

SUBJECT: Revising propane check off system

COMMITTEE: Energy Resources — committee substitute recommended

VOTE: 5 ayes — Holzheuser, Hawley, Driver, Moffat, Torres  
0 nays  
4 absent — Davis, Merritt, Smithee, Wilson

WITNESSES: For — Johnnie B. Rogers, Texas Propane Gas Association  
Against — Mike Williams, Texas Electric Cooperatives  
On — Dan Kelly, Texas Railroad Commission

BACKGROUND : In 1991, the 72nd Legislature established the first propane check off program in the United States and created a dedicated fund to receive self imposed fees paid by the propane industry on the first sales of odorized propane in Texas. The fund is made up of fees, penalties for late fees, gifts, grants and interest earned on the fund. The fee is imposed on the first sale of odorized liquefied propane gas and is computed on the net amount of odorized LPG delivered into a cargo tank. The fee is collected by the operator and paid by the buyer. The fee does not apply to delivery of odorized LPG destined for export outside of Texas. The Railroad Commission (RRC) uses the fund for propane research, public education and marketing programs. RRC is allowed to use up to 25 percent of the fund on consumer rebate programs for buyers of equipment powered by environmentally alternative fuels.

In 1996 the U.S. Congress enacted the Propane Education and Research Act (PERA) mandating a joint fee collection process with existing state programs that would allow states to keep up to 20 percent of the federal money contingent of passage of two separate retailer and supplier referenda.

DIGEST:

CSHB 1958 would amend the Natural Resource Code to authorize money collected under the interstate propane research program and under the federal propane research program authorized under the federal PERA legislation of 1996 to be deposited in the Alternative Fuels Research and Education Fund. The bill would authorize RRC to enter into interstate agreements. If the two federal referenda are passed, RRC would also be allowed to enter into an agreement with the national Propane Education and Research Council (PERC) to coordinate the administration, collection, reporting and payment of fees. An agreement with PERC would allow RRC to collect the national assessment on all LPG odorized in Texas and to receive a rebate of 20 percent on collections. An agreement could include reporting, auditing, collecting, apportioning and remitting fees and assessments payable or collected.

The bill would also raise the cap for consumer rebate programs for buyers of appliances and equipment fueled by alternative fuels from 25 percent to 50 percent of available funds. Spending of the remainder of the funds would be divided 25 percent on total administrative costs and 25 percent at RRC's discretion. RRC would also be allowed to adopt any necessary rules required to implement any agreements.

The bill would also provide that the fee would be imposed on odorized LPG delivered into any means of conveyance to be sold and placed in commerce, instead of on the first sale of odorized gas. The bill would also delete language requiring the fee to be computed on the net amount of odorized LPG delivered into a cargo tank and instead require it to be paid by the owner of the LPG at the time of odorization and to be based on the net amount of odorized LPG sold and placed into commerce. The fee would be remitted to RRC by the 25th day of the month along with a report. The fee would also not apply to delivery of odorized LPG for export outside the United States unless authorized by the federal PERA law. If an interstate agreement was entered into, the fee on LPG destined for out-of-state exportation would be based on the rate in effect in the other state.

The bill would take effect on September 1, 1997 but the provisions dealing with the federal law would take effect on the later of September 1, 1997, or the date when RRC by order acknowledges receipt and accepts a written report by an independent auditing firm confirming the industry referenda

required under the federal Propane Education and Research Act of 1996 have been approved by producers representing two-thirds of the total volume of propane voted in the producer class and by retail marketers representing two-thirds of the total volume of propane voted in the retail marketer class.

**SUPPORTERS  
SAY:**

CSHB 1958 is necessary to simplify Texas' current propane checkoff system and also to set up provisions in case two federal referendums pass that would allow RRC to enter into an agreement with the national Propane Education and Research Council. This agreement would allow RRC to collect a national assessment on all LPG gas odorized in Texas and receive a 20 percent rebate on collections. The money collected would then be used to increase the dedicated fund in the state treasury to be used to pay for research, public education and marketing programs related to propane fuel.

The bill would also increase the cap from 25 to 50 percent on the consumer rebate program that gives rebates to buyers of appliances and equipment fueled by LPG, which is an environmentally beneficial fuel. The practical effect of increasing the cap for the rebate program would be to further implement the purpose of the rebate program of achieving energy conservation and efficiency and improving the air quality in the state. This fee is self imposed on the propane industry, and the industry is simply asking for a larger share of the fund to be used to promote research, education and marketing programs related to propane fuel.

RRC does not have a policy of promoting one energy source over another. The statute authorizes any alternative fuel industry, including the electricity industry, to bring funding mechanisms to RRC to implement their own consumer rebate program. The statute is open ended — natural gas, LP gas, methanol and electricity are all considered alternative fuels and would be authorized under the statute to implement similar rebate programs.

**OPPONENTS  
SAY:**

By putting a state seal of approval on the rebate program for propane gas by boosting the consumer rebate program encouraging use of propane, CSHB 1958 would confuse consumers. On the one hand they are encouraged by the state to conserve electricity, yet this expansion of the rebate program may also encourage the consumption of propane, an apparent inconsistency in the state's energy policy. The state should not be in the business of

promoting one source of energy over another but should allow market forces to determine the most cost-efficient energy uses.

NOTES:

The committee substitute changed the original version of the bill by adding that a delivery fee may be charged on LPG exported from this state if required by the federal law, that the rebate program be funded by 50 percent of the delivery fees collected with the remainder going to the Alternative Fuels Research and Education Division of RRC for administrative and other costs and other conforming changes regarding the effective date.

The companion bill, SB 925 by Ogden, passed the Senate on April 11 and has been referred to the House Energy Resources Committee.