

By: Rodriguez

H.B. No. 3431

A BILL TO BE ENTITLED

AN ACT

1
2 Relating to promoting economic development by accelerating the
3 commercialization of the fuel cell industry in Texas through a
4 statewide demonstration incentive program, a temporary tax
5 exemption, leveraging federal funds, coordination of research and
6 development, and market analysis.

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

8 SECTION 1. Title 3, Utilities Code, Chapter 121 is amended
9 by adding Subchapter K to read as follows:

10 SUBCHAPTER K. FUEL CELL POWER PLANT DEMONSTRATION

11 Sec. 121.601 Findings. The Legislature finds that:

12 (a) the development of a fuel cell incentive program is
13 necessary to assure economic development and to leverage federal
14 funds available for fuel cells;

15 (b) stimulating the market for fuel cells in Texas will
16 create jobs in manufacturing, installation, and maintenance of fuel
17 cells;

18 (c) creating a robust fuel cell market will help to mitigate
19 air pollution concerns that threaten economic development; and

20 (d) research and development of fuel cells in our higher
21 education institutions will assure continued economic development
22 of the fuel cell industry and related industries and position Texas
23 at the forefront of clean power technologies.

24 Sec. 121.602 Definitions. In this chapter "fuel cell power

1 plant" means an integrated system comprised of a fuel cell stack
2 assembly and associated balance of plant components that converts a
3 fuel into electricity using electrochemical means.

4 Sec. 121.603. TEXAS COUNCIL ON ENVIRONMENTAL TECHNOLOGY
5 PARTICIPATION IN FUEL CELL ELECTRIC GENERATION DEMONSTRATION. (a)
6 In this section, "council" means the Texas Council on Environmental
7 Technology.

8 (b) The council shall:

9 (1) provide coordination and support for the Texas
10 Consortium for Advanced Fuel Cell Research.

11 (2) monitor and evaluate the status of the fuel cell
12 industry in this state for both mobile and stationary applications
13 including the general market conditions and other factors that may
14 affect the introduction of fuel cells and related products to the
15 market; and

16 (3) develop legislative recommendations for:

17 (A) instituting means of accelerating the
18 commercial availability of stationary fuel cell electric
19 generating capacity in this state in addition to those required by
20 this section;

21 (B) instituting means of fostering the
22 development or manufacture of fuel cells or related products or
23 services in this state; and

24 (C) instituting appropriate measures to prepare
25 this state to accept the early introduction of fuel cell vehicles or
26 other ultra-low-emissions vehicles.

27 Sec. 121.604. Program Established. (a) The commission

1 shall establish an incentive program for fuel cell demonstration to
2 achieve the fuel cell power plant installation capacity goals of
3 this subsection by the dates specified by this subsection. The fuel
4 cell power plant goals may be met by the installation of fuel cell
5 power plant capacity on or off of the electric power grid on or
6 after September 1, 2003. The installation goal schedule for this
7 state is:

8 (1) 5 megawatts by January 1, 2005; and

9 (2) 50 megawatts by January 1, 2006.

10 (b) To meet the fuel cell power plant installation goals
11 established under this section, the commission shall provide
12 incentives to its customers through programs that are similar to
13 the standard-offer programs as defined by Chapter 39.905, of Title
14 2 of the Utilities Code, as implemented by the Public Utility
15 Commission of Texas.

16 (c) The incentives under Subsection (b) must be:

17 (1) administered in a market-neutral and
18 nondiscriminatory manner; and

19 (2) offered to all customer classes.

