

BILL ANALYSIS

Senate Research Center
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S.B. 645
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Finance
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2003, the Texas Legislature created a producer incentive program to assist and encourage fuel ethanol and biodiesel plants in the state. Chapter 16 (Fuel Ethanol and Biodiesel Production Incentive Program), Agriculture Code, provides the definitions and guidelines for the implementation of this program. Today, traditional biodiesel is defined as a diesel equivalent, processed fuel derived from biological sources (vegetable oils, rendered animal fats, or renewable lipids). Advances in technology have allowed industry leaders to develop new processes to create non-oxygenated biobased hydrocarbon fuels with lower emissions. However, the current definitions of biodiesel do not recognize these advances in technology and may work to stymie their development.

As proposed, S.B. 645 defines and includes "renewable diesel" in Chapter 162 (Motor Fuel Taxes), Tax Code, and Chapter 16, Agriculture Code, in an attempt to promote, encourage, and recognize innovative advances in technology. This inclusion of renewable diesel allows second and third generation biofuels to qualify for Texas' programs, further encourage economic development, and enhance the market for Texas' agricultural products.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 162.001, Tax Code, by amending Subdivisions (7) and (19) and adding Subdivision (53-a), as follows:

(7) Redefines "biodiesel fuel."

(19) Includes renewable diesel in the definition of "diesel fuel."

(53-a) Defines "renewable diesel."

SECTION 2. Amends Section 162.204(a), Tax Code, to make conforming changes.

SECTION 3. Amends the heading to Chapter 16, Agriculture Code, to read as follows:

CHAPTER 16. FUEL ETHANOL, BIODIESEL, AND RENEWABLE DIESEL PRODUCTION INCENTIVE PROGRAM

SECTION 4. Amends Section 16.001, Agriculture Code, by amending Subdivisions (1), (3), and (6) and adding Subdivision (7), to redefine "account," "biodiesel," and "producer" and define "renewable diesel."

SECTION 5. Amends Sections 16.002(a) and (b), Agriculture Code, as follows:

(a) Requires a producer, to be eligible for a grant for fuel ethanol, biodiesel, or renewable diesel produced in a plant, to apply to the Texas Economic Development and Tourism Office (office) for the registration of the plant. Makes a nonsubstantive change.

(b) Requires that an application for the registration of a plant show to the satisfaction of the office that the plant is capable of producing fuel ethanol, biodiesel, or renewable diesel; the producer has made a substantial investment of resources in this state in connection with the plant; and the plant constitutes a permanent fixture in this state.

SECTION 6. Amends Section 16.003(a), Agriculture Code, to require a producer, on or before the fifth day of each month, to report to the office on the number of gallons of fuel ethanol, biodiesel, or renewable diesel produced at each registered plant operated by the producer during the preceding month; the number of gallons of fuel ethanol, biodiesel, or renewable diesel sold or blended with motor fuels by the producer during the preceding month; and the total value of agriculture products consumed in each registered plant operated by the producer during the preceding month. Makes nonsubstantive changes.

SECTION 7. Amends the heading to Section 16.004, Agriculture Code, to read as follows:

Section 16.004. FUEL ETHANOL, BIODIESEL, AND RENEWABLE DIESEL PRODUCTION ACCOUNT.

SECTION 8. Amends Section 16.004(a), Agriculture Code, to provide that the fuel ethanol, biodiesel, and renewable diesel production account is an account in the general revenue fund that is authorized to be appropriated only to the office for the purposes of this chapter, including the making of grants under this chapter.

SECTION 9. Amends the heading to Section 16.005, Agriculture Code, to read as follows:

Section 16.004. FUEL ETHANOL, BIODIESEL, AND RENEWABLE DIESEL PRODUCTION.

SECTION 10. Amends Sections 16.005(a), (b), and (d), Agriculture Code, as follows:

(a) Requires the office to impose a fee on each producer in an amount equal to 3.2 cents for each gallon of fuel ethanol, biodiesel, or renewable diesel produced in each registered plant operated by the producer. Makes nonsubstantive changes.

(b) Prohibits the office, for each fiscal year, from imposing fees on a producer for more than 18 million gallons of fuel ethanol, biodiesel, or renewable diesel produced at any one registered plant. Makes nonsubstantive changes.

(d) Prohibits the office from imposing fees on a producer for fuel ethanol, biodiesel, or renewable diesel produced at a registered plant after the 10th anniversary of the date production from the plant begins. Makes nonsubstantive changes.

SECTION 11. Amends the heading to Section 16.006, Agriculture Code, to read as follows:

Section 16.004. FUEL ETHANOL, BIODIESEL, AND RENEWABLE DIESEL GRANTS.

SECTION 12. Amends Sections 16.006(a), (b), (c), and (e), as follows:

(a) Requires the office, in consultation with the Texas Department of Agriculture, to make grants to producers as an incentive for the development of the fuel ethanol, biodiesel, and renewable diesel industry and agricultural production in this state. Makes nonsubstantive changes.

(b) Entitles a producer to receive from the account 20 cents for each gallon of fuel ethanol, biodiesel, or renewable diesel produced in each registered plant operated by the producer until the 10th anniversary of the date production from the plant begins. Makes nonsubstantive changes.

(c) Prohibits a producer, for each fiscal year, from receiving grants for more than 18 million gallons of fuel ethanol, biodiesel, or renewable diesel produced at any one registered plant. Makes nonsubstantive changes.

(e) Requires the office, if the office determines that the amount of money credited to the account is not sufficient to distribute the full amount of grant funds to eligible producers as provided by this chapter for a fiscal year, to proportionately reduce the amount of each grant for each gallon of fuel ethanol, biodiesel, or renewable diesel produced as necessary to continue the incentive program during the remainder of the fiscal year. Makes nonsubstantive changes.

SECTION 13. Makes application of Section 162.204(a), Tax Code, as amended by this Act, prospective.

SECTION 14. Makes application of Chapter 16, Agriculture Code, as amended by this Act, prospective.

SECTION 15. Effective date: upon passage or September 1, 2009.