



SENATE RESEARCH CENTER

April 22, 2013

FROM: Heath D. Armstrong, Research Associate

SUBJECT: Senate Finance Subcommittee on Fiscal Matters Hearing, April 22, 2013

The Senate Finance Subcommittee on Fiscal Matters (subcommittee) met on Monday, April 22, 2013, to take up and consider the following bills.

Summary of Committee Action:

Senator Hegar called the meeting to order.

S.J.R. 27 (Birdwell) LEFT PENDING

Proposing a constitutional amendment requiring certain tax bills to be approved by two-thirds of all the members elected to each house of the legislature.

S.J.R. 27 requires that an affirmative record vote of two-thirds of all the members elected to each house of the legislature on final consideration in each house is required for passage of a bill that imposes a new state tax or increases the rate of an existing state tax above the rate in effect on the date the bill was filed. Bills that do not require a two-thirds record vote are those that address the manner in which a state tax is computed, the manner in which a state tax is administered or enforced, or the applicability of a state tax. S.J.R. 27 provides that "state tax" does not include a tax or other levy imposed by a political subdivision of this state; a fine, penalty, or interest charge; a charge for a specific service, property, or other item in an amount that reasonably relates to the value of the service property, or item; or a fee, including a filing fee, license or registration fee, or application fee.

S.J.R. 27 proposes a constitutional amendment requiring certain tax bills to be approved by two-thirds of all the members elected to each house of the legislature.

Discussion and testimony: Senator Birdwell explained the bill.

Senator Hegar stated that public testimony would be heard once Senator Birdwell's resource witnesses were present to answer any questions from the subcommittee members and that the bill

would be left pending until that time.

The bill was left pending.

The clerk called the roll and a quorum was established.

S.B. 1778 (Zaffirini) LEFT PENDING

Relating to funding for certain county transportation infrastructure projects.

In 2012, the Texas Department of Transportation created the Task Force on Texas' Energy Sector Roadway Needs (task force) to address the impacts to the highway and road systems as a result of shale oil and gas exploration. Increased energy exploration and production activity has transformed once sleepy Texas towns into bustling economic centers of commerce and development; however, that economic activity has had a negative impact on the state and county road systems. The task force findings determined that the oil and gas industry impact on the state highway system to date is near \$2 billion. An additional \$400 million per year is needed to repair current infrastructure issues and another \$600 million per year would be needed to modify roadways to facilitate the traffic and weight requirements.

To put it into perspective, nearly 1,200 loaded trucks are needed to bring just one gas well into production—the traffic equivalent to roughly eight million cars. The shale regions do not have the capacity to handle the traffic volume nor are the roads constructed to handle the weight of the vehicles. As a result, poor roads have a direct threat on public safety and have inhibited business development in many areas.

S.B. 1778 proposes the use of 25 percent from severance taxes to facilitate county transportation infrastructure projects in the shale region. These projects will include comprehensive construction, maintenance, and improvement of the counties road system.

As proposed, S.B. 1778 amends current law relating to funding for certain county transportation infrastructure projects.

Discussion and testimony: Senator Zaffirini explained the bill, stating that a committee substitute is being considered that would reduce the cost to the state reflected in the fiscal note. She stated that several bills have been filed in the past to divert severance tax revenue from being deposited in the Economic Stabilization Fund (ESF) or "rainy day" fund to address this issue.

Senator Hegar opened public testimony on S.B. 1778.

Danny Valdez, Webb County judge, testified in support of S.B. 1778. He discussed the negative impact of oil and gas exploration and development at the Eagle Ford Shale in Webb County on county roadways.

Senator Lucio asked how much money would be required to address the construction, maintenance, and improvement of Webb County's road system. Valdez stated that approximately \$2 million is needed to address those roadway infrastructure projects.

Joel Rodriguez, La Salle County judge, testified in support of S.B. 1778. He discussed certain safety concerns related to roadway maintenance issues resulting from increased oil and gas exploration development truck traffic. He stated that La Salle County needs approximately \$300 million to address roadway maintenance concerns in the county.

Senator Lucio and Rodriguez discussed certain statistical information for Le Salle County and efforts by the county to address the costs associated with additional truck traffic from increased oil and gas exploration activities.

