

## **BILL ANALYSIS**

Senate Research Center  
84R9708 BEF-F

S.B. 759  
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Finance  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

S.B. 759 repeals two state taxes. One of the taxes is currently applied to the rental of premises for conducting bingo; the other is applied to vehicles that operate on propane. Both taxes are more cumbersome to collect than they are worth and should be repealed.

Nonprofit organizations contract with bingo hall owners to hold bingo for charitable purposes. Section 2001.501 (Gross Rentals Tax), Occupations Code, imposes a tax on the rental of the hall. Currently, the tax rate is three percent of the gross rentals received by a license commercial lessor or other licensed authorized organization for the rental of premises on which bingo is conducted. Article 1 (Bingo Gross Rentals Tax) of S.B. 759 repeals Section 2001.501 and makes other conforming changes.

Article 2 (Liquefied Gas Motor Fuels Tax) of the bill repeals a tax that currently exists on vehicles that operate on propane gas under Subchapter D (Liquefied Gas Tax), Chapter 162, Tax Code. Formerly, vehicles that operated on propane, compressed natural gas, and liquefied natural gas were required to purchase pre-paid decals that proved they had paid applicable taxes on their fuel. H.B. 2148, 83rd Legislature, Regular Session, 2013, removed the decal tax on compressed and liquefied natural gas and allowed people who operate vehicles that run on those fuels to pay their taxes at the pump in the same manner as gasoline.

Currently, vehicles that run on propane are still required to purchase decals to prove they paid their tax. S.B. 759 removes this tax on propane-powered vehicles. Propane is no longer taxed as a motor fuel. The bill also exempts propane from standard sales and use taxes under Chapter 151 (Limited Sales, Excise, and Use Tax) that they would be otherwise subject to. Last session, certain municipal transit authorities that operate on compressed natural gas had requested that they still operate under the decal system and this bill preserves their wishes. S.B. 759 also removes the requirement that a person display a decal in order to receive an inspection. Those people who paid for a decal are eligible for a refund for the amount of tax they paid prior to the repeal.

The current cost to collect the tax under Subchapter D results in a negative fiscal note of \$3 million. Costs for collection exceed the revenue the tax produces and it should be repealed.

As proposed, S.B. 759 amends current law relating to the repeal of certain state taxes.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the Texas Lottery Commission is modified in SECTION 1.07 (Section 2001.504, Occupations Code) of this bill.

Rulemaking authority previously granted to comptroller of public accounts of the State of Texas is modified in SECTION 2.06 (Section 162.370, Tax Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

#### ARTICLE 1. BINGO GROSS RENTALS TAX

SECTION 1.01. Amends Section 2001.103(d), Occupations Code, to provide that an organization operating under a temporary license is subject to the fees authorized or imposed by this chapter, rather than the taxes and fees authorized or imposed by this chapter.

SECTION 1.02. Amends Section 2001.312, Occupations Code, as follows:

Sec. 2001.312. New heading: FAILURE TO FILE FEE REPORTS. Provides that a person is not eligible for a license or a license renewal unless all required reports and requested information have been filed under this chapter, rather than all required reports, tax returns, and requested information have been filed under this chapter.

SECTION 1.03. Amends Section 2001.355(b), Occupations Code, as follows:

(b) Requires the director of bingo operations, before temporarily suspending a license, to follow any prehearing rules adopted by the Texas Lottery Commission (commission) to determine if the license holder's continued operation may constitute:

(1) Makes no change to this subdivision;

(2) a financial loss to this state, which includes a license holder's failure to remit prize fee payments under Section 2001.502 (Prize Fee) to the commission as required by that section, rather than a financial loss to this state, which includes a license holder's failure to remit taxes under Section 2001.501 or prize fee payments under Section 2001.502 to the commission as required by those sections.

SECTION 1.04. Amends Section 2001.437(a), Occupations Code, as follows:

(a) Provides that if the unit accounting agreement of a unit states that a unit manager is responsible for compliance with commission rules and this chapter, the unit manager is responsible for:

(1) Makes no change to this subdivision;

(2) the payment of fees, rather than taxes and fees, and the maintenance of the bingo inventory and financial records of the unit.

SECTION 1.05. Amends Section 2001.438(f), Occupations Code, as follows:

(f) Requires each licensed authorized organization (relating to an authorized organization that holds a license to conduct bingo) that is a member of the unit (relating to two or more licensed authorized organization that conduct bingo at the same location joining together to share revenues, authorized expenses and inventory related to bingo operations) to be jointly and severally liable for:

(1) and (2) Makes no change to these subdivisions;

(3) the payment of fees and any penalties, rather than taxes, fees, and any penalties, imposed for a violation of this subchapter or commission rules related to the operations of the unit.

