

By: Landgraf, Isaac, Meyer, Darby, Craddick

H.B. No. 3518

Substitute the following for H.B. No. 3518:

By: Landgraf

C.S.H.B. No. 3518

A BILL TO BE ENTITLED

1 AN ACT
2 relating to alternative fuel fleets of certain governmental
3 entities, including funding for motor vehicles, infrastructure,
4 and equipment.

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

6 SECTION 1. Sections 2158.004(a), (b), (c), and (d),
7 Government Code, are amended to read as follows:

8 (a) A state agency operating a fleet of more than 15
9 vehicles, excluding law enforcement and emergency vehicles, may not
10 purchase or lease a motor vehicle unless that vehicle uses
11 compressed natural gas, liquefied natural gas, liquefied petroleum
12 gas, methanol or methanol/gasoline blends of 85 percent or greater,
13 ethanol or ethanol/gasoline blends of 85 percent or greater,
14 biodiesel or biodiesel/diesel blends of 20 percent or greater,
15 hydrogen fuel cells, or electricity, including electricity to power
16 a plug-in hybrid motor vehicle.

17 (b) A state agency may obtain equipment or refueling
18 facilities necessary to operate vehicles using compressed natural
19 gas, liquefied natural gas, liquefied petroleum gas, methanol or
20 methanol/gasoline blends of 85 percent or greater, ethanol or
21 ethanol/gasoline blends of 85 percent or greater, biodiesel or
22 biodiesel/diesel blends of 20 percent or greater, hydrogen fuel
23 cells, or electricity, including electricity to power a plug-in
24 hybrid motor vehicle:

1 (1) by purchase or lease as authorized by law;
2 (2) by gift or loan of the equipment or facilities; or
3 (3) by gift or loan of the equipment or facilities or
4 by another arrangement under a service contract for the supply of
5 compressed natural gas, liquefied natural gas, liquefied petroleum
6 gas, methanol or methanol/gasoline blends of 85 percent or greater,
7 ethanol or ethanol/gasoline blends of 85 percent or greater,
8 biodiesel or biodiesel/diesel blends of 20 percent or greater,
9 hydrogen fuel cells, or electricity, including electricity to power
10 a plug-in hybrid motor vehicle.

11 (c) If the equipment or facilities are donated, loaned, or
12 provided through another arrangement with the supplier of
13 compressed natural gas, liquefied natural gas, liquefied petroleum
14 gas, methanol or methanol/gasoline blends of 85 percent or greater,
15 ethanol or ethanol/gasoline blends of 85 percent or greater,
16 biodiesel or biodiesel/diesel blends of 20 percent or greater,
17 hydrogen fuel cells, or electricity, including electricity to power
18 a plug-in hybrid motor vehicle, the supplier is entitled to recoup
19 its actual cost of donating, loaning, or providing the equipment or
20 facilities through its fuel charges under the supply contract.

21 (d) The commission may waive the requirements of this
22 section for a state agency on receipt of certification supported by
23 evidence acceptable to the commission that:

24 (1) the agency's vehicles will be operating primarily
25 in an area in which neither the agency nor a supplier has or can
26 reasonably be expected to establish adequate refueling for
27 compressed natural gas, liquefied natural gas, liquefied petroleum

1 gas, methanol or methanol/gasoline blends of 85 percent or greater,
2 ethanol or ethanol/gasoline blends of 85 percent or greater,
3 biodiesel or biodiesel/diesel blends of 20 percent or greater,
4 hydrogen fuel cells, or electricity, including electricity to power
5 a plug-in hybrid motor vehicle; or

6 (2) the agency is unable to obtain equipment or
7 refueling facilities necessary to operate vehicles using
8 compressed natural gas, liquefied natural gas, liquefied petroleum
9 gas, methanol or methanol/gasoline blends of 85 percent or greater,
10 ethanol or ethanol/gasoline blends of 85 percent or greater,
11 biodiesel or biodiesel/diesel blends of 20 percent or greater,
12 hydrogen fuel cells, or electricity, including electricity to power
13 a plug-in hybrid motor vehicle, at a projected cost that is
14 reasonably expected to be no greater than the net costs of continued
15 use of conventional gasoline or diesel fuels, measured over the
16 expected useful life of the equipment or facilities supplied.

