

By: Williams, et al.

S.B. No. 1425

Substitute the following for S.B. No. 1425:

By: Legler

C.S.S.B. No. 1425

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the creation of an alternative fuel program 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. Section 386.252, Health and Safety Code, is
6 amended by amending Subsection (a) and adding Subsection (d) to
7 read as follows:

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

11 (1) for the diesel emissions reduction incentive
12 program, 87.5 percent of the money in the fund, of which not more
13 than four percent may be used for the clean school bus program, five
14 percent shall be used for the clean fleet program, and not more than
15 10 percent may be used for on-road diesel purchase or lease
16 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 (d) The commission may allocate unexpended money designated
20 for the clean fleet program to other programs described under
21 Subsection (a) after the commission allocates money to recipients
22 under the clean fleet program.

23 SECTION 2. Subtitle C, Title 5, Health and Safety Code, is
24 amended by adding Chapter 391 to read as follows:

25 CHAPTER 391. TEXAS CLEAN FLEET PROGRAM

26 Sec. 391.001. DEFINITIONS. In this chapter:

27 (1) "Alternative fuel" means a fuel other than

1 gasoline or diesel fuel, including electricity, compressed natural
2 gas, liquified natural gas, hydrogen, propane, or a mixture of
3 fuels containing at least 85 percent methanol by volume.

4 (2) "Commission" means the Texas Commission on
5 Environmental Quality.

6 (3) "Golf cart" has the meaning assigned by Section
7 502.001, Transportation Code.

8 (4) "Hybrid vehicle" means a vehicle with at least two
9 different energy converters and two different energy storage
10 systems on board the vehicle for the purpose of propelling the
11 vehicle.

12 (5) "Incremental cost" has the meaning assigned by
13 Section 386.001.

14 (6) "Light-duty motor vehicle" has the meaning
15 assigned by Section 386.151.

16 (7) "Motor vehicle" has the meaning assigned by
17 Section 386.151.

18 (8) "Neighborhood electric vehicle" means a motor
19 vehicle that:

20 (A) is originally manufactured to meet, and does
21 meet, the equipment requirements and safety standards established
22 for "low-speed vehicles" in Federal Motor Vehicle Safety Standard
23 No. 500 (49 C.F.R. Section 571.500);

24 (B) is a slow-moving vehicle, as defined by
25 Section 547.001, Transportation Code, that is able to attain a
26 speed of more than 20 miles per hour but not more than 25 miles per
27 hour in one mile on a paved, level surface;

1 (C) is a four-wheeled motor vehicle;

2 (D) is powered by electricity or alternative
3 power sources;

4 (E) has a gross vehicle weight rating of less
5 than 3,000 pounds; and

6 (F) is not a golf cart.

7 (9) "Program" means the Texas clean fleet program
8 established under this chapter.

9 Sec. 391.002. PROGRAM. (a) The commission shall establish
10 and administer the Texas clean fleet program to encourage a person
11 that has a fleet of vehicles to convert diesel-powered vehicles to
12 alternative fuel or hybrid vehicles or replace them with
13 alternative fuel or hybrid vehicles. Under the program, the
14 commission shall provide grants for eligible projects to offset the
15 incremental cost of projects for fleet owners.

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

19 Sec. 391.003. QUALIFYING VEHICLES. (a) A vehicle is a
20 qualifying vehicle that may be considered for a grant under the
21 program if during the calendar year the entity purchases a new
22 on-road vehicle that:

23 (1) is certified to current federal emissions
24 standards;

25 (2) replaces a diesel-powered on-road vehicle of the
26 same weight classification and use; and

27 (3) is a hybrid vehicle or fueled by an alternative

1 fuel.

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

3 (1) is a neighborhood electric vehicle;

4 (2) 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; or

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

9 Sec. 391.004. APPLICATION FOR GRANT. (a) An entity
10 operating in this state that operates a fleet of at least 100
11 vehicles may apply for and receive a grant under the program.

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

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

20 Sec. 391.005. ELIGIBILITY OF PROJECTS FOR GRANTS. (a) The
21 commission by rule shall establish criteria for prioritizing
22 projects eligible to receive grants under this chapter. The
23 commission shall review and revise the criteria as appropriate.

24 (b) To be eligible for a grant under the program, a project
25 must:

26 (1) result in a reduction in emissions of nitrogen
27 oxides or other pollutants, as established by the commission, of at

1 least 25 percent, based on:

2 (A) the baseline emission level set by the
3 commission under Subsection (g); and

4 (B) the certified emission rate of the new
5 vehicle; and

6 (2) replace a vehicle that:

7 (A) is an on-road vehicle that has been owned,
8 registered, and operated by the applicant in Texas for at least the
9 two years immediately preceding the submission of a grant
10 application;

11 (B) satisfies any minimum average annual mileage
12 or fuel usage requirements established by the commission;

13 (C) satisfies any minimum percentage of annual
14 usage requirements established by the commission; and

15 (D) is in operating condition and has at least
16 two years of remaining useful life, as determined in accordance
17 with criteria established by the commission.

