

By: Swinford

H.B. No. 9

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the conservation of energy and water by state agencies  
3 and to the authority of certain political subdivisions to collect  
4 certain infrastructure fees related to the control of water or  
5 storm water.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Chapter 447, Government Code, is amended by  
8 adding Sections 447.010 and 447.011 to read as follows:

9 Sec. 447.010. FUEL SAVINGS FOR STATE AGENCIES. (a) In this  
10 section and in Section 447.011:

11 (1) "Cost-effective" means resulting in fuel  
12 consumption reduction with a projected savings in fuel cost over a  
13 one-year period that exceeds the cost of purchasing and using a  
14 technology.

15 (2) "Fuel-saving technology" means a:

16 (A) device containing no lead metal that is  
17 installed on a motor vehicle or non-road diesel and that has been  
18 proven to reduce fuel consumption per mile or per hour of operation  
19 by at least five percent;

20 (B) fuel additive registered in accordance with  
21 40 C.F.R. Part 79 that contains no known mutagenic materials and  
22 that has been proven to reduce fuel consumption per mile or per hour  
23 of operation by at least five percent; or

24 (C) fuel registered in accordance with 40 C.F.R.

1 Part 79 that contains no known mutagenic materials and that has been  
2 proven to reduce fuel consumption per mile or per hour of operation  
3 by at least five percent.

4 (3) "Motor vehicle" and "non-road diesel" have the  
5 meanings assigned by Section 386.101, Health and Safety Code.

6 (4) "Proven fuel-saving technologies" means  
7 technologies shown to reduce fuel use by at least five percent in:

8 (A) an Environmental Protection Agency fuel  
9 economy federal test protocol test performed at a laboratory  
10 recognized by the Environmental Protection Agency;

11 (B) a fuel economy test performed in accordance  
12 with protocols and at testing laboratories or facilities recognized  
13 by the state energy conservation office, the Texas Commission on  
14 Environmental Quality, or the Environmental Protection Agency; or

15 (C) a field demonstration performed in  
16 accordance with Section 447.011.

17 (b) A state agency with 10 or more motor vehicles or  
18 non-road diesels shall reduce the total fuel consumption of the  
19 vehicles or diesels by at least five percent from fiscal year 2002  
20 consumption levels through the use of cost-effective proven  
21 fuel-saving technologies.

22 (c) A state agency may delay reducing fuel use as described  
23 in this section until a list of proven fuel-saving technologies is  
24 provided by the state energy conservation office as provided by  
25 Section 447.011.

26 (d) A state agency may not purchase or use as a fuel-saving  
27 technology a technology that:

1           (1) is known to increase oxides of nitrogen emissions  
2 or toxic air contaminants;

3           (2) may be reasonably concluded to degrade air quality  
4 or human health or to negatively impact the environment; or

5           (3) is known to affect negatively the manufacturer's  
6 warranty of a motor vehicle or a non-road diesel.

7           (e) A state agency may purchase cost-effective proven  
8 fuel-saving technologies out of the agency's fuel budget.

9           (f) A state agency shall competitively evaluate similar  
10 fuel-saving technologies.

11           (g) A state agency may require a seller of a fuel-saving  
12 technology to refund the cost of the technology if it is determined  
13 to be ineffective at reducing fuel use by at least five percent  
14 before the 91st day after the date the technology is first used by  
15 the agency.

16           (h) A state agency may use fuel-saving technologies that the  
17 agency determines are cost-effective and may use a fuel-saving  
18 technology in applications that provide other benefits, including  
19 emissions reductions.

20           (i) A state agency may establish a program for agency  
21 employees to voluntarily:

22                   (1) purchase fuel-saving technologies; and

23                   (2) document reductions in fuel savings and air  
24 emissions.

25           (j) A state agency shall annually report to the state energy  
26 conservation office on a form provided by the office on the state  
27 agency's efforts and progress under this section.

1       (k) This section does not apply to an institution of higher  
2 education as defined by Section 61.003, Education Code.

3       Sec. 447.011. FIELD DEMONSTRATIONS. (a) Under the  
4 direction of the state energy conservation office, the Texas  
5 Department of Transportation shall demonstrate the effectiveness  
6 of at least four fuel-saving technologies on a combined maximum of  
7 100 motor vehicles or non-road diesels in accordance with this  
8 section to determine the fuel-saving technologies that may  
9 cost-effectively reduce fuel consumption and save state revenue.

10       (b) Varying ages and types of motor vehicles and non-road  
11 diesels shall be selected to demonstrate the fuel-saving  
12 technologies. Preference shall be given to high-use motor vehicles  
13 and non-road diesels in the selection.

14       (c) The Texas Department of Transportation shall  
15 demonstrate the performance of fuel-saving technologies by:

16               (1) assessing a technology's performance in the normal  
17 course of operations of motor vehicles or non-road diesels; and

18               (2) performing controlled field tests.

19       (d) In selecting the technologies to be evaluated, the state  
20 energy conservation office shall:

21               (1) consult with governmental and business  
22 organizations that are currently using fuel-saving technology;

23               (2) consider technologies that are proven fuel-saving  
24 technologies that have demonstrated fuel economy benefits of five  
25 percent or more in field tests or recorded use data of government  
26 organizations or businesses that operate fleets; and

27               (3) determine whether each technology selected has the

1 potential to be cost-effective.

2 (e) A fuel-saving technology may be disqualified from being  
3 demonstrated or used if it is known to reduce engine performance,  
4 reduce the life of the engine, require additional maintenance  
5 expenses, or degrade air quality.