17 SECTION 2. Subchapter A, Chapter 2158, Government Code, is
18 amended by adding Section 2158.0051 to read as follows:

19 Sec. 2158.0051. ALTERNATIVE FUEL FLEETS. (a) It is the
20 intent of this state that:

21 (1) the vehicle fleet of a state agency that operates a
22 fleet of more than 15 motor vehicles, subject to the availability of
23 funds, shall be converted into or replaced with motor vehicles that
24 use compressed natural gas, liquefied natural gas, liquefied
25 petroleum gas, hydrogen fuel cells, or electricity, including fully
26 electric vehicles and plug-in hybrid motor vehicles;

27 (2) a county or municipality that operates a vehicle

1 fleet of more than 15 motor vehicles is authorized, but is not
2 required, to convert the fleet into or replace the fleet with motor
3 vehicles that use compressed natural gas, liquefied natural gas,
4 liquefied petroleum gas, hydrogen fuel cells, or electricity,
5 including fully electric vehicles and plug-in hybrid motor
6 vehicles; and

7 (3) motor vehicles of a state agency, county, or
8 municipality described by Subdivisions (1) and (2) that are capable
9 of using fuels described by those subdivisions be primarily
10 operated with those fuels rather than conventional gasoline or
11 diesel fuels.

12 (b) In complying with Subsection (a), a state agency to
13 which this section applies shall prioritize:

14 (1) the purchase or lease of new motor vehicles when
15 replacing vehicles or adding vehicles to the fleet;

16 (2) the purchase of new motor vehicles to replace
17 vehicles that have the highest total mileage and do not use a fuel
18 described by Subsection (a);

19 (3) the conversion of motor vehicles that were driven
20 the most miles during the previous biennium and do not use a fuel
21 described by Subsection (a); and

22 (4) to the extent feasible, obtaining, whether by
23 conversion, purchase, or lease, motor vehicles that use compressed
24 natural gas, liquefied natural gas, or liquefied petroleum gas.

25 (c) Subsection (a)(1) does not apply to law enforcement or
26 emergency vehicles.

27 SECTION 3. Subtitle C, Title 5, Health and Safety Code, is

1 amended by adding Chapter 395 to read as follows:

2 CHAPTER 395. GOVERNMENTAL ALTERNATIVE FUEL FLEET GRANT PROGRAM

3 Sec. 395.001. DEFINITIONS. In this chapter:

4 (1) "Alternative fuel" means compressed natural gas,
5 liquefied natural gas, liquefied petroleum gas, hydrogen fuel
6 cells, or electricity, including electricity to power fully
7 electric vehicles and plug-in hybrid motor vehicles.

8 (2) "Commission" means the Texas Commission on
9 Environmental Quality.

10 (3) "Incremental cost" means the cost of a motor
11 vehicle or the cost of purchasing or installing refueling
12 infrastructure and equipment less a baseline cost that would
13 otherwise be incurred by a grant recipient in the normal course of
14 business. Incremental costs may include added lease or fuel costs
15 as well as additional capital costs.

16 (4) "Motor vehicle" means a self-propelled device
17 designed for transporting persons or property on a public highway
18 that is required to be registered under Chapter 502, Transportation
19 Code.

20 (5) "Political subdivision" means a school district,
21 junior college district, river authority, water district or other
22 special district, or other political subdivision created under the
23 constitution or a statute of this state, other than a county or
24 municipality.

25 (6) "Program" means the governmental alternative fuel
26 fleet grant program established under this chapter.

27 (7) "State agency" has the meaning assigned by Section

1 2151.002, Government Code.

