

## **BILL ANALYSIS**

C.S.H.B. 5600  
By: McLaughlin  
Energy Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The bill author has informed the committee that the state has long been a national energy leader, producing more hydrogen than any other state, primarily for use in refining and chemical industries, but that, as the global energy transition accelerates, the market is shifting toward clean hydrogen, which is hydrogen produced using low-emission methods such as electrolysis, carbon capture, or renewable inputs. The bill author has also informed the committee that federal investment, including the U.S. Department of Energy's Regional Clean Hydrogen Hubs Program, is creating major economic and technological opportunities for states that can organize effectively around hydrogen innovation. The bill author has further informed the committee that without a comprehensive state policy framework, the state risks losing investment, job creation, and federal partnership opportunities to competitor states with clearer incentives and regulatory support and that industry leaders, workforce groups, and policy makers have called for targeted state actions to secure the state's role as a national and global clean hydrogen leader. C.S.H.B. 5600 seeks to create a coordinated framework to support the state's clean hydrogen industry by providing for financial tools, tax incentives, and workforce development in order to leverage federal funds, attract private investment, build the necessary workforce, and ensure the state remains a top-tier competitor in the rapidly expanding clean hydrogen economy.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Workforce Commission in SECTION 2 of this bill and to the comptroller of public accounts in SECTION 6 of this bill.

### **ANALYSIS**

#### **Clean Hydrogen Development Fund**

C.S.H.B. 5600 amends the Government Code to establish the clean hydrogen development fund as a special fund in the state treasury outside the general revenue fund to be administered by the comptroller of public accounts in consultation with the Texas Commission on Environmental Quality (TCEQ) and the Railroad Commission of Texas (RRC). The bill establishes that the fund consists of the following:

- money the legislature appropriates for deposit to the credit of the fund for purposes of the bill's provisions relating to the fund;
- gifts, donations, and grants to the fund, including federal grants;
- interest earned on the investment of money in the fund; and
- money from any other source designated for deposit into the fund.

The bill restricts the appropriation of money in the fund to the comptroller for the provision of low-interest loans and grants for the following:

- clean hydrogen projects, including projects in the development or pre-operations stage;
- the development of a trading system located in Texas that enables the sale, purchase, and export of hydrogen or fuel derived from hydrogen; and
- the manufacture of hydrogen electrolyzers and related technologies in Texas.

C.S.H.B. 5600 requires a person to apply for a loan or grant from the fund in the manner prescribed by the comptroller. The bill requires the comptroller to do the following in awarding a loan or grant using money from the fund:

- for the project that is the subject of the application, consider the following:
  - the potential economic impact of the project, including the effect on the number of jobs in Texas;
  - the emissions reduction benefits of the project;
  - the technological innovation encouraged by the project;
  - the project's contribution to grid stability and energy security; and
  - the ability of the state and local governments to leverage federal funding or tax credits for the project;
- consider the length of time the applicant has been in business as of the date of the application; and
- prioritize applicants that are start-up or pre-revenue generating entities or are relocating to Texas.

The bill prohibits the comptroller from prioritizing an energy source or technology used to produce hydrogen when awarding a loan or grant using money in the fund. The bill requires the comptroller to establish eligibility requirements for the award of a loan or grant using money in the fund.

C.S.H.B. 5600 defines the following:

- "clean hydrogen" as hydrogen produced through methods that substantially reduce lifecycle greenhouse gas emissions as compared to conventional hydrogen production methods, including the following:
  - electrolysis using electricity from renewable or nonrenewable sources, provided that overall lifecycle emissions are substantially reduced;
  - natural gas reforming combined with carbon capture, utilization, or sequestration;
  - nuclear energy-based hydrogen production; or
  - any other method meeting applicable federal standards for low-carbon hydrogen production;
- "clean hydrogen project" as a project located in Texas that is:
  - a facility that produces clean hydrogen;
  - a facility that uses hydrogen as a feedstock to produce fuels derived from hydrogen, including electro-fuels or e-fuels;
  - infrastructure for the storage, transportation, distribution, purchase, or sale of hydrogen or fuels derived from hydrogen; or
  - equipment used to capture, process, or utilize carbon dioxide in conjunction with hydrogen production or the production of fuels derived from hydrogen;
- "electro-fuel" or "e-fuel" as a type of fuel derived from hydrogen that specifically uses hydrogen produced through electrolysis, including the following:
  - electro-ammonia or e-ammonia;
  - electro-methane or e-methane; and
  - electro-methanol or e-methanol;
- "fuel derived from hydrogen" as a fuel or chemical product manufactured using hydrogen as a primary feedstock, including the following:
  - electro-fuels or e-fuels;
  - sustainable aviation fuel; and
  - other synthetic fuels that use hydrogen as a primary feedstock; and

- "sustainable aviation fuel" as aviation fuel produced from hydrogen and carbon sources with significantly lower lifecycle greenhouse gas emissions than conventional aviation fuel.