Jaime Canales, Webb County commissioner, Precinct Four, testified in support of S.B. 1778. He discussed infrastructure demands that must be addressed in order to support the oil and gas exploration development in South Texas and maintain the safety of county roadways.

Daryl Fowler, Dewitt County judge, testified in support of S.B. 1778. He discussed the appropriateness of not depositing severance tax revenue in ESF to provide additional resources for roadway maintenance. Fowler discussed the importance and cost of maintaining roadways near certain oil and gas exploration development operations in the state.

Senator Lucio and Fowler discussed the amount of revenue Dewitt County expects to receive based on the 25 percent from severance taxes to facilitate county transportation infrastructure projects in the shale region that the bill would allow.

James Lebas, Texas Oil and Gas Association, testified in support of S.B. 1778. He discussed the appropriateness of the counties in the Eagle Ford Shale region receiving a portion of the severance taxes paid by oil and gas development operations.

Jim Allison, general counsel, County Judges and Commissioners Association, testified in support of S.B. 1778. He discussed the necessity of truck traffic in hydraulic fracturing operations in the Eagle Ford Shale region and the need to provide a funding source for counties to maintain county roadways so that oil and gas production can continue.

Eric Opiela testified in support of S.B. 1778. He discussed local landowners' contribution to severance tax collections through a deduction on royalties from production on their land which currently provides revenue to the state and the need to allow those funds to be redirected to local governments for roadway infrastructure funding needs.

Senator Hegar closed public testimony on S.B. 1778.

The bill was left pending.

S.B. 1153 (Davis) REPORTED FAVORABLY TO THE FULL COMMITTEE
Relating to reports issued by the comptroller on the effect of certain tax provisions.

Discussion and testimony: This bill was left pending in the April 15, 2013, hearing.

The bill was reported favorably with three ayes and no nays.

S.B. 1779 (Zaffirini) LEFT PENDING

Relating to ad valorem tax incentives for the recycling of water used in oil or gas drilling or production.

Hydraulic fracturing is water intensive. Whether it is brackish water or recycled water, its use can be a significant cost to hydraulic fracturing because of the cost of acquiring, transporting, and disposing of water. From a long-term perspective, recycling water and reducing water usage for hydraulic fracturing can assist a community's ability to protect future water resources, especially if that community is in a highly productive shale area in Texas.

This legislation allows local governments to use tax abatements to attract new industry and commercial enterprises, and to encourage the retention and development of existing businesses by incentivizing facilities that recycle water used in oil and gas drilling or production. S.B. 1779 promotes constructing facilities that recycle water used in oil or gas drilling or production by allowing municipalities and counties to enter into tax abatement agreements.

As proposed, S.B. 1779 amends current law relating to ad valorem tax incentives for the recycling of water used in oil or gas drilling or production.

Discussion and testimony: Senator Zaffirini explained the bill.

Senator Hegar opened public testimony on S.B. 1779.

Cyrus Reed, Lone Star Chapter-Sierra Club, testified in support of S.B. 1779. He discussed the importance of constructing facilities that recycle water used in oil or gas drilling or production by allowing municipalities and counties to enter into tax abatement agreements, particularly in South Texas.

James Lebas, Texas Oil and Gas Association, testified in support of S.B. 1779. He discussed the importance of recycling water used in oil and gas production and the need to defer the costs of those recycling efforts as much as possible.

Senator Hegar closed public testimony on S.B. 1779.

The bill was left pending.

S.B. 1780 (Zaffirini) LEFT PENDING

Relating to the definition of new property value for purposes of the calculation of certain ad valorem tax rates for a county.

The boom in oil and gas production in Texas, especially in the new shale regions, continues to place a stress on local community infrastructure. The largest problems being experienced in many of the rural communities are heavy truck traffic damaging county roads and a spike in uninsured patients in many small rural hospitals. The road problem is aggravated by the fact that

many small county roads were never designed or built for the large heavy oilfield equipment. County commissioners courts in these impacted counties find themselves with a swell in needed road maintenance and rebuilding without adequate local resources. Much of the money for road repairs in a county is generated by vehicle registration. Most of the oil field vehicles in the impacted counties are registered elsewhere, meaning no extra funds. These communities also are experiencing increased patient load in community hospitals from temporary oil field workers and their families who often are uninsured. Many of these workers are providing oil field-related services as independent contractors and are not covered by oil company insurance plans. Hospitals in the shale boom areas are reporting that emergency room volume has doubled and uncompensated care has increased as much as 25 percent.