SECTION 1.06. Amends the heading to Subchapter K, Chapter 2001, Occupations Code, to read as follows:

#### SUBCHAPTER K. PRIZE FEES

SECTION 1.07. Amends Section 2001.504, Occupations Code, as follows:

Sec. 2001.504. New heading: PAYMENT AND REPORTING OF FEE. (a) Provides that a fee on prizes authorized or imposed under this subchapter, rather than a tax or fee

authorized or imposed under this subchapter, is due and is payable by the license holder or a person conducting bingo without a license to the commission quarterly on or before the 25th day of the month succeeding each calendar quarter.

(b) Requires that the report of the fee on prizes be filed under oath on forms prescribed by the commission, rather than requires that the report of a tax or fee be filed under oath on forms prescribed by the commission.

(c) Requires the commission to adopt rules for the payment of the fee on prizes, rather than payment of the taxes and fees.

(d) Requires a license holder required to file a report of the fee on prizes to deliver the quarterly report with the net amount of the fee due to the commission, rather than requires a license holder required to file a tax return to deliver the quarterly return with the net amount of the tax due to the commission.

Deletes existing Subsection (e) requiring the commission to deposit the revenue collected under this section to the credit of the general revenue fund.

SECTION 1.08. Amends Section 2001.508, Occupations Code, as follows:

Sec. 2001.508. PENALTIES FOR FAILURE TO PAY OR REPORT. (a) Provides that if a person fails to file a report of the fee on prizes as required by this chapter or fails to pay to the commission the fee on prizes imposed under this chapter when the report or payment is due, the person forfeits five percent of the amount due as a penalty, and after the first 30 days, the person forfeits an additional five percent, rather than if a person fails to file a return as required by this chapter or fails to pay to the commission taxes imposed under this chapter when the return or payment is due, the person forfeits five percent of the amount due as a penalty, and after the first 30 days, the person forfeits an additional five percent.

(b) Provides that a delinquent payment of the fee on prizes, rather than a delinquent tax, accrues interest at the rate provided by Section 111.060 (Interest on Delinquent Tax), Tax Code, beginning on the 60th day after the due date.

SECTION 1.09. Amends Section 2001.509, Occupations Code, as follows:

Sec. 2001.509. New heading: RECOMPUTATION OF PRIZE FEE. Authorizes the commission, if the commission is not satisfied with a report of the fee on prizes or the amount of the fee on prizes required to be remitted under this chapter to the state by a person, rather than if the commission is not satisfied with a tax return or the amount of tax required to be remitted under this chapter to the state by a person, to compute and determine the amount required to be paid on the basis of:

(1) the facts contained in the report of the fee on prizes, rather than return, or report of receipts and expenses; or

(2) Makes no change to this subdivision.

SECTION 1.10. Amends the heading to Section 2001.510, Occupations Code, to read as follows:

Sec. 2001.510. DETERMINATION IF NO REPORT MADE.

SECTION 1.11. Amends Sections 2001.510(a) and (c), Occupations Code, as follows:

(a) Requires the commission, if a license holder fails to make a required report of the fee on prizes, or if a person conducts bingo without a license, to make an estimate of the prizes awarded at a bingo occasion, rather than requiring the commission if a license holder fails to make a required return, or if a person conducts bingo without a license, to make an estimate of the prizes awarded at a bingo occasion or of the gross rentals

received by a license holder for the rental of premises. Requires the commission to make the estimate for the period in respect to which the license holder or other person failed to make a report, rather than a return.

(c) Requires the commission, on the basis of the commission's estimate, to compute and determine the amount of the fee on prizes, rather than compute and determine the amount of taxes and fees, required to be paid to the state and to add to that amount a penalty of 10 percent of the amount.

SECTION 1.12. Amends Sections 2001.511(a) and (c), Occupations Code, as follows:

(a) Requires the commission, if the commission believes that the collection of the fee on prizes, an amount of the fee on prizes required to be remitted to the state, or the amount of a determination will be jeopardized by delay, to make a determination of the fee on prizes or amount of the fee required to be collected, noting the finding of jeopardy on the determination, rather than requiring the commission if the commission believes that the collection of a gross rental tax or fee on prizes, an amount of the tax or fee on prizes required to be remitted to the state, or the amount of a determination will be jeopardized by delay, to make a determination of the tax or fee on prizes or amount of the tax or fee required to be collected, noting the finding of jeopardy on the determination.

(c) Makes conforming changes.

SECTION 1.13. Amends Section 2001.512, Occupations Code, as follows:

Sec. 2001.512. APPLICATION OF TAX LAWS. (a) Provides that Subtitle B (Enforcement and Collection), Title 2, Tax Code, applies to the administration, collection, and enforcement of the fee on prizes imposed under Section 2001.502 except as modified by this chapter, rather than providing that Subtitle B, Title 2, Tax Code, applies to administration collection, and enforcement of the gross rentals tax imposed under Section 2001.501 and the fee on prizes imposed under Section 2001.502 except as modified by this chapter.

