

By: Otto, Anchia

H.B. No. 2978

Substitute the following for H.B. No. 2978:

By: Legler

C.S.H.B. No. 2978

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the creation of alternative fuel programs to be funded
3 by the Texas emissions reduction plan fund.

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

5 SECTION 1. Sections 386.252(a) and (c), Health and Safety
6 Code, are amended to read as follows:

7 (a) Money in the fund may be used only to implement and
8 administer programs established under the plan and shall be
9 allocated as follows:

10 (1) for the diesel emissions reduction incentive
11 program, 87.5 percent of the money in the fund, of which not more
12 than four percent may be used for the clean school bus program, not
13 more than five percent may be used for the clean fleet program, not
14 more than two percent may be used for the alternative fueling
15 facilities program, and not more than 10 percent may be used for
16 on-road diesel purchase or lease incentives;

17 (2) for the new technology research and development
18 program, 9.5 percent of the money in the fund, of which up to
19 \$250,000 is allocated for administration, up to \$200,000 is
20 allocated for a health effects study, \$500,000 is to be deposited in
21 the state treasury to the credit of the clean air account created
22 under Section 382.0622 to supplement funding for air quality
23 planning activities in affected counties, not less than 20 percent
24 is to be allocated each year to support research related to air

1 quality for the Houston-Galveston-Brazoria and Dallas-Fort Worth
2 nonattainment areas by a nonprofit organization based in Houston of
3 which \$216,000 each year shall be contracted to the Energy Systems
4 Laboratory at the Texas Engineering Experiment Station for the
5 development and annual calculation of creditable statewide
6 emissions reductions obtained through wind and other renewable
7 energy resources for the State Implementation Plan, and the balance
8 is to be allocated each year to a nonprofit organization or an
9 institution of higher education based in Houston to be used to
10 implement and administer the new technology research and
11 development program under a contract with the commission for the
12 purpose of identifying, testing, and evaluating new
13 emissions-reducing technologies with potential for
14 commercialization in this state and to facilitate their
15 certification or verification; and

16 (3) for administrative costs incurred by the
17 commission and the laboratory, three percent of the money in the
18 fund.

19 (c) Money in the fund may be allocated to the clean school
20 bus program, the clean fleet program, and the alternative fueling
21 facilities program only if:

22 (1) the money is available for that purpose after
23 money is allocated for the other purposes of the fund as required by
24 the state implementation plan; or

25 (2) the amount of money deposited to the credit of the
26 fund in a state fiscal year exceeds the amount the comptroller's
27 biennial revenue estimate shows as the comptroller's estimated

1 amount to be deposited to the credit of the fund in that year.

2 SECTION 2. Subtitle C, Title 5, Health and Safety Code, is
3 amended by adding Chapters 391 and 392 to read as follows:

4 CHAPTER 391. TEXAS CLEAN FLEET PROGRAM

5 Sec. 391.001. DEFINITIONS. In this chapter:

6 (1) "Alternative fuel" means a fuel other than
7 gasoline or diesel fuel, other than biodiesel fuel, including
8 electricity, compressed natural gas, liquified natural gas,
9 hydrogen, propane, methanol, or a mixture of fuels containing at
10 least 85 percent methanol by volume.

11 (2) "Commission" means the Texas Commission on
12 Environmental Quality.

13 (3) "Hybrid vehicle" means a vehicle with at least two
14 different energy converters and two different energy storage
15 systems on board the vehicle for the purpose of propelling the
16 vehicle.

17 (4) "Incremental cost" has the meaning assigned by
18 Section 386.001.

19 (5) "Program" means the Texas clean fleet program
20 established under this chapter.

21 Sec. 391.002. PROGRAM. (a) The commission shall establish
22 and administer the Texas clean fleet program to encourage a person
23 that has a fleet of vehicles to convert diesel-powered vehicles to
24 alternative fuel or hybrid vehicles or replace them with
25 alternative fuel or hybrid vehicles. Under the program, the
26 commission shall provide grants for eligible projects to offset the
27 incremental cost of projects for fleet owners.

1 (b) An entity that places 25 or more qualifying vehicles in
2 service for use entirely in this state during a calendar year is
3 eligible to participate in the program.

4 Sec. 391.003. QUALIFYING VEHICLES. (a) A vehicle is a
5 qualifying vehicle that may be considered for a grant under the
6 program if during a calendar year the entity:

7 (1) purchases the vehicle and the vehicle is a hybrid
8 vehicle, or is fueled by an alternative fuel;

9 (2) converts the vehicle to be a hybrid vehicle or to
10 be fueled by an alternative fuel in a manner other than the manner
11 described by Subdivision (3); or

12 (3) replaces the vehicle's power source with a power
13 source that is fueled by an alternative fuel or that causes the
14 vehicle to be a hybrid vehicle.

15 (b) A vehicle is not a qualifying vehicle if the vehicle:

16 (1) is a neighborhood electric vehicle, as defined by
17 Section 551.301, Transportation Code;

18 (2) has been used as a qualifying vehicle to qualify
19 for a grant under this chapter for a previous reporting period or by
20 another entity; or

21 (3) has qualified for a similar grant or tax credit in
22 another jurisdiction.

23 Sec. 391.004. APPLICATION FOR GRANT. (a) An entity
24 operating in this state that operates a fleet of at least 10
25 vehicles may apply for and receive a grant under the program.