S.B. 1780 allows a local option election for counties and hospital districts to retain increased property tax revenue from new oil and gas production in boom areas for purposes of repairing county roads and addressing increased uncompensated hospital care which results from high oil field truck traffic and a growing presence of uninsured persons associated with the oil and gas development.

As proposed, S.B. 1780 amends current law relating to the definition of new property value for purposes of the calculation of certain ad valorem tax rates for a county.

Discussion and testimony: Senator Zaffirini explained the bill, stating that it is similar to S.B. 1434 except that it allows for a local option election and applies to local hospital districts.

Senator Hegar opened public testimony on S.B. 1780.

Don McBeath, Texas Organization of Rural Hospitals, testified in support of S.B. 1780. He discussed the importance of allowing municipalities the option of retaining increased property tax revenue from new oil and gas production while not negatively impacting the oil and gas industry.

Joel Rodriguez, Le Salle County judge, testified in support of S.B, 1780. He discussed the increased costs associated with increased uncompensated hospital care from high oil field truck traffic and the increased number of uninsured persons associated with oil and gas development.

Daryl Fowler, Dewitt County judge, testified in support of S.B, 1780. He discussed the Dewitt County budget process and instances where not having the ability to hold a local option election has had a negative impact on the county.

Ernest Flores, chief executive officer and administrator, Dimmit Regional Hospital, testified in support of S.B. 1780. He discussed the costs associated with increased uncompensated hospital care from high oil field truck traffic and the number of uninsured persons associated with the oil and gas development.

Jim Allison, general counsel, County Judges and Commissioners Association, testified in support of S.B. 1780. He discussed the additional services needed to serve the new property from which additional property tax revenue in a county is received.

James Lebas, Texas Oil and Gas Association, testified in opposition to S.B. 1780. He discussed the oil and gas industry's preference for S.B. 1747 by Senator Uresti and the components of that bill that make it a better solution in the eyes of the oil and gas industry.

Senator Hegar closed public testimony on S.B. 1780.

The bill was left pending.

Senator Hegar opened public testimony on S.J.R. 27

Talmadge Heflin, director, Center for Fiscal Policy, Texas Public Policy Foundation, testified in support of S.J.R. 27. He discussed his belief that the bill is needed to create strong taxpayer protections from increased taxation and the appropriateness of requiring a two-thirds "supermajority" in each house of the legislature when attempting to raise taxes.

Eileen Garza, Texas Forward, testified in opposition to S.J.R. 27. She discussed the need to provide additional revenue to support the increased need for certain services across the state.

Dick Lavine, senior fiscal policy analyst, Center for Public Policy Priorities, testified in opposition to S.J.R. 27. He discussed possible unintended negative consequences of constitutionally restricting the state's ability to increase revenue.

Senator Hegar, Senator Birdwell, and Lavine discussed the constitutional requirement of a supermajority in both houses to increase taxes and its possible impact on the state's bond rating.

Senator Hegar closed public testimony on S.J.R. 27.

The bill was left pending.

C.S.S.B. 645 (Ellis) LEFT PENDING

Relating to water quality improvement and pollution reduction through beverage container recycling incentives; assessing a fee; providing penalties.

Recycling rates in Texas lag the national average and have not met the 40 percent goal established over a decade ago. Beverage container recycling in particular remains low and is one of the prevalent types of litter that state and local governments must clean up regularly from roadsides and waterways. The most proven and effective way to solve this is to incentivize proper recycling of beverage containers through a redeemable deposit. States with redeemable deposit programs have recycling rates that are more than double Texas's and they do not have nearly as high expenditures on litter cleanup.

S.B. 645 is based on a modernized, streamlined redeemable deposit system, without creating a new bureaucratic burden on state government. The estimated funds that will be available through unredeemed deposits will be used for helping with recycling infrastructure, redemption center startup, and implementing the state water plan.