6 (f) The Texas Council on Environmental Technology, The  
7 University of Texas Center for Transportation Research, the  
8 University of Houston Diesel Emissions Center, or another agency  
9 may be designated to assist with executing the demonstration,  
10 compiling the results, estimating the potential average fuel  
11 savings of the technologies in different applications, or preparing  
12 a final report.

13 (g) On completing the demonstration described by this  
14 section, the state energy conservation office shall rank the  
15 fuel-saving technologies based on their fuel savings, other cost  
16 savings, and overall cost-effectiveness. The office shall:

17 (1) list recommended applications of the  
18 technologies;

19 (2) document other negative or positive effects; and

20 (3) prepare a concise report of these findings.

21 (h) The Texas Council on Environmental Technology shall  
22 obtain information on any fuel-saving technology that appears to  
23 reduce particulate matter, oxides of nitrogen, carbon monoxide, or  
24 hydrocarbon emissions. The Texas Council on Environmental  
25 Technology may use this information to fund the Environmental  
26 Protection Agency verification of a technology in accordance with  
27 Section 387.003, Health and Safety Code.

1        (i) The state energy conservation office shall provide the  
2 report prepared under Subsection (g) to each state agency with 10 or  
3 more motor vehicles or non-road diesels and to the Legislative  
4 Budget Board.

5        (j) The demonstration and associated reports described by  
6 this section shall be completed not later than September 1, 2004.

7        (k) All results of a demonstration project under this  
8 section shall be made public on the state energy conservation  
9 office's Internet website.

10       (l) The state energy conservation office shall provide  
11 quarterly an updated list of all proven fuel-saving technologies on  
12 its Internet website.

13       (m) Money from the state highway fund may not be used for the  
14 purchase, installation, maintenance, or operation of the  
15 fuel-saving technologies being assessed or subjected to controlled  
16 field tests under this section. Repairs to state equipment  
17 resulting from demonstrations of fuel-saving technologies must be  
18 paid from the same funds used to implement this section.

19       SECTION 2. Chapter 2113, Government Code, is amended by  
20 adding Subchapter E to read as follows:

21        SUBCHAPTER E. RESTRICTIONS ON CAPITAL EXPENDITURES

22        Sec. 2113.301. PREFERENCE FOR FINANCING CERTAIN CAPITAL  
23 EXPENDITURES WITH MONEY GENERATED BY UTILITY COST SAVINGS CONTRACT.

24       (a) In this section:

25           (1) "State facility purpose" means a purpose related  
26 to:

27                (A) the maintenance of a state-owned or

1 state-leased building or facility; or

2 (B) a project as defined by Section 2166.001,  
3 including a project described by Section 2166.003.

4 (2) "Utility cost savings contract" means a contract  
5 under Subchapter I, Chapter 2166, or other law that guarantees  
6 utility cost savings for energy conservation measures to reduce  
7 energy or water consumption or to reduce operating costs of  
8 governmental facilities.

9 (b) Before a state agency may use appropriated money to make  
10 a capital expenditure for a state facility purpose, the state  
11 agency must determine whether the expenditure could be financed  
12 with money generated by a utility cost savings contract.

13 (c) If it is practicable to do so, a state agency that is  
14 using appropriated money must finance a capital expenditure for a  
15 state facility purpose with money generated by a utility cost  
16 savings contract.

17 (d) If it is not practicable for a state agency that is using  
18 appropriated money to finance a capital expenditure for a state  
19 facility purpose with money generated by a utility cost savings  
20 contract, the state agency must provide justification to the  
21 comptroller for the capital expenditure.

22 (e) In determining under Subsection (b) whether a capital  
23 expenditure could be financed by a utility cost savings contract, a  
24 state agency must consider whether utility cost savings generated  
25 by any department of that agency could be a potential means of  
26 financing a capital expenditure for any department of that agency.  
27 Money generated by a utility cost savings in one department of a

1 state agency may be used to finance capital expenditures for a state  
2 facility purpose in any department of that agency.

3 (f) This section does not apply to an institution of higher  
4 education as defined by Section 61.003, Education Code.

5 (g) This section does not apply to a capital expenditure for  
6 a state facility purpose that requires expeditious action to:

7 (1) prevent a hazard to life, health, safety, welfare,  
8 or property; or

9 (2) avoid undue additional cost to the state.

10 (h) The Texas Building and Procurement Commission shall  
11 appoint a task force to develop design recommendations that are to  
12 be used for state facilities and that encourage rain harvesting and  
13 water recycling by state agencies using appropriated money to  
14 finance a capital expenditure for a state facility purpose.

15 SECTION 3. Section 430.003, Local Government Code, as added  
16 by H.B. No. 2425, Acts of the 78th Legislature, Regular Session,  
17 2003, is amended to read as follows:

18 Sec. 430.003. EXEMPTIONS OF CERTAIN [~~STATE~~] PROPERTY FROM  
19 INFRASTRUCTURE FEES. (a) No county, municipality, or utility  
20 district may collect from a state agency or public institution of  
21 higher education any fee charged for the development or maintenance  
22 of programs or [~~of~~] facilities for the control of excess water or  
23 storm water.

24 (b) A county, municipality, or utility district may collect  
25 from a private institution of higher education a fee charged for the  
26 development or maintenance of programs or facilities for the  
27 control of excess water or storm water only if the county,



1 municipality, or utility district imposed the fee before May 30,  
2 2003.

3 SECTION 4. This Act takes effect December 1, 2003.