26 (b) The commission may adopt guidelines to allow a regional
27 planning commission, council of governments, or similar regional

1 planning agency created under Chapter 391, Local Government Code,
2 or a private nonprofit organization to apply for and receive a grant
3 to improve the ability of the program to achieve its goals.

4 (c) An application for a grant under this chapter must be
5 made on a form provided by the commission and must contain the
6 information required by the commission.

7 Sec. 391.005. ELIGIBILITY OF PROJECTS FOR GRANTS. (a) The
8 commission by rule shall establish criteria for setting priorities
9 for projects eligible to receive grants under this chapter. The
10 commission shall review and may modify the criteria and priorities
11 as appropriate.

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

14 (c) A qualifying vehicle must remain in the state for at
15 least five years. The commission by rule shall create a monitoring
16 program to ensure compliance under this subsection as well as
17 penalties against the recipient of the grant if the vehicle is
18 removed from the state before the fifth anniversary of the date the
19 grant is awarded.

20 Sec. 391.006. RESTRICTION ON USE OF GRANT. A recipient of a
21 grant under this chapter shall use the grant to pay the incremental
22 costs of the project for which the grant is made, which may include
23 the initial cost of the alternative fuel vehicle and the reasonable
24 and necessary expenses incurred for the labor needed to install
25 emissions-reducing equipment. The recipient may not use the grant
26 to pay the recipient's administrative expenses.

27 Sec. 391.007. AMOUNT OF GRANT. The amount the commission

1 shall award for each vehicle is:

2 (1) for a federally certified low-emission vehicle
3 fueled by an alternative fuel, 50 percent of the incremental cost;

4 (2) for a federally certified ultra-low-emission
5 vehicle or federally certified inherently low-emission vehicle
6 fueled by an alternative fuel, 75 percent of the incremental cost;

7 (3) for a federally certified
8 super-ultra-low-emission vehicle or federally certified
9 zero-emission vehicle fueled by an alternative fuel, 85 percent of
10 the incremental cost; or

11 (4) for a hybrid vehicle, 80 percent of the
12 incremental cost.

13 Sec. 391.008. EXPIRATION. This chapter expires August 31,
14 2017.

15 CHAPTER 392. TEXAS ALTERNATIVE FUELING FACILITIES PROGRAM

16 Sec. 392.001. DEFINITIONS. In this chapter:

17 (1) "Alternative fuel" means a fuel other than
18 gasoline or diesel fuel, other than biodiesel fuel, including
19 electricity, compressed natural gas, liquified natural gas,
20 hydrogen, propane, methanol, or a mixture of fuels containing at
21 least 85 percent methanol by volume.

22 (2) "Commission" means the Texas Commission on
23 Environmental Quality.

24 (3) "Program" means the Texas alternative fueling
25 facilities program established under this chapter.

26 Sec. 392.002. PROGRAM. (a) The commission shall establish
27 and administer the Texas alternative fueling facilities program to

1 provide fueling facilities in nonattainment areas for alternative
2 fuels. Under the program, the commission shall provide grants for
3 eligible projects to offset the cost of qualifying projects.

4 (b) An entity that constructs, reconstructs, or acquires an
5 alternative fuel refueling facility is eligible for a grant as
6 provided by this chapter.

7 Sec. 392.003. APPLICATION FOR GRANT. (a) An entity
8 operating in this state that constructs, reconstructs, or acquires
9 a facility to store, compress, charge, or dispense alternative
10 fuels may apply for and receive a grant under the program.

11 (b) The commission may adopt guidelines to allow a regional
12 planning commission, council of governments, or similar regional
13 planning agency created under Chapter 391, Local Government Code,
14 or a private nonprofit organization to apply for and receive a grant
15 to improve the ability of the program to achieve its goals.

16 (c) An application for a grant under this chapter must be
17 made on a form provided by the commission and must contain the
18 information required by the commission.

19 Sec. 392.004. ELIGIBILITY OF PROJECTS FOR GRANTS. The
20 commission by rule shall establish criteria for setting priorities
21 for projects eligible to receive grants under this chapter. The
22 commission shall review and may modify the criteria and priorities
23 as appropriate.

24 Sec. 392.005. RESTRICTION ON USE OF GRANT. A recipient of a
25 grant under this chapter shall use the grant to pay the costs of the
26 alternative fuel project. The recipient may not use the grant to
27 pay the recipient's administrative expenses.

1 Sec. 392.006. AMOUNT OF GRANT. The amount the commission
2 shall award for each alternative fueling facility is 50 percent of
3 the actual cost incurred to construct, reconstruct, or acquire a
4 facility to store, compress, charge, or dispense alternative fuels.

5 Sec. 392.007. LIMITATIONS. (a) An entity may not receive a
6 grant under this chapter in an amount that exceeds \$500,000 for a
7 single facility.

8 (b) An entity receiving a grant under this chapter must make
9 the refueling facility accessible to persons other than the entity
10 at designated times during the day.

11 Sec. 392.008. EXPIRATION. This chapter expires August 31,
12 2017.

13 SECTION 3. The Texas Commission on Environmental Quality
14 shall adopt rules under Sections 391.005 and 392.004, Health and
15 Safety Code, as added by this Act, as soon as practicable after the
16 effective date of this Act.

17 SECTION 4. This Act takes effect September 1, 2009.