As proposed, S.B. 645 amends current law relating to water quality improvement and pollution reduction through beverage container recycling incentives, assesses a fee, and provides penalties.

Discussion and testimony: Senator Zaffirini explained the bill on behalf of Senator Ellis and stated that there is a committee substitute. Senator Zaffirini explained the changes made by the committee substitute.

Senator Hegar opened public testimony on S.B. 645.

Jon Hockenyos, economist, discussed the amount of beverage container recycling that takes place across the country and stated that the handling fee assessed by the state along with the scrap material collected would generate approximately 5,000 permanent new jobs in Texas, roughly \$11 million per year in state revenue, and additional economic activity in the state. He discussed certain concerns regarding the incentive program expressed by interested parties and reasons why those concerns are unwarranted.

Steve Hupp, water quality director, Bayou Preservation Association (BPA), testified in support of S.B. 645. He discussed the amount of beverage container litter collected by BPA in the Houston bayous, which ultimately end up in the Gulf of Mexico. Hupp discussed why the bill represents an economic development opportunity as well as a chance to increase the level of recycling in the state.

Mark Austin, director, We CAN Recycle, testified in support of S.B. 645. He discussed job creation and economic development that will result from the passage of the bill and the environmental benefits for the state.

Trammell Crow, Earth Day Dallas, testified in support of S.B. 645. He discussed efforts by certain areas of industry to decrease their environmental impact and the efforts of Earth Day Dallas to promote environmentally friendly business activities.

Jennifer Lorenz, executive director, Bayou Land Conservancy, testified in support of S.B. 645. She discussed the accumulation of beverage container litter in watershed areas in the state. She discussed efforts to educate Texas children regarding the importance of the watersheds in protecting the state's water system and the \$15 million spent by the Texas Department of Transportation annually on picking up litter along Texas roadways.

Senator Nelson asked whether the state previously had a recycling program similar to the one proposed by S.B. 645. Senator Nelson and Senator Ellis discussed when the state stopped that recycling program and the impact of the industry's move from glass to aluminum beverage containers on the decision to end that recycling program.

Mary Wood, Plastic Pollution Texas, testified in support of S.B. 645. She discussed her previous efforts to pass legislation similar to S.B. 645 and the support that exists in the state among county governments for a recycling program contained in the bill.

Patsy Gillham testified in support of S.B. 645. She discussed the amount of money expended by the City of Galveston on cleaning up beverage container litter. She discussed the need for the states along the Gulf of Mexico to implement a recycling incentive program similar to the one contained in the bill. Gillham discussed the economic development that would occur through the passage of a beverage container recycling incentive program in Texas.

Joe Lengfellner testified in support of S.B. 645.

Claudia Russell, Owens-Illinois, Inc., testified in support of S.B. 645. She discussed the Owens-Illinois, Inc., Waco location and the importance of a beverage container recycling incentive program to its continued presence in Texas.

Mike Garber, Buffalo Bayou Partnership, testified in support of S.B. 645. He discussed his involvement in removing beverage container litter from Buffalo Bayou and the importance of implementing a beverage container recycling incentive program like the one contained in S.B. 645.

Tex Corley, chairman, Container Recycling Institute, testified in support of S.B. 645. He discussed the unique nature of the beverage container recycling incentive program proposed by S.B. 645. He discussed the inadequacy of additional curbside pickup recycling programs to address the issue of beverage container litter and statistics that counter certain arguments made by the beverage distributor industry in opposition to the bill.

David Weinberg, Texas League of Conservation Voters, testified in support of S.B. 645. He discussed the 11 statewide environmental organizations that support the beverage container recycling incentive program proposed by the bill.

Ellis Pickett, Surf Rider Foundation, testified in support of S.B. 645. He discussed the wide support across the state for a beverage container recycling incentive program similar to the one previously implemented in the state. He discussed efforts by certain volunteer groups to clean up Texas beaches and said that a significant portion of the litter collected is beverage containers.