20 (d) To provide for implementation of the incentive programs
21 under this section, the commission shall adopt rules that:

22 (1) allow for measures or incentives to encourage
23 installation of fuel cell power plant capacity to relieve present
24 or potential transmission congestion or distribution congestion;

25 (2) are technology-neutral with respect to fuel or
26 fuel cell technology;

27 (3) ensure that a percentage of the fuel cell power

1 plant installation goal is achieved by fuel cell power plant units
2 in the categories of:

3 (A) less than 100 kilowatts per unit; and

4 (B) greater than 100 kilowatts per unit;

5 (4) allow backup or intermittent generation systems;

6 (5) allow customers to select appropriate fuel cell
7 power plant technologies and products from their chosen providers
8 to meet a wide variety of potential applications at various scales.

9 (f) The commission shall establish incentive levels,
10 including different incentive levels for different sizes of fuel
11 cell power plants that are necessary and sufficient to meet the
12 generation capacity goals by the appropriate dates.

13 Sec. 121.605. Fee Imposed. (a) The commission shall
14 develop rules to require a fee to be paid by each gas utility as
15 defined by Section 121.001(a)(1) for the purpose of implementing
16 the fuel cell demonstration program.

17 (b) Each gas utility shall pay a fee of one-cent per million
18 cubic feet of natural gas transported.

19 SECTION 2. Section 102.001, Utilities Code, is amended to
20 read as follows:

21 Section 102.001. Railroad Commission Jurisdiction. (a)
22 The railroad commission has exclusive original jurisdiction over
23 the rates and services of a gas utility:

24 (1) that distributes gas or synthetic natural gas in:

25 (A) areas outside a municipality; and

26 (B) areas inside a municipality that surrenders
27 its jurisdiction to the railroad commission under Section 103.003;

1 and

2 (2) that transmits, transports, delivers, or sells
3 natural gas or synthetic natural gas to a gas utility that
4 distributes the gas to the public.

5 (b) The railroad commission has exclusive appellate
6 jurisdiction to review an order or ordinance of a municipality
7 exercising exclusive original jurisdiction as provided by this
8 subtitle.

9 (c) The railroad commission has exclusive jurisdiction to
10 administer the fuel cell power plant demonstration and deployment
11 programs under Chapter 125.

12 SECTION 3. The Railroad Commission of Texas shall adopt
13 rules under Chapter 125, Utilities Code, as added by this Act,
14 before January 1, 2004.

15 SECTION 4. Subchapter H, Chapter 151, Tax Code, is amended
16 by adding Section 151.356 to read as follows:

17 Sec. 151.356. STATIONARY FUEL CELLS. (a) The sale, use and
18 consumption of stationary fuel cells is exempted from the taxes
19 imposed by this chapter.

20 (b) This section expires January 1 , 2011.

21 SECTION 5. Chapter 447, Government Code, as amended by
22 Section 10, Chapter 573, Section 28, Chapter 1158, and Section 1,
23 Chapter 1138, Acts of the 77th Legislature, 2001 is amended by
24 adding Section 447.012 to read as follows:

25 Sec. 447.012. FUEL CELL DEVELOPMENT. The state energy
26 conservation office shall undertake to partner with the United
27 States Department of Energy and other federal agencies or programs

1 to develop cooperative programs related to research on, development
2 of, and demonstration of fuel cell technology in this state.

3 SECTION 6. Not later than September 1, 2004, the Texas
4 Council on Environmental Technology shall present the speaker of
5 the house of representatives, the lieutenant governor, and the
6 Railroad Commission of Texas with a report on the status of the fuel
7 cell industry in this state. The report must include
8 recommendations:

9 (1) for any changes to the fuel cell demonstration and
10 deployment incentive program under Section 125, Utilities Code, as
11 added by this Act;

12 (2) for any other steps this state may take to prepare
13 this state for the introduction of fuel cell vehicles or other
14 ultra-low-emissions vehicles;

15 (3) regarding research and development programs at
16 universities and private research centers in this state to advance
17 fuel cell research and development in this state and to attract
18 federal and industry funding of fuel cell research and development;
19 and

20 (4) regarding training and education necessary for
21 developing professional services required to install and service
22 fuel cells installed in this state.

23 Section 7. This Act takes effect September 1, 2003.