(b) Makes a conforming change.

SECTION 1.14. Amends Section 2001.513(a), Occupations Code, to authorize the commission, at any time within three years after a person is delinquent in the payment of an amount of the fee on prizes, rather than delinquent in the payment of an amount of gross rentals tax or fee on prizes, to collect the amount under this section.

SECTION 1.15. Amends Sections 2001.514(a), (c), and (d), Occupations Code, as follows:

(a) Requires each license holder, to secure payment of the fee on prizes imposed under this subchapter, rather than to secure payment of the tax on gross rentals or the fee on prizes imposed under this subchapter, to furnish to the commission certain collateral items as enumerated.

(c) Requires the commission, on a license holder's failure to pay the fee on prizes imposed under this subchapter, rather than the gross rentals tax or fee on prizes imposed under this subchapter, to notify the license holder and any surety of the delinquency by jeopardy or deficiency determination.

(d) Makes a conforming change.

SECTION 1.16. Amends Section 2001.515, Occupations Code, as follows:

Sec. 2001.515. New heading: COMMISSION'S DUTIES. Requires the commission to perform all functions incident to the administration, collection, enforcement, and operation of the fee on prizes imposed under this subchapter, rather than requiring the

commission to perform all function incident to the administration collection, enforcement, and operation of a tax imposed under this subchapter.

SECTION 1.17. Repealer: Section 2001.501 (Gross Rentals Tax), Occupations Code.

## ARTICLE 2. LIQUEFIED GAS MOTOR FUELS TAX

SECTION 2.01. Amends Section 105.001, Business & Commerce Code, by adding Subdivision (3) to define "liquefied gas."

SECTION 2.02. Amends Section 105.002(b), Business & Commerce Code, as follows:

(b) Provides that this chapter does not apply to:

- (1) Makes no change to this subdivision;
- (2) Deletes reference to Section 162.001 (Definitions), Tax Code.

SECTION 2.03. Amends Subchapter H, Chapter 151, Tax Code, by adding Section 151.361, as follows:

Sec. 151.361. LIQUEFIED GAS USED AS MOTOR FUEL. (a) Defines "liquefied gas."

(b) Provides that liquefied gas is exempt from the taxes imposed by this chapter if the liquefied gas is used for the propulsion of a motor vehicle on the public highways of this state.

SECTION 2.04. Amends Sections 162.001(19), (29), (38), (42), and (43), Tax Code, to redefine "diesel fuel," "gasoline," "license holder," "motor fuel," and "motor fuel transporter."

SECTION 2.05. Amends Section 162.014, Tax Code, as follows:

Sec. 162.014. OTHER MOTOR FUEL TAXES PROHIBITED. Provides that the taxes imposed by this chapter are in lieu of any other excise or occupation tax imposed by a political subdivision of this state on the sale, use, or distribution of gasoline or diesel fuel, rather than the sale, use, or distribution of gasoline, diesel fuel, or liquefied gas.

SECTION 2.06. Transfers Section 162.312, Tax Code, to Subchapter D-1, Chapter 162, Tax Code, redesignates it as Section 162.370, Tax Code, and amends it, as follows:

Sec. 162.370. APPLICABILITY OF SUBCHAPTER TO CERTAIN PUBLIC TRANSPORTATION PROVIDERS USING COMPRESSED NATURAL GAS OR LIQUEFIED NATURAL GAS. (a) Provides that this section applies only to a person who:

- (1) Makes no change to this subdivision;
- (2) held a liquefied gas tax decal license issued under former Subchapter D on or before August 31, 2013.

(b) Authorizes a person to which this section applies, notwithstanding the other provisions of this subchapter, rather than notwithstanding Subchapter D-1, to:

- (1) pay tax as provided by Subchapter D, as that subchapter existed on January 1, 2015, rather than as provided by this subchapter, on compressed natural gas or liquefied natural gas delivered into the fuel supply tank of all motor vehicles described by Subsection (a)(1) (relating to a person who operates motor vehicles to provide services of a transit company) from a refueling facility accessible only to motor vehicles described by Subsection (a)(1); and

(2) Makes no change to this subdivision.

(c) Makes no change to this subsection.

(d) Redefines "liquefied gas" for the purposes of this section. Provides that the penalties provided by Sections 162.402(a) (relating to civil penalties) and 162.403 (Criminal Offenses) in connection with liquefied gas, as those sections existed on January 1, 2015, apply to a person to which this section applies.

(e) Makes no change to this subsection.

