

- SUBJECT:** Reduction and extension of bulk fuel delivery fees
- COMMITTEE:** Natural Resources — favorable, without amendment
- VOTE:** 8 ayes — Counts, T. King, Cook, Corte, Hamric, R. Lewis, Shields, Walker  
0 nays  
1 absent — Puente
- WITNESSES:** For — Chris Newton, Texas Petroleum Marketers and Convenience Store Association  
Against — None
- BACKGROUND:** In 1984, Congress enacted legislation requiring that underground storage tank owners show proof of insurance, requiring a minimum of \$1 million worth of coverage for any cleanup required on and off the storage-tank site, plus third party property damage and bodily injury.
- In 1987, the state created an underground storage tank program, to identify and register leaking tanks, financed by a registration fee assessed on owners of underground storage tanks.
- By 1989, it became clear that many leaking tanks and contaminated sites were causing serious groundwater contamination. At this point, private insurance was almost impossible to obtain. The Legislature created the Petroleum Storage Tank Remediation Account (PSTRA) in 1989 to serve as an inclusive state-sponsored insurance fund, and imposed a bulk fuel delivery fee to fund it.
- The petroleum product delivery fee is assessed on bulk delivery of motor fuel according to the size of the cargo vessel. Distributors buying fuel from bulk facilities must pay a fee, which ranges from \$25 for delivery of fuel into a cargo tank of less than 2,500 gallons to \$100 for delivery into an 8000-to-10,000 gallon tank.
- Fee revenue is deposited in the PSTRA and administered by Texas Natural Resource Conservation Commission (TNRCC). The fee cannot be collected if

the unobligated balance in the PSTRA is \$100 million or more. Once the unobligated balance in the PSTRA falls below \$25 million, however, fees are reinstated at half the previous price. Until 1998, the PSTRA was used both to help owners and operators collectively insure their underground storage tank sites and for cleanup costs. It is currently used solely to fund cleanup of contaminated sites.

The PSTRA is used to help contractors and tank owners with the expenses of cleaning up contaminated sites. Tank owners must pay a deductible based on the number of tanks they own and can be held responsible for the first \$1000 to \$10,000 of expenses. The PSTRA only will cover up to \$1 million per site.

In 1993, the Legislature approved a \$120 million loan from general revenue to the PSTRA to address a backlog of claims for reimbursement. It was repaid in July of 1994. In 1995, The Legislature required that all petroleum storage tanks be registered by December 31, 1995, to retain their eligibility for reimbursement by the PSTRA. Bulk fuel delivery fees were doubled to provide additional funding for the PSTRA to meet federal deadlines.

By December 22, 1998, federal law requires that all tanks be upgraded with leak detection, spill and overfill containment, and corrosion protection. The PSTRA no longer can be used by tank owners and operators as proof of insurance to satisfy federal requirements. They must obtain insurance from the private sector.

State law stipulates that after December 22, 1998, no new cleanup of leaks will be eligible for reimbursement from the PSTRA. The bulk fuel delivery fee and petroleum storage tank reimbursement program will be abolished on September 1, 2001.

**DIGEST:**

CSHB 2816 would reduce bulk fuel delivery fees by 25 percent. It also would extend the deadline ending collection of the fees to on or after March 1, 2002, rather than September 1, 2001. The petroleum storage tank reimbursement program would be extended another two years, to September 1, 2003.

The bill would reduce the cap on unobligated funds in the PSTRA from \$125 million to \$100 million. Once the funds reached the cap, the fee no longer could be collected.

Expenses for administering the Petroleum Storage Tank Remediation Account and the groundwater protection cleanup program could not exceed the amount specifically appropriated for that purpose. Current law linking those administrative expenses to 5 percent of the gross receipts of the account would be repealed.

TNRCC would report to the Legislative Budget Board on the financial status of the PSTRA at the end of each fiscal quarter.

The bill would take effect September 1, 1999.

**SUPPORTERS  
SAY:**

By reducing the bulk fuel delivery fee by 25 percent, CSHB 2816 would provide needed relief to petroleum storage tank owners. The bulk fuel delivery fee originally was imposed and the PSTRA created as a kind of state-funded insurance. The aim was to help underground storage tank owners both to meet federal insurance requirements and to clean up contaminated sites. However, since December 1998, tank owners, in effect, have been required to pay for the same thing twice: private insurance, required by the federal government since December 22, 1998, and state-sponsored insurance, which no longer meets federal regulations.

Paying for both private insurance and the state program can be very expensive. The fee for the PSTRA constitutes about 1.2 cents per gallon of motor fuel and a convenience store operator may pay approximately \$2,500 a year for private insurance. Now that private insurance is required, the state insurance program should be phased out.

TNRCC has estimated that, despite the reduction of fees proposed by CSHB 2816, more than enough money would be available to clean up every site in Texas eligible for PSTRA reimbursement. As of April 1999, the PSTRA had approximately \$150 million of unobligated funds. Since owners must now carry private insurance, cleanup costs must henceforth be paid by those companies.

Although the bulk fuel delivery fee rate would be reduced, the date the fee is set to expire would be extended from September 1, 2001, to March 1, 2002, to make sure there is enough money to cover total costs for cleanup programs begun before December 1998.

Also, the petroleum storage tank reimbursement program would be extended for two years to allow cleanup programs begun before December 22, 1998 to be completed. Some sites have leaking tanks that contaminated groundwater at levels as deep as 400 feet deep, meaning cleanup could take years. By allowing these projects to continue, CSHB 2816 would benefit all Texans, protecting the state's precious underground water resources.

It would not be fair to keep imposing these fees on the oil industry after 2002. These fees were specifically designated for underground storage tank insurance and cleanup. By 2002, all sites eligible for PSTRA funds will have been remediated.

By reducing the fees so that the amount collected would be only what is needed to finish cleaning up contaminated sites, CSHB 2816 would help ensure that PSTRA funds are used solely for their original purpose. In 1998, \$70 million in PSTRA funding was used to pay some costs of settling a lawsuit by Tejas Testing over the Legislature's decision to terminate Tejas' contract to run a vehicle emission testing program.

Reducing the fees also would reduce the amount that can be used to administer the PSTRA and the groundwater protection cleanup program. Those costs are calculated as a percentage of the gross receipts in the fund. Given the number of sites that must be cleaned up by 2003, TNRCC cannot afford to lose this money. The bill would deal with this issue by requiring that administrative expenses could not exceed the amount appropriated for the purpose, and would let the Legislature appropriate the correct amount.

OPPONENTS  
SAY:

No apparent opposition.

NOTES:

The original bill would have reduced the bulk fuel delivery fee by 50 percent rather than 25 percent.

The original version of HB 2618 did not contain provisions in the committee substitute that would reduce the PSTRA unobligated fund cap from \$125 million to \$100 million, require TNRCC to report to the Legislative Budget Board concerning the PSTRA, and stipulate that administrative costs for

PSTRA could not exceed the amount specifically appropriated for that purpose.

According to the fiscal note, annual revenue from the fees collected on bulk fuel deliveries is estimated to be \$146 million. A 25 percent reduction in fees assessed and collected would reduce annual revenue by \$36.5 million. Since the CSHB 2816 would prohibit the collection of fees past March 1, 2002, in fiscal year 2002, only \$55.9 million would be collected. Also, the extension of the PSTRA expiration date would result in reimbursements of \$62.5 million in fiscal 2002 and 2003.