### **Clean Hydrogen Workforce Development Grant Program**

C.S.H.B. 5600 amends the Labor Code to require the Texas Workforce Commission (TWC) to establish and administer the clean hydrogen workforce development grant program under which TWC may award grants to public institutions of higher education to do the following:

- provide workforce training for and higher education programs related to clean hydrogen jobs and the production, handling, and use of hydrogen and fuels derived from hydrogen; or
- develop curriculum or certification programs for hydrogen technology.

The bill requires an institution of higher education to do the following to be eligible for a grant:

- apply to TWC in the manner prescribed by TWC rule; and
- satisfy any other relevant criteria prescribed by TWC rule.

### **Tax Code Provisions**

#### Sales and Use Tax

C.S.H.B. 5600 amends the Tax Code to specify that gas includes hydrogen for purposes of the exemption for gas and electricity from the sales and use tax when sold for use directly by a data center or large data center project that is certified by the comptroller as an applicable qualifying data center or an applicable qualifying large data center project in the processing, storage, and distribution of data.

#### Motor Vehicle Sale, Rental, and Use Taxes

C.S.H.B. 5600 exempts the sale, use, or rental of a hydrogen motor vehicle from motor vehicle sale, rental, and use taxes. The bill defines "hydrogen motor vehicle" as a motor vehicle powered by the following:

- hydrogen, including a hydrogen internal combustion engine vehicle or hydrogen fuel cell vehicle;
- a fuel derived from hydrogen; or
- compressed natural gas, if the vehicle is certified to operate on renewable methane or electro-methane.

These provisions expire September 1, 2035, and apply only to a sale, use, or rental of a motor vehicle that occurs on or after September 1, 2025.

#### Franchise Tax

C.S.H.B. 5600 exempts an entity that is engaged in the business of manufacturing hydrogen electrolyzers from the franchise tax if the entity relocates to Texas from another state in the United States. Such an exemption terminates on the 10th anniversary of the entity's beginning date.

#### *Tax Credit for Clean Hydrogen Projects*

C.S.H.B. 5600 sets out provisions relating to a tax credit for clean hydrogen projects under which a taxable entity is entitled to a credit in the amount and under the conditions provided by such provisions against the franchise tax. The bill establishes that a taxable entity qualifies for a credit if, during the period on which the report is based, the taxable entity develops or operates a clean hydrogen project. The bill establishes that the amount of the credit for a report is equal to the lesser of the following:

- 20 percent of the taxable entity's qualifying capital expenditures for the period on which the report is based; or
  - the amount of franchise tax due for the report after applying all other applicable credits.
- The bill defines "qualifying capital expenditures" as expenditures related to the following:
- hydrogen production, including the purchase of electrolyzers and related equipment;
  - the transport, storage, or purchase of hydrogen or a fuel derived from hydrogen;
  - equipment used to convert hydrogen into fuels or chemicals derived from hydrogen, including synthesis units and related processing equipment; and
  - equipment used for the capture, processing, or utilization of carbon dioxide from various sources, including biogenic sources such as landfills, wastewater treatment facilities, and ethanol plants, and from anthropogenic sources from industrial processes.

C.S.H.B. 5600 requires a taxable entity to apply for a credit on or with the report for the period for which the credit is claimed and to apply for the credit in the manner prescribed by the comptroller and include with the application any information requested by the comptroller to determine whether the entity is eligible for the credit. The bill prohibits a taxable entity from conveying, assigning, or transferring the credit to another taxable entity unless substantially all of the assets of the taxable entity are conveyed, assigned, or transferred in the same transaction. The bill requires the comptroller to adopt rules necessary to implement and administer the bill's provisions relating to a franchise tax credit for clean hydrogen projects.

#### *Prospective Clause*

C.S.H.B. 5600 makes its provisions relating to the franchise tax applicable only to a report originally due on or after January 1, 2026.

#### Saving Provision

C.S.H.B. 5600 does not affect tax liability accruing before the bill's effective date. That liability continues in effect as if the bill had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

#### **EFFECTIVE DATE**

September 1, 2025.

#### **COMPARISON OF INTRODUCED AND SUBSTITUTE**

While C.S.H.B. 5600 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

While both the introduced and the substitute provide for the clean hydrogen development fund as a special fund in the state treasury to be administered by the comptroller in consultation with the TCEQ and the RRC, the introduced and the substitute differ as follows:

- the substitute omits the introduced version's specification that the purpose of the fund is to finance clean hydrogen projects;
- the substitute specifies that the fund is outside the general revenue fund, whereas the introduced did not include this specification;
- whereas the introduced authorized the fund to accept federal grants, private donations, and legislative appropriations, the substitute establishes that the fund consists of the following:
  - money the legislature appropriates for deposit to the credit of the fund for applicable purposes;
  - gifts, donations, and grants to the fund, including federal grants;

- interest earned on the investment of money in the fund; and
  - money from any other source designated for deposit into the fund; and
- whereas the introduced authorized money in the fund to be used to provide low interest loans for hydrogen infrastructure and production facilities, state-backed bonds for the financing of hydrogen projects, or state grants for hydrogen electrolyzer manufacturing in Texas, the substitute restricts the appropriation of money in the fund to the comptroller for the provision of low-interest loans and grants for the following:
  - clean hydrogen projects, including projects in the development or pre-operations stage;
  - the development of a trading system located in Texas that enables the sale, purchase, and export of hydrogen or fuel derived from hydrogen; and
  - the manufacture of hydrogen electrolyzers and related technologies in Texas.