David Hudson, vice president of business development, Strategic Materials, Inc., testified in support of S.B. 645. He discussed glass manufacturing plants located in Texas and a document illustrating the financial benefits to the state that can be expected from the implementation of a beverage container recycling incentive program.

Guy Jackson, vice chairman, Galveston Bay Foundation, testified in support of S.B. 645. He discussed the North Pacific Gyre, a garbage patch roughly the size of Texas floating in the North Pacific Ocean comprised in part of discarded beverage containers and other gyres that exist in certain oceans. Jackson discussed the employment and business opportunities that exist with regard to reducing the amount of beverage container litter in Texas waterways.

Senator Nelson, Senator Ellis, and Hudson discussed beverage container recycling incentive programs in other countries.

Carlos Ramos, Texas Beverage Association (TBA), testified in opposition to S.B. 645. He discussed efforts by TBA to promote the recycling of beverage containers and why it believes that a beverage recycling incentive program would have a negative impact on the industry and the taxpayers.

Senator Ellis asked why the recycle rate of beverage containers is so low in Texas compared to other states that have a beverage container recycling incentive program. Ramos discussed unintentional beverage container littering as a possible cause for the lower rate of beverage container recycling in the state. Senator Ellis asked whether the industry experienced a negative impact in states that have incentive programs. Ramos stated that 10 states currently have an incentive program and said that if the incentive programs were so successful then more states would have them. Senator Ellis stated that TBA has exerted significant effort to stop other states from implementing incentive programs and said that that is likely why so few states have programs similar to the one proposed by S.B. 645.

Senator Nelson discussed the fact that a problem exists with regard to recycling beverage containers in the state and asked what Ramos believes would increase the level of beverage container recycling in Texas. Ramos discussed efforts to increase curbside recycling efforts, a campaign to educate consumers on the need to recycle, and current messages printed on beverage container labels to promote recycling of those bottles. Senator Nelson stated that the current efforts are not working and discussed certain ideas that could produce results in the future.

Senator Ellis discussed his willingness to work with the industry with regard to any additional recycling incentive ideas TBA might have that they would like to see added to the bill.

Ronnie Volkening, Texas Retailers Association, testified in opposition to S.B. 645. He discussed the cost borne by the consumers and retailers that he believes would result from the implementation of the beverage container recycling incentive program contained in the bill. He discussed the important role that curbside recycling could play in reducing the amount of beverage container litter in the state.

Senator Ellis and Volkening discussed other legislation filed by Senator Ellis and the possibility of bundling S.B. 645 with one of those bills.

Senator Hegar closed public testimony on S.B. 645.

The committee adopted the committee substitute.

The bill was left pending.

S.B. 142 (West) LEFT PENDING

Relating to zero-based budgeting for state agencies as a part of the sunset review process.

Texas taxpayers spend several billion dollars every year to fund state programs. Many programs are inefficient and wasteful and the people of Texas deserve a legislature that will ensure better

use of their tax dollars. The 65th Legislature enacted the sunset review process to tackle the issue of government waste and inefficiency. While the sunset process recommends whether an agency should or should not continue, the Sunset Advisory Commission does not make any recommendations regarding individual program waste or inefficiency within each agency's state-funded programs.

S.B. 142 creates a sunset-type process for the budget of each agency that is up for sunset review. The Legislative Budget Board (LBB) will be responsible for analyzing the individual programs of each agency and LBB will make recommendations to the Sunset Advisory Commission, the governor, and the legislature regarding whether programs should continue to be funded at the current level, if at all. Each agency undergoing sunset review will have a zero-based budget in that legislative session so members can make informed decisions regarding future funding of each program at every agency.

As proposed, S.B. 142 amends current law relating to zero-based budgeting for state agencies as a part of the sunset review process.

Discussion and testimony: Senator Nelson explained the bill on behalf of Senator West.

Senator Hegar opened public testimony on S.B. 142.

There was no public testimony.

Senator Hegar closed public testimony on S.B. 142.

The bill was left pending

S.B. 486 (Taylor) LEFT PENDING

Relating to the calculation of ad valorem taxes on the residence homestead of a 100 percent or totally disabled veteran or the surviving spouse of the veteran for the tax year in which the veteran or spouse qualifies or ceases to qualify for an exemption from taxation of the homestead.

