

BILL ANALYSIS

C.S.H.B. 2978
By: Otto
Environmental Regulation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, there is no state incentive for companies in Texas to convert their existing gasoline and diesel burning vehicles to low-emission vehicles. As proposed, C.S.H.B. 2978 creates the "Clean Fleet Program" with a five percent set-aside of Texas Emissions Reduction Plan (TERP) funds encouraging companies with 25 or more vehicles to either convert the vehicles to or replace the vehicles with clean burning fuel vehicles. The bill also creates the Texas Alternative Fueling Facilities Program to provide grants for the construction of an alternative fueling facilities fund through a two percent set-aside from TERP funds. Each of these programs is to be available only in non-attainment areas and will be administered by the Texas Commission on Environmental Quality.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality SECTION 2 (Section 391.004 and 392.004, Health and Safety Code) of this bill.

ANALYSIS

SECTION 1. Amends Sections 386.252 (a) and (c), Health and Safety Code to allow 87.5 percent of the money in the Texas Emissions Reduction Plan Fund (fund) to be used for the diesel emission reduction incentive program, of which not more than five percent may be used for the clean fleet program and not more than two percent may be used for the alternative fueling facilities program.

(c) Authorizes money in the fund to be allocated to the clean fleet program and the alternative fueling facilities program under certain circumstances.

SECTION 2. Adds Chapters 391 and 392 to Subtitle C, Title 5, Health and Safety Code.

CHAPTER 391. TEXAS CLEAN FLEET PROGRAM

Sec. 391.001. DEFINITIONS. Defines "alternative fuel," "commission," "hybrid vehicle," "incremental cost," and "program."

Sec. 391.002. PROGRAM. (a) Requires the Texas Commission on Environmental Quality (TCEQ) to establish and administer the Texas clean fleet program to encourage a person that has a fleet of vehicles to convert or replace diesel-powered vehicles with alternative or hybrid vehicles. Requires TCEQ to provide grants to eligible projects to offset the incremental costs for fleet owners.

(b) An entity is eligible to participate in the program if they place 25 or more qualifying vehicles in service that will be used entirely in this state.

Sec. 391.003. QUALIFYING VEHICLES. (a) Provides that a vehicle qualifies for a grant under the program if it meets certain criteria. (b) A vehicle does not qualify for a grant if it is a neighborhood electric vehicle, has already received a grant under the program, or has qualified for a similar grant or tax credit in another jurisdiction.

Sec. 391.004. APPLICATION FOR GRANT. (a) Allows an entity in this state operating a fleet of at least 10 vehicles to apply and receive a grant under the program.

(b) Authorizes TCEQ to adopt guidelines allowing a regional planning commission, council of governments, or similar regional planning agency or a nonprofit to apply for and receive a grant to improve the program's ability to achieve its goals.

(c) An application for a grant must be made on a form provided by TCEQ and must contain the information required by TCEQ.

Sec. 391.005. ELIGIBILITY OF PROJECT FOR GRANTS. (a) Requires TCEQ to establish criteria for setting priorities for projects eligible to receive grants. Requires TCEQ to review the criteria and allows the commission to make modifications as appropriate.

(b) A qualifying vehicle must have at least 5 years of useful life remaining and be used on a regular daily route.

(c) A qualifying vehicle must remain in the state for at least five years. TCEQ is required to create a monitoring program to ensure compliance as well as penalties against grant recipients that violate the requirement.

Sec. 391.006. RESTRICTION ON USE OF GRANT. Provides that grant recipients may use the grant to pay for the incremental costs of the project including the initial cost of the vehicle and reasonable expenses incurred for the labor to install emissions-reducing equipment. The grant may not be used for administrative expenses.

Sec. 391.007. AMOUNT OF GRANT. Provides that TCEQ shall award 50 percent of the incremental cost for a low-emission alternative fuel vehicle, 75 percent of the incremental cost for an ultra-low-emission or inherently low-emission alternative fuel vehicle, 85 percent of the incremental cost for a super-ultra-low-emission or zero-emission alternative fuel vehicle, and 80 percent of the incremental cost for a hybrid vehicle.

Sec. 391.008. EXPIRATION. Provides that this chapter expires August 31, 2017.

