

Emissions testing program faces hurdles

Program could harm future financial circuits, negotiations, reputation

AUSTIN (AP) — When the House takes up legislation Thursday to suspend mandatory auto emissions testing, there may be more on the line than the program itself. The state's reputation also is at stake, some lawmakers say.

"One of the issues that we have to look at is whether or not a contract with the state of Texas means anything," Rep. Patricia Gray, D-Galveston, said Wednesday.

It's been one of the primary questions during the debate over a three-month delay in the program: Would the state be financially liable if it suspends or eventually scraps the project?

The answer varies, depending on whom you ask.

Sen. John Whitmire, a Houston Democrat sponsoring the bill, says no. So does John Hall, chairman of the Texas Natural Resource Conservation Commission, which oversees the program.

Tejas Testing Technology, the

company contracted to conduct the tests, disagrees, as do some House members.

Federal law requires auto emissions testing to reduce pollution in Dallas-Fort Worth, Houston-Galveston, Beaumont-Port Arthur and El Paso. Drivers must pass an emissions test to get their license tags renewed.

Critics say the testing is too costly and inconvenient and want the 90-day moratorium so that the program can be revised.

"The contract is drafted in such a way that there is potential liability for the state," says David Sokolow, a University of Texas contract law professor hired by Tejas to examine the contract.

The contract states that if Tejas ends the program, the company is entitled to reimbursement. If the state changes the program, Tejas is not entitled to reimbursement but may petition the Legislature for compensation.

Ms. Gray, who voted against the bill for a delay in a House

committee, acknowledges that the question of liability is debatable.

What's more important, she said, is how the state's action in this matter could affect its image for future business deals.

Several legislators find the idea of "deliberately breaching a contract to be very distasteful," Ms. Gray said.

"Most Texans take a lot of pride in the fact that their word is their bond, and when we say we're going to do something, we try our best to do it," she said.

Leon Lebowitz, corporate law professor at UT, said that if the state reneges on this contract, "some companies might think twice before entering in a deal with the state."

Bob Miller, president of Tejas Testing Technology, said the delay would cost the company \$10.3 million. The company has spent a total of about \$100 million on the program, he said.

Ms. Gray said she will propose an amendment to the bill to continue the testing on a voluntary basis during the moratorium.

That would "give revenue to the operators so that they can stay in business while we try to

work on making this more convenient for the consumers," she said.

As incentive for consumers to participate, Ms. Gray proposes that the cost of the emissions test be credited against the license tag renewal fee.

Whitmire said he opposes Ms. Gray's idea and called the contractual concerns "scare tactics" by Tejas "to try to keep a badly designed program in place."

"Some members of the Legislature are putting the interests of Texas ahead of the interests of the general public, who I guarantee cannot meet the requirements of the mandatory auto emissions test," he said.

Gov. George W. Bush said the Legislature should delay the program, then deal with the contract with Tejas.

"We'll determine after the 90-day period ... any proper recourse necessary under the terms of the contract," said Bush, pledging to sign the bill into law.

"Let's let the democratic system work. Let the Legislature exert its will and determine what the course of action is," Bush said.

Attack on helium reserves raises eyebrows

Clinton's proposal to cut reserves breeds uncertainty

WASHINGTON (AP) — President Clinton's State of the Union attack on the Texas-based federal helium reserve came as a surprise to the program's operators, government overseers and members of Congress.

After all, it was only a year ago that his administration stressed its support for the oft-attacked program based near Amarillo.

But there Clinton was Tuesday night, holding the helium reserve out as a cut he will propose to Congress as a way of making government "smaller, less costly and smarter."

"We propose to cut \$130 billion in spending by shrinking departments, extending

our freeze on domestic spending, cutting 60 public housing programs down to three (and) getting rid of over 100 programs we do not need like the Interstate Commerce Commission and the helium reserve program," he said.

"It's discouraging," the reserve's general manager, Bill Moore, said Wednesday. "This may be the most concentrated effort that we've experienced regarding cancellation."

Officials at the Interior Department, which oversees the reserve, declined comment pending release of Clinton's budget blueprint on Feb. 7th. "We didn't know that would be in the State of the Union last night," one spokesman said.

Clinton's proposal was denounced by Rep. Mac Thornberry, the freshman Re-

publican whose Panhandle district includes the reserve.

"Eliminating the program wouldn't help the deficit one bit," said Thornberry, who criticized Clinton for targeting a program that doesn't receive an annual federal appropriation.

"Regardless of what one thinks about the government being in the helium business, it is a poor example of budget cuts to hold up before the entire nation."

The helium was purchased with a \$252 million Treasury loan that remains unpaid. Interest has ballooned the debt to \$1.4 billion and continues to rise-providing a juicy target for deficit-cutters.

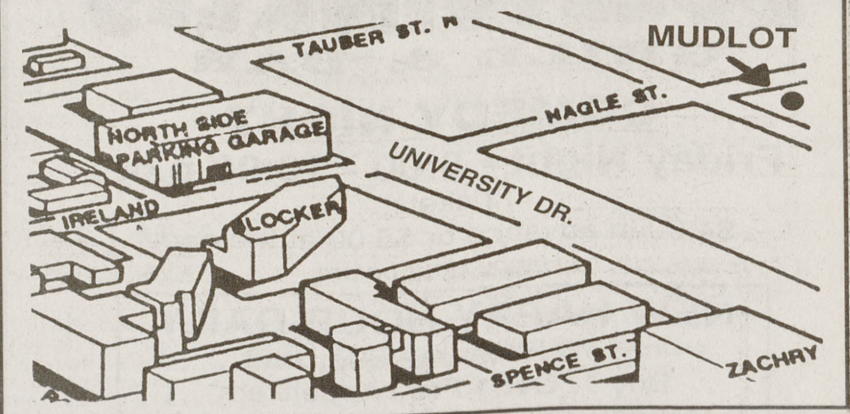
Last year Congress did not act on the legislation.

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