

By: Van de Putte, Duncan

S.B. No. 1612

A BILL TO BE ENTITLED

AN ACT

1
2 relating to programs, incentives, and tax exemptions to encourage
3 the use, manufacture, storage, distribution, or sale of carbon-free
4 hydrogen energy; providing for the issuance of bonds.

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

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

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

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

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

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

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

22 (d) The program may be funded by:

23 (1) the proceeds of bonds issued under Subsection (c);
24 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:

1 CHAPTER 371. PROVISIONS APPLICABLE TO MORE THAN

2 ONE TYPE OF TOLL PROJECT

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

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

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

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

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

12 (B) subject to the jurisdiction of the
13 department.

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

17 (A) the department under Chapter 227 or 228;

18 (B) a regional tollway authority under Chapter
19 366;

20 (C) a regional mobility authority under Chapter
21 370; or

22 (D) a county under Chapter 284.

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

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

27 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,

S.B. No. 1612

1 Section 2 of this Act has no effect.