The 81st Legislature passed H.B. 3613 and H.J.R. 36, adding Section 11.131, the disabled veteran homestead tax exemption, to the Tax Code. Beginning in tax year 2009, these measures require an exemption for the total appraised value of the resident homestead of Texas veterans who receive 100 percent disability compensation, 100 percent disability rating, or individual non-employability as determined by the United States Department of Veterans Affairs. Through December 31, 2011, qualifying disabled veterans received the exemption immediately on date of qualification for the entire year. This is the same practice, under Section 11.13(c) or (d) of the Tax Code, for those qualifying for the disabled and the over-65 homestead exemptions.

The 82nd Legislature enacted S.B. 201, added Section 11.42(e) of the Tax Code to require a person who qualifies for the exemption under Section 11.131 after January 1 of the tax year to receive the exemption for the applicable portion of that year immediately upon qualification for the exemption. This amendment to the Tax Code requires a prorating of the exemption from the actual qualification date, only exempting the value of the property from that date to the end of

the calendar year. This provision gives the veteran less benefit in the first year of qualification. If the veteran should cease to qualify for the exemption in a particular calendar year the exemption is removed from the property and, for the remaining part of the year, the property is taxable. The purpose of S.B. 486 is to maximize the benefits of the homestead exemption to disabled veterans by permitting the exemption for the full year. The bill also provides ease and efficiency in ad valorem taxation methods for local tax assessor-collectors.

As proposed, S.B. 486 amends current law relating to the calculation of ad valorem taxes on the residence homestead of a 100 percent or totally disabled veteran or the surviving spouse of the veteran for the tax year in which the veteran or spouse qualifies or ceases to qualify for an exemption from taxation of the homestead.

Discussion and testimony: Senator Nelson explained the bill on behalf of Senator Taylor.

Senator Hegar opened public testimony on S.B. 486.

Luanne Caraway, tax assessor-collector, Hays County, testified in support of S.B. 486.

Senator Hegar closed public testimony on S.B. 486.

The bill was left pending.

S.B. 1434 (Hegar) LEFT PENDING

Relating to the definition of new property value for purposes of the calculation of certain ad valorem tax rates for a county.

New oil and gas extraction technology has fostered explosive growth in shale-rich areas throughout Texas. Horizontal drilling and hydraulic fracturing have opened up areas to production that conventional wisdom deemed long ago to have been depleted of any significant resources. This activity has been a benefit to the state, but not without consequence. The increase in traffic, particularly the heavy equipment needed to prepare, construct, and maintain a well site, has stressed county and state roads at an untenable level. Congestion has increased, roadway safety has declined, and wear and tear has accelerated for all vehicles traveling affected roadways.

The rapid degradation of roadways in impacted areas has been a challenge that has compounded the difficulty in supplying and maintaining the infrastructure. S.B. 1434 delivers needed relief to counties by expanding the definition of new property value to include real property interests in oil or gas. This change will allow the effective tax rate to automatically increase proportionally with oil field activity without threat of a rollback election, enabling counties to better meet their roadway needs.

As proposed, S.B. 1434 amends current law relating to the definition of new property value for purposes of the calculation of certain ad valorem tax rates for a county.

Discussion and testimony: Senator Hegar explained the bill.

Senator Hegar opened public testimony on S.B. 1434.

Darrel Fowler, Dewitt County judge, testified in support of S.B. 1434. He discussed the positive economic impact that would result from the passage of the bill for Texas counties experiencing oil and gas exploration development and aspects of the bill that he finds more appealing than other legislation attempting to address the same issues.

Senator Nelson and Fowler discussed the potential impact that the bill would have on counties in the Barnett Shale region.

Kimberly Krieger, attorney, McMullen County, testified in support of S.B. 1434. She discussed the potential positive economic impact that would result, and the local control maintained by, the bill.

James Lebas, Texas Oil and Gas Association, testified in opposition to S.B. 1434. He stated that the reasoning for his opposition to the bill is the same as his opposition to S.B. 1780.

Senator Hegar closed public testimony on S.B. 1434.

The bill was left pending.

The subcommittee recessed subject to the call of the chair.