

1-1 By: Williams, Watson S.B. No. 1425
1-2 (In the Senate - Filed March 6, 2009; March 17, 2009, read
1-3 first time and referred to Committee on Natural Resources;
1-4 May 5, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 10, Nays 0; May 5, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1425 By: Eltife

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the creation of an alternative fuel program to be funded
1-11 by the Texas emissions reduction plan fund.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 386.252, Health and Safety Code, is
1-14 amended by amending Subsection (a) and adding Subsection (d) to
1-15 read as follows:

1-16 (a) Money in the fund may be used only to implement and
1-17 administer programs established under the plan and shall be
1-18 allocated as follows:

1-19 (1) for the diesel emissions reduction incentive
1-20 program, 87.5 percent of the money in the fund, of which not more
1-21 than four percent may be used for the cleanschool bus program, five
1-22 percent shall be used for the clean fleet program, and not more than
1-23 10 percent may be used for on-road diesel purchase or lease
1-24 incentives;

1-25 (2) for the new technology research and development
1-26 program, 9.5 percent of the money in the fund, of which up to
1-27 \$250,000 is allocated for administration, up to \$200,000 is
1-28 allocated for a health effects study, \$500,000 is to be deposited in
1-29 the state treasury to the credit of the clean air account created
1-30 under Section 382.0622 to supplement funding for air quality
1-31 planning activities in affected counties, not less than 20 percent
1-32 is to be allocated each year to support research related to air
1-33 quality for the Houston-Galveston-Brazoria and Dallas-Fort Worth
1-34 nonattainment areas by a nonprofit organization based in Houston of
1-35 which \$216,000 each year shall be contracted to the Energy Systems
1-36 Laboratory at the Texas Engineering Experiment Station for the
1-37 development and annual calculation of creditable statewide
1-38 emissions reductions obtained through wind and other renewable
1-39 energy resources for the State Implementation Plan, and the balance
1-40 is to be allocated each year to a nonprofit organization or an
1-41 institution of higher education based in Houston to be used to
1-42 implement and administer the new technology research and
1-43 development program under a contract with the commission for the
1-44 purpose of identifying, testing, and evaluating new
1-45 emissions-reducing technologies with potential for
1-46 commercialization in this state and to facilitate their
1-47 certification or verification; and

1-48 (3) for administrative costs incurred by the
1-49 commission and the laboratory, three percent of the money in the
1-50 fund.

1-51 (d) The commission may allocate unexpended money designated
1-52 for the clean fleet program to other programs described under
1-53 Subsection (a) after the commission allocates money to recipients
1-54 under the clean fleet program.

1-55 SECTION 2. Subtitle C, Title 5, Health and Safety Code, is
1-56 amended by adding Chapter 391 to read as follows:

1-57 CHAPTER 391. TEXAS CLEAN FLEET PROGRAM

1-58 Sec. 391.001. DEFINITIONS. In this chapter:

1-59 (1) "Alternative fuel" means a fuel other than
1-60 gasoline or diesel fuel, other than biodiesel fuel, including
1-61 electricity, compressed natural gas, liquified natural gas,
1-62 hydrogen, propane, methanol, or a mixture of fuels containing at
1-63 least 85 percent methanol by volume.

2-1 (2) "Commission" means the Texas Commission on
 2-2 Environmental Quality.

2-3 (3) "Hybrid vehicle" means a vehicle with at least two
 2-4 different energy converters and two different energy storage
 2-5 systems on board the vehicle for the purpose of propelling the
 2-6 vehicle.

2-7 (4) "Incremental cost" has the meaning assigned by
 2-8 Section 386.001.

2-9 (5) "Program" means the Texas clean fleet program
 2-10 established under this chapter.

2-11 Sec. 391.002. PROGRAM. (a) The commission shall establish
 2-12 and administer the Texas clean fleet program to encourage a person
 2-13 that has a fleet of vehicles to convert diesel-powered vehicles to
 2-14 alternative fuel or hybrid vehicles or replace them with
 2-15 alternative fuel or hybrid vehicles. Under the program, the
 2-16 commission shall provide grants for eligible projects to offset the
 2-17 incremental cost of projects for fleet owners.

2-18 (b) An entity that places 25 or more qualifying vehicles in
 2-19 service for use entirely in this state during a calendar year is
 2-20 eligible to participate in the program.

2-21 Sec. 391.003. QUALIFYING VEHICLES. (a) A vehicle is a
 2-22 qualifying vehicle that may be considered for a grant under the
 2-23 program if during a calendar year the entity:

2-24 (1) purchases the vehicle and the vehicle is a hybrid
 2-25 vehicle or is fueled by an alternative fuel;

2-26 (2) converts the vehicle to be a hybrid vehicle or to
 2-27 be fueled by an alternative fuel in a manner other than the manner
 2-28 described by Subdivision (3); or

2-29 (3) replaces the vehicle's power source with a power
 2-30 source that is fueled by an alternative fuel or that causes the
 2-31 vehicle to be a hybrid vehicle.

2-32 (b) A vehicle is not a qualifying vehicle if the vehicle:

2-33 (1) is a neighborhood electric vehicle, as defined by
 2-34 Section 551.301, Transportation Code;

2-35 (2) has been used as a qualifying vehicle to qualify
 2-36 for a grant under this chapter for a previous reporting period or by
 2-37 another entity; or

2-38 (3) has qualified for a similar grant or tax credit in
 2-39 another jurisdiction.

