SUBJECT: Providing tax incentives for using alternative base fluids in fracking

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 10 ayes — D. Bonnen, Y. Davis, Bohac, Button, Darby, Martinez Fischer, Murphy, Springer, C. Turner, Wray

0 nays

1 absent — Parker

WITNESSES: For — Michael Rosen, Air Liquide USA LLC; Robin Watts, Linde; Tony Wallace, Praxair; Lionel Ribeiro, Statoil, University of Texas at Austin; Deepen Gala, University of Texas at Austin; (*Registered, but did not testify*: Mahmoud Asadi, Peter Depasquale, and Chris Shields, Praxair; Michael Garcia, Texas Association of Manufacturers; Dale Craymer, Texas Taxpayers and Research Association)

Against — None

On — (*Registered, but did not testify*: Brad Reynolds, Texas Comptroller of Public Accounts)

BACKGROUND: Under Tax Code, ch. 151, alternative base fluids used in fracking operations are considered taxable items subject to sales taxes. These alternative base fluids replace freshwater as a fracking fluid, which is not taxed when purchased by an operator.

DIGEST: HB 2691 would exempt from sales taxes alternative base fluids that were used in a fracking operation, along with any equipment used to process or recycle alternative base fluids.

The bill would define "alternative base fluids" to include nitrogen, carbon dioxide, and fluids other than water.

This bill would create a tax credit against oil and gas severance taxes for operators for which alternative base fluids used as a substitute for water made up at least 20 percent of fluids in the fracking operation. The tax credit would reduce the tax imposed by the percentage of the fluid used in a fracking operation that was alternative base fluid, up to 50 percent.

To qualify for the tax credit, an operator would have to submit to the comptroller an application that included any information required by the comptroller and certain specific information about the fracking fluid used.

The bill would create penalties for falsifying an application. The penalty could not exceed the amount of credit wrongly claimed plus $10,000.

This bill would require the comptroller to adopt rules to administer this tax credit by December 31, 2015. This provision would take effect immediately if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

The other sections of the bill would take effect January 1, 2016, and would apply only to tax liability accruing or oil or gas produced on or after that date.

NOTES: The Legislative Budget Board estimates that the bill would have a negative net impact of $11.48 million to general revenue through fiscal 2016-17.