CHAPTER 392. TEXAS ALTERNATIVE FUELING FACILITIES PROGRAM

Sec. 392.001. DEFINITIONS. Defines "alternative fuel," "commission," and "program."

Sec. 392.002. PROGRAM. (a) Requires TCEQ to establish and administer the Texas alternative fueling facilities program. Provides that TCEQ shall award grants to offset the costs of qualifying projects.

(b) Provides that an entity that constructs, reconstructs, or acquires an alternative fueling facility is eligible for a grant.

Sec. 392.003. APPLICATION FOR GRANT. (a) Provides that an entity operating in this state that is eligible may apply and receive a grant.

(b) Authorizes TCEQ to adopt guidelines allowing a regional planning commission, council of governments, or similar regional planning agency or a nonprofit to apply for and receive a grant to improve the program's ability to achieve its goals.

(c) An application for a grant must be made on a form provided by TCEQ and must contain the information required by TCEQ.

Sec. 392.004. ELIGIBILITY OF PROJECTS FOR GRANTS. Requires TCEQ to establish criteria for setting priorities for projects eligible to receive grants. Requires TCEQ to review the criteria and allows the commission to make modifications as appropriate.

Sec. 392.005. RESTRICTION ON USE OF GRANT. Requires that grant recipients use the grant for the alternative fuel project. The grant may not be used for administrative expenses.

Sec. 392.006. AMOUNT OF GRANT. Provides that TCEQ may award grants to cover 50 percent of the actual cost to construct, reconstruct, or acquire a facility.

Sec. 392.007. LIMITATIONS. (a) Prohibits an entity from receiving a grant in excess of \$500,000 for a single facility.

(b) Requires facilities receiving a grant to make the facility accessible to persons other than the entity at designated times.

Sec. 392.008. EXPIRATION. Provides that this chapter expires August 31, 2017.

SECTION 3. Requires TCEQ to adopt rules under Sections 391.004 and 392.004, Health and Safety Code, as soon as practicable.

SECTION 4. Effective date

EFFECTIVE DATE

This Act takes effect September 1, 2009.

COMPARISON OF ORIGINAL TO SUBSTITUTE

SECTION 2. Section 391.001, as substituted, differs from the original by removing "or ethanol" from the definition of alternative fuel.

Section 391.002 (a) of C.S.H.B. 2978 was amended to read "Texas clean fleet program to encourage a person that has a fleet of vehicles to convert diesel-powered vehicles to alternative fuel or hybrid vehicles or replace them with alternative fuel or hybrid vehicles," rather than, "Texas clean fleet program designed to encourage entities that have a fleet of vehicles to either convert diesel-powered or gasoline-powered vehicles to alternative fuel vehicles or replace them with such vehicles, including hybrid-electric, compressed natural gas, liquefied natural gas, hydrogen, or other alternative fuel vehicles, to reduce the exposure of the citizens living in nonattainment areas of the state." The substitute differs from the original in Section 391.002 (b) by specifying that qualifying vehicles must be in service for use entirely in this state, rather than just in this state. The substitute strikes Sections 391.002 (c) and (d) of the original.

C.S.H.B. 2978 creates a new Section 391.003 from language in Sections 391.002 (c) and (d) of the original to specify which vehicles qualify for a grant and renumbering the subsequent sections accordingly.

The substitute differs from the original in Section 391.004 by providing that an entity that operates a fleet of at least 10, rather than 100 vehicles may receive a grant.

C.S.H.B. 2978 adds a new Section 391.005 (c) to require qualifying vehicles to remain in the state for at least five years. The substitute also requires TCEQ to monitor compliance with this subsection.

The substitute of Section 391.007 differs from the original by specifying that vehicles must be federally certified, rather than just certified, as low-emission to qualify for a grant.

Section 392.002 of the substitute requires TCEQ to establish a program to provide fueling facilities, rather a program designed to provide fueling facilities. The substitute eliminates Section 392.002 (c) of the original which specified an entity's qualified amount.

C.S.H.B. 2978 differs from the original by providing that grant amounts shall be based on the cost incurred to construct, reconstruct, or acquire a facility to store, compress, charge, or dispense alternative fuels, rather than the cost of the facility.

The substitute eliminates Section 392.007 (b) of the original and renumbers the remaining sections accordingly.