SECTION 2.07. Amends Section 162.402(a), Tax Code, as follows:

(a) Provides that a person forfeits to the state a civil penalty of not less than \$25 and not more than \$200 if the person commits certain offenses as set forth those. Deletes existing Subdivision (3) text providing that it is an offense if a person operates a liquefied gas-propelled motor vehicle that is required to be licensed in this state, including motor vehicles equipped with dual carburetion, and does not display a current liquefied gas tax decal or multistate fuels tax agreement decal. Deletes existing Subdivision (4) text providing that it is an offense if a person makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle that does not display a current Texas liquefied gas tax decal. Deletes existing Subdivision (5) text providing that it is an offense if a person makes a taxable sale or delivery of liquefied gas without holding a valid dealer's license. Deletes existing Subdivision (6) text providing that it is an offense if a person makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing out-of-state license plates. Deletes existing Subdivision (7) text providing that it is an offense if a person makes a delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing Texas license plates and no Texas liquefied gas tax decal, unless licensed under a multistate fuels tax agreement. Renumber subdivisions accordingly and makes no change to those subdivisions.

SECTION 2.08. Amends Section 162.403, Tax Code, as follows:

Sec. 162.403. CRIMINAL OFFENSES. Provides that except as provided by Section 162.404 (Criminal Offenses: Special Provisions and Exceptions), a person commits an offense if the person commits certain offenses and sets forth those offenses. Deletes existing Subdivision (3) text providing that a person commits an offense if the person operates a liquefied gas-propelled motor vehicle that is required to be licensed in this state, including a motor vehicle equipped with dual carburetion, and does not display a current liquefied gas tax decal or multistate fuels tax agreement decal. Deletes existing Subdivision (9) text providing that a person commits an offense if the person makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle that does not display a current Texas liquefied gas tax decal. Deletes existing Subdivision (10) text providing that a person commits an offense if the person makes a sale or delivery of liquefied gas on which the person knows the tax is required to be collected, if at the time the sale is made the person does not hold a valid dealer's license. Deletes existing Subdivision (11) text providing that a person commits an offense if the person makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing out-of-state license plates. Deletes existing Subdivision (12) text providing that a person commits an offense if the person makes a delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing Texas license plates and no Texas liquefied gas tax decal, unless licensed under a multistate fuels tax agreement. Renumbers subdivisions accordingly and makes no changes to those subdivisions.

SECTION 2.09. Amends Section 548.104(d), Transportation Code, as follows:

(d) Prohibits an inspection station or inspector from issuing a passing vehicle inspection report for a vehicle equipped with:

- (1) Redesignates Subdivision (2) as Subdivision (1) and makes no further change;
- (2) Redesignates Subdivision (3) as Subdivision (2) and makes no further change.

Deletes existing text of Subdivision (1) prohibiting an inspection station or inspector from issuing a passing vehicle inspection report for a vehicle equipped with a carburetion device permitting the use of liquefied gas alone or interchangeably with another fuel, unless a valid liquefied gas tax decal issued by the comptroller is attached to the lower right-hand corner of the front windshield of the vehicle on the passenger side.

SECTION 2.10. Repealer: Sections 162.001(39) (defining "liquefied gas") and 162.001(40) (defining "liquefied gas tax decal user"), Tax Code.

Repealer: the heading to Subchapter D (Liquefied Gas Tax), Chapter 162, Tax Code.

Repealer: Sections 162.301 (Tax Imposed; Rate), 162.302 (Payment of Tax), 162.3021 (School District Transportation and County Exemption), 162.3022 (Exclusive Use for Certain Metropolitan Rapid Transit Authorities), 162.303 (License; Application; Display), 162.304 (Dealer's License), 162.305 (Liquefied Gas Tax Decal License), 162.306 (Interstate Trucker's License), 162.307 (Licenses: Periods of Validity), 162.308 (Computation of Taxes; Allowances), 162.309 (Records), 162.310 (Reports and Payments), 162.311 (Refunds: Transfer of Decals), and 162.505 (Allocation of Liquefied Gas Tax), Tax Code.

SECTION 2.11. Provides that the change in law made by this article to Section 162.402(a), Tax Code, applies only to a violation that occurs on or after the effective date of this Act. Makes application of this Act prospective.

SECTION 2.12. Provides that the change in law made by this article to Section 162.403, Tax Code, applies only to an offense committed on or after the effective date of this Act. Makes application of this Act prospective.

SECTION 2.13. Authorizes a person who holds a liquefied gas tax decal license under Section 162.305, Tax Code, that is valid on or after the effective date of this Act, to, not later than December 31, 2015, apply to the comptroller of public accounts of the State of Texas (comptroller) for and obtain a pro rata refund of the unused portion of the advanced taxes paid for the period after the effective date of this Act. Requires the comptroller to provide application forms for refunds under this section.

### ARTICLE 3. TRANSITION AND EFFECTIVE DATE

SECTION 3.01. Makes application of this Act prospective.

SECTION 3.02. Effective date: September 1, 2015.