

- SUBJECT:** Exemption for volunteer fire departments from motor fuel taxes
- COMMITTEE:** Ways and Means — committee substitute recommended
- VOTE:** 6 ayes — Keffer, Otto, Bonnen, Y. Davis, Peña, Pitts
0 nays
3 absent — Ritter, Flores, Paxton
- WITNESSES:** For — Chris Barron, State Firemen’s and Fire Marshals’ Association; Don Green, Johnson County ESD #1; Paul Wagner, Bosque County Firefighters Association (*Registered, but did not testify*: Jim Allison, County Judges and Commissioners Association of Texas; Randy Cain, Texas Fire Chiefs Association)
Against — None
- BACKGROUND:** The state tax on gasoline and clear diesel fuel is levied at 20 cents for each net gallon under Tax Code, sec. 162. The point of tax collection is at the terminal rack. As stipulated by sec. 162.104 (a) and sec. 162.204 (a) of the Tax Code, the state tax on gasoline and diesel fuel does not apply when fuel is:
- sold to the federal government;
 - sold to a public school district;
 - sold to a transportation company providing public school transportation services;
 - exported by a licensed supplier or exporter to certain states where tax is collected;
 - moved by truck or railcar between licensed suppliers in transport between terminal racks;
 - delivered or sold to a storage facility of a licensed aviation fuel dealer; or
 - exported to a foreign country
- Dyed diesel fuel is sold tax free to qualifying users. By law, dyed diesel fuel cannot be sold for the operation of a motor vehicle on public

highways in Texas. Under Tax Code, sec. 162.204, other types of fuel are also exempt from taxation including:

- certain mixtures of taxable diesel fuel blended with water, fuel ethanol, or bio-diesel and clearly identified as such upon sale or use;
- dyed kerosene delivered to a storage facility at a retail business for non-highway use; or
- diesel fuel used by certain commercial motor vehicles to transport hazardous materials or passengers on a fixed route and schedule

DIGEST:

C SHB 685 would add gasoline and diesel fuel sold to a volunteer fire department for the department's exclusive use to the list of transactions not subject to the state fuel tax.

The bill also would allow a volunteer fire department that paid tax on the purchase of gasoline or diesel fuel to file a refund with the comptroller for the amount paid.

The bill would take effect on July 1, 2007, if approved by a vote of two-thirds of all members elected to each house. Otherwise, it would take effect on September 1, 2007, and would apply only to taxes paid on or after that date.

**SUPPORTERS
SAY:**

By exempting volunteer fire departments from the state gasoline and diesel fuel tax, C SHB 685 would offer a source of financial assistance and demonstrate that the state valued volunteer fire department services. An estimated 1,600 volunteer fire departments operate across the state, with more than 42,144 individuals serving as volunteer firefighters. These departments represent the sole source of fire protection and emergency first response in certain areas, particularly in rural Texas. Volunteer fire departments also play important roles in areas where other emergency services cannot respond fast enough. In their efforts to extinguish fires, save lives, and protect property, volunteer fire departments do not receive compensation from the state of Texas.

Although volunteer firefighters are unpaid, they must generate funding to support operating costs and properly maintain equipment. In some cases, volunteer fire departments receive funding from a local government or an emergency service district. However, many departments must generate their own revenue, particularly in areas without an adequate local tax base.

Common forms of fundraising efforts by volunteer fire departments include bake sales, catfish fries, donation requests, and grant applications. CSHB 685 would reduce this financial burden by exempting volunteer fire departments from the cost of gasoline and diesel fuel tax.

The cost of gasoline and diesel fuel used to power emergency vehicles constitutes a sizable expense to volunteer fire departments. Rising fuel prices make departments' fundraising objectives increasingly difficult to meet. Expenses for operating vehicles can amount to 40 percent of the budget, according to one volunteer fire department. In several cases, volunteer firefighters have donated money from their own pockets to pay for gasoline and diesel fuel. Certain essential services, such as public school transportation, are exempt from the gasoline and diesel fuel tax. Financially strapped volunteer fire departments would benefit from the gasoline and diesel fuel tax exemption.

Texas in recent years has witnessed an increase in the incidence of reported fires, which can be attributed to population growth and drought. In the wildfires that engulfed parts of Texas last year, volunteer fire departments often served as the predominant responders. Services performed by volunteer fire departments increasingly will be needed as population growth and drought are projected to continue. The tax exemption offered in CSHB 685 would help volunteer fire departments to carry on the important task of protecting lives and property across Texas.

**OPPONENTS
SAY:**

Volunteer fire departments could potentially use tax-free gasoline and diesel fuel for purposes not pertaining to fighting fires. The bill would not include necessary checks and balances to prevent possible abuse of this tax exemption.

The taxes paid by volunteer fire departments for gasoline and diesel fuel help to finance the state highway fund and the available school fund. By creating this exemption, the bill would eliminate a source of revenue for the state of Texas.

NOTES:

According to the Legislative Budget Board, CSHB 685 would result in a net loss to the Available School Fund of \$647,000 in fiscal 2008 and \$706,000 in fiscal 2009 and from the state highway fund 6 of \$1,941,000 in fiscal 2008 and \$2,118,000 in fiscal 2009.

The bill as filed would have permitted certain license holders to sell fuel tax-free to volunteer fire departments and then qualify for a refund for not collecting the tax. The committee substitute would allow volunteer fire departments to file directly with the comptroller for a refund of tax paid on gasoline and diesel fuel.

The companion bill, SB1057 by Hegar, is scheduled for a public hearing today by the Senate Finance Committee.