The substitute includes provisions that were not in the introduced relating to the following:

- applying for a loan or grant by a person;
- considerations and prioritization by the comptroller in awarding a loan or grant;
- eligibility requirements for the award of a loan or grant; and
- definitions for the following:
  - "clean hydrogen";
  - "clean hydrogen project";
  - "electro-fuel" and "e-fuel";
  - "fuel derived from hydrogen";
  - "fund"; and
  - "sustainable aviation fuel."

The introduced authorized a person or business entity that constructs or operates a clean hydrogen production facility in Texas to be eligible for a state tax credit equivalent to 20 percent of qualified capital expenditures related to hydrogen production, transport, or storage, whereas the substitute does the following:

- entitles a taxable entity to a credit against the franchise tax in the amount and under the conditions provided by the substitute's provisions relating to a tax credit for clean hydrogen projects;
- establishes that a taxable entity qualifies for a credit if, during the period on which the report is based, the taxable entity develops or operates a clean hydrogen project; and
- establishes that the amount of the credit for a report is equal to the lesser of the following:
  - 20 percent of the taxable entity's qualifying capital expenditures for the period on which the report is based; or
  - the amount of franchise tax due for the report after applying all other applicable credits.

The substitute includes provisions that were not in the introduced relating to the application for a credit and that do the following:

- prohibit a taxable entity from conveying, assigning, or transferring the credit to another taxable entity unless substantially all of the assets of the taxable entity are conveyed, assigned, or transferred in the same transaction;
- provide for the meanings of "clean hydrogen project" and "fuel derived from hydrogen"; and
- define "qualifying capital expenditures."

The introduced required the comptroller to adopt rules necessary for implementation, including reporting requirements to track economic impact, whereas the substitute requires the comptroller to adopt rules necessary to implement and administer the substitute's provisions relating to a franchise tax credit for clean hydrogen projects.

The introduced required a manufacturer of hydrogen electrolyzers relocating to Texas from out of state to receive a 10-year franchise tax exemption and a sales tax exemption on equipment purchases used in manufacturing, whereas the substitute exempts an entity that is engaged in the business of manufacturing hydrogen electrolyzers and that relocates to Texas from another state

in the United States from the franchise tax and specifies that such an exemption terminates on the 10th anniversary of the entity's beginning date.

The introduced required hydrogen-powered vehicles, including hydrogen internal combustion engine and fuel cell vehicles, to be exempt from state highway use taxes for 10 years or until cost parity with conventional energy sources is reached, as determined by the TCEQ, and made the exemption applicable to commercial trucking, rail, shipping, and aviation operators, whereas the substitute does the following:

- exempts the sale, use, or rental of a hydrogen motor vehicle from motor vehicle sale, rental, and use taxes;
- defines "hydrogen motor vehicle" for such purpose;
- sets the exemption to expire September 1, 2035; and
- makes the exemption applicable only to a sale, use, or rental of a motor vehicle that occurs on or after September 1, 2025.

The introduced required the Texas Workforce Development Commission to establish partnerships with universities, technical schools, or community colleges to provide specialized training for hydrogen sector jobs and authorized the Workforce Commission to provide grants to educational institutions to develop curriculum and certification programs for hydrogen technology, whereas the substitute does the following:

- requires TWC to establish and administer the clean hydrogen workforce development grant program under which TWC may award grants to public institutions of higher education to do the following:
  - provide workforce training for and higher education programs related to clean hydrogen jobs and the production, handling, and use of hydrogen and fuels derived from hydrogen; or
  - develop curriculum or certification programs for hydrogen technology;
- provides for the meanings of "clean hydrogen," "fuel derived from hydrogen," and "institution of higher education"; and
- sets out provisions relating to grant eligibility.

The substitute includes provisions that were not in the introduced that do the following:

- specify that gas includes hydrogen for purposes of the exemption for gas and electricity from the sales and use tax when sold for use directly by a data center or large data center project that is certified by the comptroller as an applicable qualifying data center or an applicable qualifying large data center project in the processing, storage, and distribution of data;
- make the substitute's provisions relating to the franchise tax applicable only to a report originally due on or after January 1, 2026; and
- establish that the substitute does not affect tax liability accruing before its effective date, that that liability continues in effect as if the substitute had not been enacted, and that the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

The substitute omits language from the introduced that provided for the bill's possible immediate effect, contingent on receiving the requisite constitutional vote.