SUBJECT: Administering taxes and fees on fuels and petroleum products for export

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 11 ayes — D. Bonnen, Y. Davis, Bohac, Darby, E. Johnson, Murphy, Murr, Raymond, Shine, Springer, Stephenson

0 nays

SENATE VOTE: On final passage, April 3 — 31-0

WITNESSES: *On House companion bill, HB 2925:*
For — None

Against — None

On — (*Registered, but did not testify:* Karey Barton, Comptroller of Public Accounts)

BACKGROUND: Tax Code, ch. 162 imposes a 20-cent-per-gallon tax on the sale of gasoline and diesel fuels. Secs. 162.104 and 162.204 exempt certain sales for export from the tax on gasoline and diesel fuel, respectively.

Water Code, sec. 26.3574 requires operators of bulk facilities, such as pipeline and refinery terminals, to collect a fee from anyone who makes a withdrawal from the bulk facility. However, this fee does not apply to a withdrawal of product destined for export from this state if kept in continuous movement to a destination outside the state.

Some observers note that certain current industry practices can result in the state collecting less motor fuel tax revenue than is legally due.

DIGEST: SB 1557 would require a person to report to the comptroller a sale of gasoline or diesel fuel to a licensed supplier, distributor, importer, or exporter, if the sale was tax-free under the sales for export provisions of Tax Code, secs. 162.104 or 162.204. The report to the comptroller would be required to contain certain information, such as the names of the buyer and seller and the number of gallons invoiced.

The bill would impose a tax on the sale of gasoline or diesel under the sales for export provisions of Tax Code, secs. 162.104 or 162.204 if the fuel was:

- sold in Texas to someone who was not a licensed supplier, distributor, importer, or exporter; or
- delivered to a destination in Texas to a licensed supplier, distributor, importer, or exporter.

Each failure to report a sale of a tax-free motor fuel under the provisions amended by this bill would elicit a $200 penalty, unless the person filed an amended report within 180 days of the original due date. A person who failed to pay any tax imposed by provisions created by this bill would be required to pay a penalty of $2,000 or five times the amount of the tax due, whichever was greater.

The bill would provide that a fee authorized by Water Code, sec. 26.3574 is to be imposed on a withdrawal if the product was delivered to a destination in the state, even when it was intended to be destined for export from the state.

The bill would take effect January 1, 2018, and would only affect tax liability accruing on or after that date.

NOTES: A companion bill, HB 2925 by Shine, was approved by the House on May 9.