

By: Chisum

H.B. No. 2970

A BILL TO BE ENTITLED

AN ACT

relating to programs, incentives, and tax exemptions to encourage the use, manufacture, storage, distribution, or sale of carbon-free hydrogen energy; providing for the issuance of bonds.

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

SECTION 1. Chapter 447, Government Code, is amended by adding Section 447.013 to read as follows:

Sec. 447.013. HYDROGEN ENERGY LOAN PROGRAM. (a) The state energy conservation office shall establish and administer a program to make and guarantee loans to business entities for projects that:

(1) expand the use of carbon-free hydrogen energy in this state; or

(2) relate to the manufacture, storage, distribution, or sale of carbon-free hydrogen energy in this state.

(b) For a project to be eligible for a loan or loan guarantee under the program established by this section, the carbon-free hydrogen must qualify under Section 49-p, Article III, Texas Constitution.

(c) The Texas Public Finance Authority shall issue general obligation bonds in an aggregate amount not to exceed \$250 million as authorized by Section 49-p, Article III, Texas Constitution.

(d) The program may be funded by:

(1) the proceeds of bonds issued under Subsection (c);  
or

1           (2) gifts, grants, and donations made for that  
2 purpose.

3           (e) The comptroller may adopt rules to implement this  
4 section.

5           SECTION 2. Subchapter B, Chapter 11, Tax Code, is amended by  
6 adding Section 11.34 to read as follows:

7           Sec. 11.34. CARBON-FREE HYDROGEN PROPERTY. (a) A person is  
8 entitled to an exemption from taxation of 25 percent of the  
9 appraised value of real and tangible personal property that the  
10 person owns and that is used for the production, storage,  
11 distribution, or wholesale or retail sale of carbon-free hydrogen.

12           (b) To be eligible for an exemption under Subsection (a),  
13 the carbon-free hydrogen must qualify under Section 1-p, Article  
14 VIII, Texas Constitution.

15           (c) For purposes of Subsection (a), pipelines and vehicles  
16 are included in the meaning of property used for the distribution of  
17 carbon-free hydrogen.

18           (d) This section does not apply to real or tangible personal  
19 property that is or was subject to a tax abatement agreement  
20 executed before January 1, 2008.

21           (e) The comptroller shall develop guidelines to assist  
22 local officials in the administration of this section.

23           SECTION 3. Subchapter E, Chapter 152, Tax Code, is amended  
24 by adding Section 152.090 to read as follows:

25           Sec. 152.090. CERTAIN HYDROGEN-POWERED MOTOR VEHICLES. (a)  
26 In this section, "hydrogen-powered motor vehicle" means a vehicle  
27 that meets the Phase II standards established by the California Air

1 Resources Board as of September 1, 2007, for an ultra low-emission  
2 vehicle II or stricter Phase II emission standards established by  
3 that board and:

4 (1) is hydrogen power capable and has a fuel economy  
5 rating of at least 45 miles per gallon; or

6 (2) is fully hydrogen-powered.

7 (b) The taxes imposed by this chapter do not apply to the  
8 sale or use of a hydrogen-powered motor vehicle.

9 SECTION 4. Subchapter D, Chapter 162, Tax Code, is amended  
10 by adding Section 162.3022 to read as follows:

11 Sec. 162.3022. EXEMPTION FOR CARBON-FREE HYDROGEN AND  
12 HYDROGEN-POWERED MOTOR VEHICLES. (a) The tax imposed by this  
13 subchapter does not apply to carbon-free hydrogen.

14 (b) Notwithstanding any other provision of this chapter, a  
15 hydrogen-powered motor vehicle, as defined by Section 152.090, is  
16 not required to have a liquefied gas tax decal or a special use  
17 liquefied gas tax decal.

18 (c) For purposes of this section, hydrogen is considered to  
19 be carbon-free if:

20 (1) any carbon resulting from the production of the  
21 hydrogen is captured during production and:

22 (A) permanently geologically sequestered; or

23 (B) used in the production of other carbon-based  
24 products at a rate that exceeds 90 percent of the input; and

25 (2) any carbon resulting from the generation of any  
26 electricity used in the production of the hydrogen is captured and:

27 (A) permanently geologically sequestered; or

1                   (B) used in the production of other carbon-based  
2 products at a rate that exceeds 90 percent of the input.