2 Sec. 395.002. PROGRAM. (a) The commission shall establish
3 and administer a governmental alternative fuel fleet grant program
4 to assist an eligible state agency, county, municipality, or
5 political subdivision in:

6 (1) purchasing or leasing new motor vehicles that
7 operate primarily on an alternative fuel; or

8 (2) converting motor vehicles to operate primarily on
9 an alternative fuel.

10 (b) The program is funded under the Texas emissions
11 reduction plan established under Chapter 386.

12 (c) The program may provide a grant to a state agency,
13 county, municipality, or political subdivision to:

14 (1) purchase or lease a new motor vehicle described by
15 Section 395.004;

16 (2) convert a motor vehicle to operate primarily on an
17 alternative fuel; or

18 (3) purchase, lease, or install refueling
19 infrastructure or equipment or procure refueling services as
20 described by Section 395.005 to store and dispense alternative fuel
21 needed for a motor vehicle described by Subdivision (1) or (2).

22 Sec. 395.003. ELIGIBLE APPLICANTS. (a) A state agency,
23 county, or municipality is eligible to apply for a grant under this
24 program if the entity operates a fleet of more than 15 motor
25 vehicles, excluding motor vehicles that are owned and operated by a
26 private company or other third party under a contract with the
27 entity.

1 (b) A mass transit or school transportation provider or
2 other broadly similar public entity established to provide public
3 or school transportation services is eligible for a grant under
4 this program.

5 (c) If, on April 1 of an even-numbered year, the commission
6 has awarded less than 75 percent of the total amount to be awarded
7 in that fiscal year to eligible applicants under Subsections (a)
8 and (b), a political subdivision is eligible to apply for a grant
9 under the program during the remainder of that fiscal year.

10 Sec. 395.004. MOTOR VEHICLE REQUIREMENTS. (a) A grant
11 recipient may purchase or lease with money from a grant under the
12 program a new motor vehicle that:

13 (1) is originally manufactured to operate using one or
14 more alternative fuels or is converted to operate using one or more
15 alternative fuels before the first retail sale of the vehicle; and

16 (2) has a dedicated system, dual-fuel system, or
17 bi-fuel system with a range equivalent of at least 75 miles when
18 operating on the alternative fuel without refueling, as published
19 by the United States Environmental Protection Agency.

20 (b) A grant recipient may not use money from a grant under
21 the program to replace a motor vehicle, transit bus, or school bus
22 that operates on an alternative fuel unless the replacement vehicle
23 produces fewer emissions and has greater fuel efficiency than the
24 vehicle being replaced.

25 Sec. 395.005. REFUELING INFRASTRUCTURE, EQUIPMENT, AND
26 SERVICES. A grant recipient may purchase, lease, or install
27 refueling infrastructure or equipment or procure refueling

1 services with money from a grant under the program if:

2 (1) the purchase, lease, installation, or procurement
3 is made in conjunction with the purchase or lease of a motor vehicle
4 as described by Section 395.004 or the conversion of a motor vehicle
5 to operate primarily on an alternative fuel;

6 (2) the grant recipient demonstrates that a refueling
7 station that meets the needs of the recipient is not available
8 within five miles of the location at which the recipient's vehicles
9 are stored or primarily used; and

10 (3) for the purchase or installation of refueling
11 infrastructure or equipment, the infrastructure or equipment will
12 be owned and operated by the grant recipient, and for the lease of
13 refueling infrastructure or equipment or the procurement of
14 refueling services, a third-party service provider engaged by the
15 grant recipient will provide the infrastructure, equipment, or
16 services.

17 Sec. 395.006. ELIGIBLE COSTS. (a) A motor vehicle lease
18 agreement paid for with money from a grant under the program must
19 have a term of at least three years.

20 (b) Refueling infrastructure or equipment purchased or
21 installed with money from a grant under the program must be used
22 specifically to store or dispense alternative fuel, as determined
23 by the commission.

24 (c) A lease of or service agreement for refueling
25 infrastructure, equipment, or services paid for with money from a
26 grant under the program must have a term of at least three years.

