

BILL ANALYSIS

C.S.S.B. 1425
By: Williams
Environmental Regulation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

State incentives would help encourage companies in Texas to convert their existing gasoline and diesel burning vehicles to low-emission vehicles. Such a program would complement other state policies and programs already in place to help improve air quality levels, especially in and around nonattainment or near nonattainment areas of the state.

C.S.S.B. 1425 provides for the establishment and funding of the Texas clean fleet program to encourage the conversion of fleets of diesel-powered vehicles to alternative fuel or hybrid vehicles or to encourage the replacement of such fleets with alternative fuel or hybrid vehicles.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 2 of this bill.

ANALYSIS

SECTION 1. Amends Section 386.252(a), Health and Safety Code, to provide that of the 87.5 percent of the money in the Texas Emissions Reduction Plan Fund (fund) authorized to be used only to implement and administer programs established under the plan and required to be allocated for the diesel emissions reduction incentive program, not more than four percent may be used for the clean school bus program, five percent is required to be used for the clean fleet program and not more than 10 percent may be used for on-road diesel purchase or lease incentives. Adds Section 386.252(d) to authorize the Texas Commission on Environmental Quality (TCEQ) to allocate unexpended money designated for the clean fleet program to other programs described under Subsection (a) after TCEQ allocates money to recipients under the clean fleet program.

SECTION 2. Amends Subtitle C, Title 5, Health and Safety Code, by adding Chapter 391 as follows:

CHAPTER 391. TEXAS CLEAN FLEET PROGRAM

Section 391.001. DEFINITIONS. Defines "alternative fuel," "commission," "golf cart," "hybrid vehicle," "incremental cost," "light-duty motor vehicle," "motor vehicle," "neighborhood electric vehicle" and "program."

Section 391.002. PROGRAM. (a) Requires TCEQ to establish and administer the Texas clean fleet program (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. Requires TCEQ, under the program, to provide grants for eligible projects to offset the incremental cost of projects for fleet owners. (b) Provides that an entity that places 25 or more qualifying vehicles in service for use entirely in this state during a calendar year is eligible to participate in the program.

Section 391.003. QUALIFYING VEHICLES. (a) Provides that a vehicle is a qualifying vehicle that may be considered for a grant under the program if, during a calendar year, the entity purchases a new on-road vehicle that: is certified to current federal emissions standards; replaces

a diesel-powered vehicle of the same weight classification and use; and is a hybrid vehicle or fueled by an alternative fuel. (b) Provides that a vehicle is not a qualifying vehicle if the vehicle is a neighborhood electric vehicle; has been used as a qualifying vehicle to qualify for a grant under this chapter for a previous reporting period or by another entity; or has qualified for a similar grant or tax credit in another jurisdiction.

Section 391.004. APPLICATION FOR GRANT. (a) Provides that an entity operating in this state that operates a fleet of at least 100 vehicles may apply for and receive a grant under this program. (b) Authorizes TCEQ to adopt guidelines to allow certain regional entities or a private nonprofit organization to apply for and receive a grant to improve the ability of the program to achieve its goals. (c) Requires an application for a grant under Chapter 391, Health and Safety Code, be made on a form provided by and contain the information required by TCEQ.

Section 391.005. ELIGIBILITY OF PROJECTS FOR GRANTS. (a) Requires TCEQ by rule to establish criteria for setting priorities for projects eligible to receive grants under Chapter 391, Health and Safety Code. Requires TCEQ to review and revise the criteria as appropriate. (b) Sets forth requirements for a project to be eligible for a grant under the program. (c) Requires, as a condition of receiving a grant, that the qualifying vehicle be continuously owned, registered and operated in the state by the grant recipient for at least five years from the date of reimbursement of the grant-funded expense. Requires that not less than 75 percent of the annual use of the qualifying vehicle, either mileage or fuel use as determined by TCEQ, occur in the state. (d) Requires TCEQ to include and enforce usage provisions in the grant contracts and to monitor compliance with ownership and usage requirements, including reporting requirements. (e) Authorizes TCEQ by contract to require the return of all or a portion of grant funds for a grant recipient's noncompliance with usage and percentage of usage requirements under Section 391.005. (f) Requires a vehicle or engine replaced under this program to be rendered permanently inoperable by specified means; requires TCEQ to establish criteria for ensuring permanent destruction of the engine and vehicle; and requires TCEQ to monitor and enforce destruction requirements. (g) Requires TCEQ to establish baseline emission levels for emissions of nitrogen oxides for on-road vehicles being replaced and authorizes TCEQ to consider and establish baseline emission rates for additional pollutants of concern, as determined by TCEQ. (h) Provides that mileage requirements established by TCEQ under Subsection (b)(2)(B) may differ by vehicle weight categories and type of use.

Section 391.006. RESTRICTION ON USE OF GRANT. Requires a recipient of a grant under Chapter 391, Health and Safety Code, to use the grant to pay the incremental costs of the project for which the grant is made, which may include the initial cost of the alternative fuel vehicle and the reasonable and necessary expenses incurred for the labor needed to install emissions-reducing equipment. Prohibits the recipient from using the grant to pay the recipient's administrative expenses.

Section 391.007. AMOUNT OF GRANT. (a) Sets forth specific grant amounts TCEQ shall award for each vehicle being replaced based on type of engine, date of manufacture and certification for various emission standards. (b) Authorizes TCEQ to revise the standards for determining grant amounts as needed to reflect changes to federal emission standards and decisions on pollutants of concern.

Section 391.008. EXPIRATION. Provides Chapter 391, Health and Safety Code, expires August 31, 2017.

SECTION 3. (a) Defines "alternative fuel" and "commission." (b) Requires TCEQ to conduct an alternative fueling facilities study to assess the correlation between the installation of fueling facilities in nonattainment areas and the deployment of fleet vehicles that use alternative fuels, and determine the emissions reductions achieved from replacing a diesel-powered engine with an engine utilizing alternative fuels. (c) Requires TCEQ, from the emissions reductions determined under Subsection (b), to determine the amount of emissions reductions which are fairly attributable to the installation of an alternative fuel fueling facility and the combustion of the alternative fuel in the vehicles fueled by the alternative fueling facility. (d) Requires TCEQ, in connection with the study conducted under this section, to seek approval for credit in the state implementation plan from the United States Environmental Protection Agency (EPA) for emissions reductions that can be directly attributed to an alternative fuel fueling facility, and

achieved as a consequence of an alternative fuel fueling facility encouraging the use of alternatively fueled vehicles. (e) Requires TCEQ to include in its biennial report to the legislature the findings of the study conducted under this section and the status of the discussions with EPA regarding credit for emissions reductions in the state implementation plan which can be achieved as a result of the installation of alternative fuel fueling facilities. (f) Provides that this section of the bill expires August 31, 2011.

SECTION 4. Requires TCEQ to adopt rules under Section 391.005, Health and Safety Code, as added by this Act, as soon as practicable after the effective date of this Act.

SECTION 5. Effective date.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL TO SUBSTITUTE

SECTION 1. No change from the original.

SECTION 2. C.S.S.B. 1425 differs from the original in Section 391.001(1) by striking "biodiesel fuel" from the definition of "alternative fuel."

SECTION 3. C.S.S.B. 1425 differs from the original in (a)(1) by striking "other than biodiesel fuel" from the definition of "alternative fuel."

SECTION 4. No change from the original.

SECTION 5. No change from the original.