

By: Otto

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. Subsections (a) and (c), Section 386.252, Health
6 and Safety 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, ethanol, or a mixture of fuels
10 containing at least 85 percent methanol or ethanol 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 designed to encourage
23 entities that have a fleet of vehicles to either convert
24 diesel-powered or gasoline-powered vehicles to alternative fuel
25 vehicles or replace them with such vehicles, including
26 hybrid-electric, compressed natural gas, liquefied natural gas,
27 hydrogen, or other alternative fuel vehicles, to reduce the

1 exposure of the citizens living in nonattainment areas of the
2 state. Under the program, the commission shall provide grants for
3 eligible projects to offset the incremental cost of projects for
4 fleet owners.

5 (b) An entity that places 25 or more qualifying vehicles in
6 service in this state during a calendar year is eligible to
7 participate in the program.

8 (c) A vehicle is a qualifying vehicle that may be considered
9 for a grant under the program if during a calendar year the entity:

10 (1) purchases the vehicle and the vehicle is a hybrid
11 vehicle, or is fueled by an alternative fuel, and is to be used
12 entirely in this state;

13 (2) converts the vehicle to be a hybrid vehicle or to
14 be fueled by an alternative fuel in a manner other than the manner
15 described by Subdivision (3), and the vehicle is to be used entirely
16 in this state; or

17 (3) replaces the vehicle's power source with a power
18 source that is fueled by an alternative fuel or that causes the
19 vehicle to be a hybrid vehicle, and the vehicle is to be used
20 entirely in this state.

21 (d) A vehicle is not a qualifying vehicle if the vehicle:

22 (1) is a mild hybrid vehicle, such as a:

23 (A) Chevrolet Malibu;

24 (B) Chevrolet Silverado;

25 (C) Dodge Ram;

26 (D) GMC Sierra;

27 (E) Saturn Aura; or

1 (F) Saturn Vue;

2 (2) is a neighborhood electric vehicle, as defined by
3 Section 551.301, Transportation Code; or

4 (3) has been used as a qualifying vehicle to qualify
5 for a grant under this chapter for a previous reporting period or by
6 another entity.

7 Sec. 391.003. APPLICATION FOR GRANT. (a) An entity
8 operating in this state that operates a fleet of at least 100
9 vehicles may apply for and receive a grant under the program.

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

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

18 Sec. 391.004. ELIGIBILITY OF PROJECTS FOR GRANTS. (a) The
19 commission by rule shall establish criteria for setting priorities
20 for projects eligible to receive grants under this chapter. The
21 commission shall review and may modify the criteria and priorities
22 as appropriate.

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

25 Sec. 391.005. RESTRICTION ON USE OF GRANT. A recipient of a
26 grant under this chapter shall use the grant to pay the incremental
27 costs of the project for which the grant is made, which may include

1 the initial cost of the alternative fuel vehicle and the reasonable
2 and necessary expenses incurred for the labor needed to install
3 emissions-reducing equipment. The recipient may not use the grant
4 to pay the recipient's administrative expenses.

5 Sec. 391.006. AMOUNT OF GRANT. The amount the commission
6 shall award for each vehicle is:

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

9 (2) for a certified ultra-low-emission vehicle or
10 certified inherently low-emission vehicle fueled by an alternative
11 fuel, 75 percent of the incremental cost;

12 (3) for a certified super-ultra-low-emission vehicle
13 or certified zero-emission vehicle fueled by an alternative fuel,
14 85 percent of the incremental cost; or

15 (4) for a hybrid vehicle, 80 percent of the
16 incremental cost.

17 Sec. 391.007. EXPIRATION. This chapter expires August 31,
18 2017.

19 CHAPTER 392. TEXAS ALTERNATIVE FUELING FACILITIES PROGRAM

20 Sec. 392.001. DEFINITIONS. In this chapter:

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

26 (2) "Commission" means the Texas Commission on
27 Environmental Quality.

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

3 Sec. 392.002. PROGRAM. (a) The commission shall establish
4 and administer the Texas alternative fueling facilities program
5 designed to provide fueling facilities in nonattainment areas for
6 alternative fuel. Under the program, the commission shall provide
7 grants for eligible projects to offset the cost of qualifying
8 projects.

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

12 (c) An entity's qualified amount is the cost incurred by the
13 entity during a calendar year to construct, reconstruct, or acquire
14 a facility to store, compress, charge, or dispense alternative
15 fuels.

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

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

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

1 Sec. 392.004. ELIGIBILITY OF PROJECTS FOR GRANTS. The
2 commission by rule shall establish criteria for setting priorities
3 for projects eligible to receive grants under this chapter. The
4 commission shall review and may modify the criteria and priorities
5 as appropriate.

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

10 Sec. 392.006. AMOUNT OF GRANT. The amount the commission
11 shall award for each alternative fueling facility is 50 percent of
12 the actual cost of the facility.

13 Sec. 392.007. LIMITATIONS. (a) An entity may not receive
14 a grant under this chapter that exceeds \$500,000 for a single
15 facility.

16 (b) An entity may not receive a second grant under this
17 chapter for the same facility.

18 (c) An entity receiving a grant under this chapter must make
19 the refueling facility accessible to persons other than the entity
20 at designated times during the day.

21 Sec. 392.008. EXPIRATION. This chapter expires August 31,
22 2017.

23 SECTION 3. The Texas Commission on Environmental Quality
24 shall adopt rules under Sections 391.004 and 392.004, Health and
25 Safety Code, as added by this Act, as soon as practicable after the
26 effective date of this Act.

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