27 Sec. 395.007. GRANT AMOUNTS. (a) The commission may

1 establish standardized grant amounts based on the incremental costs
2 associated with the purchase or lease of different categories of
3 motor vehicles, including the type of fuel used, vehicle class, and
4 other categories the commission considers appropriate.

5 (b) In determining the incremental costs and setting the
6 standardized grant amounts, the commission may consider the
7 difference in cost between a new motor vehicle operated using
8 conventional gasoline or diesel fuel and a new motor vehicle
9 operated using alternative fuel.

10 (c) The amount of a grant for the purchase or lease of a
11 motor vehicle may not exceed the amount of the incremental cost of
12 the purchase or lease.

13 (d) The commission may establish grant amounts to reimburse
14 the full cost of the purchase, lease, installation, or procurement
15 of refueling infrastructure, equipment, or services or may
16 establish criteria for reimbursing a percentage of the cost.

17 (e) A grant under the program may be combined with funding
18 from other sources, including other grant programs, except that a
19 grant may not be combined with other funding or grants from the
20 Texas emissions reduction plan. When combined with other funding
21 sources, a grant may not exceed the total cost to the grant
22 recipient.

23 Sec. 395.008. AVAILABILITY OF EMISSIONS REDUCTION CREDITS.

24 (a) A purchase, lease, or installation that uses money from a
25 grant under the program may not be used for credit under a state or
26 federal emissions reduction credit averaging, banking, or trading
27 program.

1 (b) An emissions reduction generated by a purchase or lease
2 under this chapter:

3 (1) may not be used as a marketable emissions
4 reduction credit; and

5 (2) may be used to demonstrate conformity with the
6 state implementation plan.

7 (c) A project involving a new emissions reduction measure
8 that would otherwise generate marketable credits under a state or
9 federal emissions reduction credit averaging, banking, or trading
10 program is not eligible for funding under the program unless:

11 (1) the project includes the transfer of the
12 reductions that would otherwise be marketable credits to the state
13 implementation plan; and

14 (2) the reductions are permanently retired.

15 Sec. 395.009. USE OF GRANT MONEY BY COUNTY OR MUNICIPALITY.

16 A county or municipality shall prioritize the actions listed in
17 Sections 2158.0051(b)(1)-(4), Government Code, when using money
18 from a grant under the program.

19 Sec. 395.010. GRANT PROCEDURES AND CRITERIA. (a) The

20 commission shall establish specific criteria and procedures in
21 order to implement and administer the program, including the
22 creation and provision of application forms and guidance on the
23 application process.

24 (b) The commission shall award a grant through a contract
25 between the commission and the grant recipient.

26 (b-1) The commission shall provide an online application
27 process for the submission of all required application documents.

1 (c) The commission may limit funding for a particular period
2 according to priorities established by the commission, including
3 limiting the availability of grants to specific entities, for
4 certain types of vehicles and infrastructure, or to certain
5 geographic areas to ensure equitable distribution of grant funds
6 across the state.

7 (d) In awarding grants under the program, the commission
8 shall prioritize projects that:

9 (1) are proposed by a state agency;

10 (2) are in or near a nonattainment area;

11 (3) are in an affected county, as that term is defined
12 by Section 386.001(2);

13 (4) will produce the greatest emissions reductions;

14 and

15 (5) will generate the most marketable credits under a
16 state or federal emissions reduction credit averaging, banking, or
17 trading program.

18 (e) In addition to the requirements under Subsection (d), in
19 awarding grants under the program, the commission shall consider:

20 (1) the effectiveness of a proposed project in
21 assisting an applicant in complying with Section 2158.0051,
22 Government Code;

23 (2) the total amount of the emissions reduction that
24 would be achieved from the project;

25 (3) the type and number of vehicles purchased, leased,
26 or converted;

27 (4) the location of the fleet and the refueling

1 infrastructure or equipment;

2 (5) the number of vehicles served and the rate at which
3 vehicles are served by the refueling infrastructure or equipment;

4 (6) the amount of any matching funds committed by the
5 applicant; and

6 (7) the schedule for project completion.