2-40 Sec. 391.004. APPLICATION FOR GRANT. (a) An entity
 2-41 operating in this state that operates a fleet of at least 100
 2-42 vehicles may apply for and receive a grant under the program.

2-43 (b) The commission may adopt guidelines to allow a regional
 2-44 planning commission, council of governments, or similar regional
 2-45 planning agency created under Chapter 391, Local Government Code,
 2-46 or a private nonprofit organization to apply for and receive a grant
 2-47 to improve the ability of the program to achieve its goals.

2-48 (c) An application for a grant under this chapter must be
 2-49 made on a form provided by the commission and must contain the
 2-50 information required by the commission.

2-51 Sec. 391.005. ELIGIBILITY OF PROJECTS FOR GRANTS. (a) The
 2-52 commission by rule shall establish criteria for setting priorities
 2-53 for projects eligible to receive grants under this chapter. The
 2-54 commission shall review and may modify the criteria and priorities
 2-55 as appropriate.

2-56 (b) A qualifying vehicle must be used on a regular, daily
 2-57 route and must have at least two years of useful life remaining.

2-58 (c) A qualifying vehicle must remain in the state for at
 2-59 least five years. The commission by rule shall create a monitoring
 2-60 program to ensure compliance under this subsection as well as
 2-61 penalties against the recipient of the grant if the vehicle is
 2-62 removed from the state before the fifth anniversary of the date the
 2-63 grant is awarded.

2-64 Sec. 391.006. RESTRICTION ON USE OF GRANT. A recipient of a
 2-65 grant under this chapter shall use the grant to pay the incremental
 2-66 costs of the project for which the grant is made, which may include
 2-67 the initial cost of the alternative fuel vehicle and the reasonable
 2-68 and necessary expenses incurred for the labor needed to install
 2-69 emissions-reducing equipment. The recipient may not use the grant

3-1 to pay the recipient's administrative expenses.
 3-2 Sec. 391.007. AMOUNT OF GRANT. The amount the commission
 3-3 shall award for each vehicle is:
 3-4 (1) for a federally certified low-emission vehicle
 3-5 fueled by an alternative fuel, 50 percent of the incremental cost;
 3-6 (2) for a federally certified ultra-low-emission
 3-7 vehicle or federally certified inherently low-emission vehicle
 3-8 fueled by an alternative fuel, 75 percent of the incremental cost;
 3-9 (3) for a federally certified
 3-10 super-ultra-low-emission vehicle or federally certified
 3-11 zero-emission vehicle fueled by an alternative fuel, 85 percent of
 3-12 the incremental cost; or
 3-13 (4) for a hybrid vehicle, 80 percent of the
 3-14 incremental cost.

3-15 Sec. 391.008. EXPIRATION. This chapter expires August 31,
 3-16 2017.

3-17 SECTION 3. (a) In this section:
 3-18 (1) "Alternative fuel" means a fuel other than
 3-19 gasoline or diesel fuel, other than biodiesel fuel, including
 3-20 electricity, compressed natural gas, liquified natural gas,
 3-21 hydrogen, propane, methanol, or a mixture of fuels containing at
 3-22 least 85 percent methanol by volume.

3-23 (2) "Commission" means the Texas Commission on
 3-24 Environmental Quality.

3-25 (b) The commission shall conduct an alternative fueling
 3-26 facilities study to:

3-27 (1) assess the correlation between the installation of
 3-28 fueling facilities in nonattainment areas and the deployment of
 3-29 fleet vehicles that use alternative fuels; and

3-30 (2) determine the emissions reductions achieved from
 3-31 replacing a diesel-powered engine with an engine utilizing
 3-32 alternative fuels.

3-33 (c) From the emissions reductions determined under
 3-34 Subsection (b) of this section, the commission shall determine the
 3-35 amount of emissions reductions which are fairly attributable to the
 3-36 installation of an alternative fuel fueling facility and the
 3-37 combustion of the alternative fuel in the vehicles fueled by the
 3-38 alternative fuel fueling facility.

3-39 (d) In connection with the study conducted under this
 3-40 section, the commission shall seek approval for credit in the state
 3-41 implementation plan from the United States Environmental
 3-42 Protection Agency for emissions reductions that can be:

3-43 (1) directly attributed to an alternative fuel fueling
 3-44 facility; and

3-45 (2) achieved as a consequence of an alternative fuel
 3-46 fueling facility encouraging the use of alternatively fueled
 3-47 vehicles.

3-48 (e) The commission shall include in the commission's
 3-49 biennial report to the legislature the findings of the study
 3-50 conducted under this section and the status of the discussions with
 3-51 the United States Environmental Protection Agency regarding credit
 3-52 for emissions reductions in the state implementation plan which can
 3-53 be achieved as a result of the installation of alternative fuel
 3-54 fueling facilities.

3-55 (f) This section expires August 31, 2011.

3-56 SECTION 4. The Texas Commission on Environmental Quality
 3-57 shall adopt rules under Section 391.005, Health and Safety Code, as
 3-58 added by this Act, as soon as practicable after the effective date
 3-59 of this Act.

3-60 SECTION 5. This Act takes effect September 1, 2009.

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