYSIS

S.B. 771 amends the Tax Code to establish that the holder of an applicable license issued by the comptroller of public accounts may take a credit on a return for the period in which a purchase occurred, and a person who does not hold a license may file a refund claim with the comptroller, if the license holder or person paid tax on diesel fuel and the diesel fuel is used in Texas by auxiliary power units or power take-off equipment on any motor vehicle. The bill establishes the following:

- if the quantity of that diesel fuel can be accurately measured while the motor vehicle is stationary by any metering or other measuring device or method designed to measure the fuel separately from fuel used to propel the motor vehicle, the comptroller may approve and adopt the use of the device as a basis for determining the quantity of diesel fuel consumed in those operations for a tax credit or tax refund;
- if there is no separate metering device or other approved measuring method, the license holder may take the credit and the person who does not hold a license may claim the refund on a percentage of the diesel fuel consumed by each motor vehicle equipped with an auxiliary power unit or power take-off equipment, in which case the comptroller must determine the percentage of diesel fuel for which the credit or refund may be claimed;
- the climate-control air conditioning or heating system of a motor vehicle that has a primary purpose of providing for the convenience or comfort of the operator or passengers is not a power take-off system, and a credit or refund may not be allowed for the tax paid on any portion of the diesel fuel that is used for that purpose; and

- a credit or refund may not be allowed for the diesel fuel tax paid on that portion of the diesel fuel that is used for idling.

EFFECTIVE DATE

September 1, 2025.