7 (f) The commission may not award more than 10 percent of the
8 total amount awarded under the program in any fiscal year for
9 purchasing, leasing, installing, or procuring refueling
10 infrastructure, equipment, or services.

11 Sec. 395.011. FUNDING. The legislature may appropriate
12 money to the commission from the Texas emissions reduction plan
13 fund established under Section 386.251 to administer the program.

14 Sec. 395.0115. ADMINISTRATIVE COSTS. In each fiscal year,
15 the commission may use up to three-fourths of one percent of the
16 total amount of money awarded under the program in that fiscal year,
17 but not more than \$1 million, for the administrative costs of the
18 program.

19 Sec. 395.012. RULES. The commission may adopt rules as
20 necessary to implement this chapter.

21 Sec. 395.013. REPORT REQUIRED. On or before November 1 of
22 each even-numbered year, the commission shall submit to the
23 governor, the lieutenant governor, and members of the legislature a
24 report that includes the following information regarding awards
25 made under the program during the preceding state fiscal biennium:

26 (1) the number of grants awarded under the program;

27 (2) the recipient of each grant awarded;

1 (3) the number of vehicles converted or replaced;

2 (4) the number, type, and location of any refueling
3 infrastructure, equipment, or services funded under the program;

4 (5) the total emissions reductions achieved under the
5 program; and

6 (6) any other information the commission considers
7 relevant.

8 Sec. 395.014. EXPIRATION. This chapter expires August 31,
9 2025.

10 SECTION 4. Section [386.051\(b\)](#), Health and Safety Code, is
11 amended to read as follows:

12 (b) Under the plan, the commission and the comptroller shall
13 provide grants or other funding for:

14 (1) the diesel emissions reduction incentive program
15 established under Subchapter C, including for infrastructure
16 projects established under that subchapter;

17 (2) the motor vehicle purchase or lease incentive
18 program established under Subchapter D;

19 (3) the air quality research support program
20 established under Chapter 387;

21 (4) the clean school bus program established under
22 Chapter 390;

23 (5) the new technology implementation grant program
24 established under Chapter 391;

25 (6) the regional air monitoring program established
26 under Section [386.252\(a\)](#);

27 (7) a health effects study as provided by Section

1 386.252(a);

2 (8) air quality planning activities as provided by
3 Section 386.252(a);

4 (9) a contract with the Energy Systems Laboratory at
5 the Texas Engineering Experiment Station for computation of
6 creditable statewide emissions reductions as provided by Section
7 386.252(a)(14);

8 (10) the clean fleet program established under Chapter
9 392;

10 (11) the alternative fueling facilities program
11 established under Chapter 393;

12 (12) the natural gas vehicle grant program and clean
13 transportation triangle program established under Chapter 394;

14 (13) other programs the commission may develop that
15 lead to reduced emissions of nitrogen oxides, particulate matter,
16 or volatile organic compounds in a nonattainment area or affected
17 county;

18 (14) other programs the commission may develop that
19 support congestion mitigation to reduce mobile source ozone
20 precursor emissions; ~~and~~

21 (15) the drayage truck incentive program established
22 under Subchapter D-1; and

23 (16) the governmental alternative fuel fleet grant
24 program established under Chapter 395.

25 SECTION 5. Section 2158.0051, Government Code, as added by
26 this Act, applies beginning with the state fiscal biennium
27 beginning September 1, 2015.

1 SECTION 6. (a) To the extent that money is appropriated
2 from the Texas emissions reduction plan fund for that purpose, the
3 Texas Commission on Environmental Quality may use that money to
4 award grants under the governmental alternative fuel fleet grant
5 program created under Chapter 395, Health and Safety Code, as added
6 by this Act, except that the commission may not use for that purpose
7 more than three percent of the balance of the Texas emissions
8 reduction plan fund as of September 1 of each fiscal year of the
9 biennium for the governmental alternative fuel fleet grant program
10 in that fiscal year.

11 (b) This section expires August 31, 2025.

12 SECTION 7. This Act takes effect September 1, 2015.