

By: Armbrister

S.B. No. 1381

A BILL TO BE ENTITLED

1 AN ACT

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

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

7 SECTION 1. Title 3, Utilities Code, is amended by adding
8 Chapter 125 to read as follows:

9 CHAPTER 125. FUEL CELL POWER PLANT DEMONSTRATION

10 Sec. 125.001 Definitions. In this chapter:

11 (1) "Gas utility" means those utilities as defined by Sec.
12 121.001 engaged in distributing natural gas to end-use customers,
13 except for local distribution companies that distribute to fewer
14 than 100,000 end-use customers, and those municipally owned
15 utilities as defined by Sec. 11.003(11) of the Utilities Code.

16 (2) "Fuel cell power plant" means an integrated system
17 comprised of a fuel cell stack assembly and associated balance of
18 plant components that converts a fuel into electricity using
19 electrochemical means.

20 Sec. 125.002. TEXAS COUNCIL ON ENVIRONMENTAL TECHNOLOGY
21 PARTICIPATION IN FUEL CELL ELECTRIC GENERATION DEMONSTRATION.

22 (a) In this section, "council" means the Texas Council on
23 Environmental Technology.

24 (b) The council shall:

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

3 (2) monitor and evaluate the status of the fuel cell
4 industry in this state for both mobile and stationary applications
5 including the general market conditions and other factors that may
6 affect the introduction of fuel cells and related products to the
7 market; and

8 (3) develop legislative recommendations for:

9 (A) instituting means of accelerating the
10 commercial availability of stationary fuel cell electric
11 generating capacity in this state in addition to those required by
12 this section;

13 (B) instituting means of fostering the
14 development or manufacture of fuel cells or related products or
15 services in this state; and

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

19 Sec. 125.003. (a) Each gas utility shall establish a
20 demonstration program to achieve the fuel cell power plant
21 installation capacity goals of this subsection by the dates
22 specified by this subsection. The fuel cell power plant goals may
23 be met by the installation of fuel cell power plant capacity on or
24 off of the electric power grid on or after September 1, 2003. The
25 installation goal schedule for this state is:

26 (1) 5 megawatts by January 1, 2005; and

27 (2) 50 megawatts by January 1, 2006.

1 (b) To meet the fuel cell power plant installation goals
2 established under this section, a gas utility shall:

3 (1) purchase and own fuel cell power plants, to the
4 extent allowed by law; or

5 (2) provide incentives to its customers through
6 programs that are similar to the standard-offer programs as defined
7 by Chapter 39.905, of Title 2 of the Utilities Code, as implemented
8 by the Public Utility Commission of Texas.

9 (c) The incentives under Subsection (b)(2) must be:

10 (1) administered in a market-neutral and
11 nondiscriminatory manner; and

12 (2) offered to all customer classes.

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

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

18 (2) are technology-neutral with respect to fuel or
19 fuel cell technology;

20 (3) ensure that a percentage of the fuel cell power
21 plant installation goal is achieved by fuel cell power plant units
22 in the categories of:

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

24 (B) greater than 100 kilowatts per unit;

25 (4) allow backup or intermittent generation systems;

26 (5) allow customers to select appropriate fuel cell
27 power plant technologies and products from their chosen providers

1 to meet a wide variety of potential applications at various scales.

2 (e) The commission by rule shall establish goals for each
3 gas utility that is proportional to its share of the total number of
4 affected gas distribution customers.

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

9 SECTION 2. Section 102.001, Utilities Code, is amended to
10 read as follows:

11 Section 102.001. Railroad Commission Jurisdiction.

12 (a) The railroad commission has exclusive original jurisdiction
13 over the rates and services of a gas utility:

14 (1) that distributes natural gas or synthetic natural
15 gas in:

16 (A) areas outside a municipality; and

17 (B) areas inside a municipality that surrenders
18 its jurisdiction to the railroad commission under Section 103.003;
19 and

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

23 (b) The railroad commission has exclusive appellate
24 jurisdiction to review an order or ordinance of a municipality
25 exercising exclusive original jurisdiction as provided by this
26 subtitle.

27 (c) The railroad commission has exclusive jurisdiction to

1 administer the fuel cell power plant demonstration and deployment
2 programs under Chapter 125.

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

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

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

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

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

16 Sec. 447.012. FUEL CELL DEVELOPMENT. The state energy
17 conservation office shall undertake to partner with the United
18 States Department of Energy and other federal agencies or programs
19 to develop cooperative programs related to research on, development
20 of, and demonstration of fuel cell technology in this state.

21 SECTION 6. Not later than September 1, 2004, the Texas
22 Council on Environmental Technology shall present the speaker of
23 the house of representatives, the lieutenant governor, and the
24 Railroad Commission of Texas with a report on the status of the fuel
25 cell industry in this state. The report must include
26 recommendations:

27 (1) for any changes to the fuel cell demonstration and

1 deployment incentive program under Section 125, Utilities Code, as
2 added by this Act;

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

6 (3) regarding research and development programs at
7 universities and private research centers in this state to advance
8 fuel cell research and development in this state and to attract
9 federal and industry funding of fuel cell research and development;
10 and

11 (4) regarding training and education necessary for
12 developing professional services required to install and service
13 fuel cells installed in this state.

14 SECTION 7. This Act takes effect September 1, 2003.