3           (d) For purposes of Subsection (c), the generation of wind  
4 power, solar power, hydroelectricity, geothermal electricity,  
5 tidal electricity, or nuclear power is considered to result in no  
6 carbon.

7           SECTION 5. Section 224.153, Transportation Code, is amended  
8 by adding Subsections (e), (f), and (g) to read as follows:

9           (e) A hydrogen-powered motor vehicle may use a high  
10 occupancy vehicle lane regardless of the number of occupants in the  
11 vehicle unless the use would impair the receipt of federal transit  
12 funds.

13           (f) The department shall by rule determine the best method  
14 for implementing the use of high occupancy vehicle lanes by  
15 hydrogen-powered motor vehicles under Subsection (e).

16           (g) In this section, "hydrogen-powered motor vehicle" means  
17 a vehicle that meets the Phase II standards established by the  
18 California Air Resources Board as of September 1, 2007, for an ultra  
19 low-emission vehicle II or stricter Phase II emission standards  
20 established by that board and:

21                   (1) is hydrogen power capable and has a fuel economy  
22 rating of at least 45 miles per gallon; or

23                   (2) is fully hydrogen-powered.

24           SECTION 6. Subtitle G, Title 6, Transportation Code, is  
25 amended by adding Chapter 371 to read as follows:

CHAPTER 371. PROVISIONS APPLICABLE TO MORE THAN

ONE TYPE OF TOLL PROJECT

Sec. 371.001. HYDROGEN-POWERED MOTOR VEHICLES. (a) In  
this chapter:

(1) "Department" means the Texas Department of  
Transportation.

(2) "Hydrogen-powered motor vehicle" has the meaning  
assigned by Section 224.153(g).

(3) "Toll project" means a toll project described by  
Section 201.001(b), regardless of whether the toll project is:

(A) a part of the state highway system; or

(B) subject to the jurisdiction of the  
department.

(4) "Toll project entity" means an entity authorized  
by law to acquire, design, construct, finance, operate, and  
maintain a toll project, including:

(A) the department under Chapter 227 or 228;

(B) a regional tollway authority under Chapter  
366;

(C) a regional mobility authority under Chapter  
370; or

(D) a county under Chapter 284.

(b) A toll project entity may not require a hydrogen-powered  
motor vehicle to pay a toll for the use of a toll project.

(c) The department shall by rule provide procedures for  
implementing this section through the use of toll tags.

SECTION 7. The state energy conservation office shall

1 establish a program under Section 447.013, Government Code, as  
2 added by this Act, not later than January 1, 2008.

3 SECTION 8. (a) Section 11.34, Tax Code, as added by this  
4 Act, applies only to ad valorem taxes imposed for a tax year  
5 beginning on or after January 1, 2008.

6 (b) The changes in law made by Sections 152.090 and  
7 162.3022, Tax Code, as added by this Act, do not affect tax  
8 liability accruing before September 1, 2007. That liability  
9 continues in effect as if this Act had not been enacted, and the  
10 former law is continued in effect for the collection of taxes due  
11 and for civil and criminal enforcement of the liability for those  
12 taxes.

13 SECTION 9. (a) Except as provided by Subsections (b) and  
14 (c) of this section, this Act takes effect September 1, 2007.

15 (b) Section 1 of this Act takes effect only if the  
16 constitutional amendment proposed by the 80th Legislature, Regular  
17 Session, 2007, authorizing the issuance of general obligation bonds  
18 to provide and guarantee loans to encourage the use of carbon-free  
19 hydrogen energy, is approved by the voters. If that amendment is  
20 not approved by the voters, Section 1 of this Act has no effect.

21 (c) Section 2 of this Act takes effect January 1, 2008, but  
22 only if the constitutional amendment proposed by the 80th  
23 Legislature, Regular Session, 2007, to exempt from ad valorem  
24 taxation 25 percent of the assessed value of real and tangible  
25 personal property used for the production, storage, distribution,  
26 or wholesale or retail sale of carbon-free hydrogen is approved by  
27 the voters. If that amendment is not approved by the voters,

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1 Section 2 of this Act has no effect.