18 (c) As a condition of receiving a grant, the qualifying
19 vehicle must be continuously owned, registered, and operated in the
20 state by the grant recipient for at least five years from the date
21 of reimbursement of the grant-funded expenses. Not less than 75
22 percent of the annual use of the qualifying vehicle, either mileage
23 or fuel use as determined by the commission, must occur in the
24 state.

25 (d) The commission shall include and enforce the usage
26 provisions in the grant contracts. The commission shall monitor
27 compliance with the ownership and usage requirements, including

1 submission of reports on at least an annual basis, or more
2 frequently as determined by the commission.

3 (e) The commission by contract may require the return of all
4 or a portion of grant funds for a grant recipient's noncompliance
5 with the usage and percentage of use requirements under this
6 section.

7 (f) A vehicle or engine replaced under this program must be
8 rendered permanently inoperable by crushing the vehicle or making a
9 hole in the engine block and permanently destroying the frame of the
10 vehicle. The commission shall establish criteria for ensuring the
11 permanent destruction of the engine and vehicle. The commission
12 shall monitor and enforce the destruction requirements.

13 (g) The commission shall establish baseline emission levels
14 for emissions of nitrogen oxides for on-road vehicles being
15 replaced. The commission may consider and establish baseline
16 emission rates for additional pollutants of concern, as determined
17 by the commission.

18 (h) Mileage requirements established by the commission
19 under Subsection (b)(2)(B) may differ by vehicle weight categories
20 and type of use.

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

1 Sec. 391.007. AMOUNT OF GRANT. (a) The amount the
2 commission shall award for each vehicle being replaced is:

3 (1) 80 percent of the incremental cost for a
4 heavy-duty diesel engine:

5 (A) manufactured prior to implementation of
6 federal or California emission standards; and

7 (B) not certified to meet a specific emission
8 level by either the U.S. Environmental Protection Agency or the
9 California Air Resources Board;

10 (2) 70 percent of the incremental cost for a
11 heavy-duty diesel engine certified to meet the federal emission
12 standards applicable to engines manufactured in 1990 through 1997;

13 (3) 60 percent of the incremental cost for a
14 heavy-duty diesel engine certified to meet the federal emission
15 standards applicable to engines manufactured in 1998 through 2003;

16 (4) 50 percent of the incremental cost for a
17 heavy-duty diesel engine certified to meet the federal emission
18 standards applicable to engines manufactured in 2004 and later;

19 (5) 80 percent of the incremental cost for a
20 light-duty diesel vehicle:

21 (A) manufactured prior to the implementation of
22 certification requirements; and

23 (B) not certified to meet either mandatory or
24 voluntary emission certification standards;

25 (6) 70 percent of the incremental cost for a
26 light-duty diesel vehicle certified to meet federal emission
27 standards prior to 2004; and

1 (7) 60 percent of the incremental cost for a
2 light-duty diesel vehicle certified to meet federal emission
3 standards applicable after 2003.

4 (b) The commission may revise the standards for determining
5 grant amounts, as needed to reflect changes to federal emission
6 standards and decisions on pollutants of concern.

7 Sec. 391.008. EXPIRATION. This chapter expires August 31,
8 2017.

9 SECTION 3. (a) In this section:

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

14 (2) "Commission" means the Texas Commission on
15 Environmental Quality.

16 (b) The commission shall conduct an alternative fueling
17 facilities study to:

18 (1) assess the correlation between the installation of
19 fueling facilities in nonattainment areas and the deployment of
20 fleet vehicles that use alternative fuels; and

21 (2) determine the emissions reductions achieved from
22 replacing a diesel-powered engine with an engine utilizing
23 alternative fuels.

24 (c) From the emissions reductions determined under
25 Subsection (b) of this section, the commission shall determine the
26 amount of emissions reductions which are fairly attributable to the
27 installation of an alternative fuel fueling facility and the

1 combustion of the alternative fuel in the vehicles fueled by the
2 alternative fuel fueling facility.

3 (d) In connection with the study conducted under this
4 section, the commission shall seek approval for credit in the state
5 implementation plan from the United States Environmental
6 Protection Agency for emissions reductions that can be:

7 (1) directly attributed to an alternative fuel fueling
8 facility; and

9 (2) achieved as a consequence of an alternative fuel
10 fueling facility encouraging the use of alternatively fueled
11 vehicles.

12 (e) The commission shall include in the commission's
13 biennial report to the legislature the findings of the study
14 conducted under this section and the status of the discussions with
15 the United States Environmental Protection Agency regarding credit
16 for emissions reductions in the state implementation plan which can
17 be achieved as a result of the installation of alternative fuel
18 fueling facilities.

19 (f) This section expires August 31, 2011.

20 SECTION 4. The Texas Commission on Environmental Quality
21 shall adopt rules under Section 391.005, Health and Safety Code, as
22 added by this Act, as soon as practicable after the effective date
23 of this Act.

24 SECTION 5. This Act takes effect September 1, 2009.