

BILL ANALYSIS

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S.B. 20
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, there is no state program aimed at replacing diesel burning heavy-duty vehicles with natural gas heavy-duty vehicles. Encouraging increased use of Texas-produced natural gas for transportation offers many benefits, including increased economic benefits, job creation benefits, energy security benefits, and environmental benefits.

S.B. 20 creates the "Natural Gas Vehicle Program" to encourage companies with on-road heavy-duty vehicles to either replace the vehicles with natural gas vehicles or repower the vehicles with natural gas engines. This program is funded through the Texas Emissions Reduction Plan (TERP) funds and would be administered by the Texas Commission on Environmental Quality. S.B. 20 also creates the Texas Clean Transportation Triangle to provide grants for the construction of natural gas fueling facilities along the interstate highways running between Houston, Dallas/Fort Worth, and San Antonio.

As proposed, S.B. 20 amends current law relating to a grant program for certain natural gas motor vehicles.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 2 (Section 393.005, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Reenacts Section 386.252(a), Health and Safety Code, as amended by Chapters 1125 (H.B. 1796) and 1232 (S.B. 1759), Acts of the 81st Legislature, Regular Session, 2009, and amends it as follows:

(a) Authorizes money in the Texas emissions reduction plan fund (fund) to be used only to implement and administer programs established under the Texas emissions reduction plan and requires it to be allocated, in certain amounts including, for the diesel emissions reduction incentive program, 87.5 percent of the money in the fund, of which, not less than 16 percent shall be used for the natural gas vehicle rebate program; and not more than four percent may be used to provide grants for natural gas fueling under Section 393.009. Makes nonsubstantive changes.

SECTION 2. Amends Subtitle C, Title 5, Health and Safety Code, by adding Chapter 393, as follows:

CHAPTER 393. TEXAS NATURAL GAS VEHICLE GRANT PROGRAM

Sec. 393.001. DEFINITIONS. Defines, in this chapter, "commission," "executive director," "heavy-duty motor vehicle," "incremental cost," "motor vehicle," "natural gas vehicle," and "program."

Sec. 393.002. PROGRAM. Requires the Texas Commission on Environmental Quality (TCEQ) to establish and administer the Texas natural gas vehicle grant program to encourage an entity that has a heavy-duty motor vehicle to repower the vehicle with a

natural gas engine or replace the vehicle with a natural gas vehicle. Requires TCEQ, under the program, to provide grants for eligible heavy-duty motor vehicles to offset the incremental cost for the entity of repowering or replacing the heavy-duty motor vehicle.

Sec. 393.003. QUALIFYING VEHICLES. (a) Provides that a vehicle is a qualify vehicle that may be considered for a grant under this program during the calendar year the entity:

(1) purchased or leased the vehicle as a new on-road heavy-duty motor vehicle that is a natural gas vehicle; is certified to current federal emissions standards; replaces an on-road heavy-duty motor vehicle of the same weight classification and use; and is powered by an engine certified to emit not more than 0.2 grams of nitrogen oxides per brake horsepower hour; or

(2) repowered the on-road heavy-duty motor vehicle to a natural gas vehicle powered by a natural gas engine that is certified to current federal emissions standards; and is certified to emit not more than 0.2 grams of nitrogen oxides per brake horsepower hour.

(b) Provides that a heavy-duty motor vehicle is not a qualifying vehicle if the vehicle or the natural gas engine powering the vehicle:

(1) has been used as a qualifying vehicle to receive a grant under this chapter for a previous reporting period or by another entity; or

(2) has received a similar grant or tax credit in another jurisdiction if that grant or tax credit program is relied on for credit in the state implementation plan.

Sec. 393.004. APPLICATION FOR GRANT. (a) Authorizes only an entity operating in this state that operates a heavy-duty motor vehicle to apply for and receive a grant under this chapter.

(b) Requires that an application for a grant under this chapter be made on a form provided by TCEQ and contain the information required by TCEQ.

(c) Requires TCEQ, after consulting stakeholders, to:

(1) simplify the application form; and

(2) minimize, to the extent feasible, documentation required for an application.

Sec. 393.005. ELIGIBILITY FOR GRANTS. (a) Requires TCEQ by rule to establish criteria for prioritizing qualifying vehicles eligible to receive grants under this chapter. Requires TCEQ to review and revise the criteria as appropriate.

(b) Requires that to be eligible for a grant under this program:

(1) the use of the qualifying vehicle be projected to result in a reduction in emissions of nitrogen oxides of at least 25 percent as compared to the heavy-duty motor vehicle or engine being replaced, based on the baseline emission level set by TCEQ under Subsection (g); and the certified emission rate of the new vehicle; and

(2) the qualifying vehicle must replace a heavy-duty vehicle that is an on-road vehicle that has been owned or leased and registered and operated by the applicant in Texas for at least the two years immediately preceding the submission of a grant application; satisfies any minimum average annual

mileage or fuel usage requirements established by TCEQ; satisfies any minimum percentage of annual usage requirements established by TCEQ; and is in operating condition and has at least two years of remaining useful life, as determined in accordance with criteria established by the TCEQ; or be a heavy-duty motor vehicle repowered with a natural gas engine that is installed in an on-road vehicle that has been owned or leased and registered and operated by the applicant in Texas for at least the two years immediately preceding the submission of a grant application; satisfies any minimum average annual mileage or fuel usage requirements established by TCEQ; satisfies any minimum percentage of annual usage requirements established by TCEQ; and at the time of the vehicle's repowering with a natural gas engine, the vehicle was in operating condition and had at least two years of remaining useful life, as determined in accordance with criteria established by TCEQ.

(c) Requires that as a condition of receiving a grant, the qualifying vehicle be continuously owned or leased and registered and operated in the state by the grant recipient until the earlier of the fourth anniversary of the date of reimbursement of the grant-funded expenses or until the date the vehicle has been in operation for 400,000 miles. Requires that not less than 75 percent of the annual use of the qualifying vehicle, either mileage or fuel use as determined by TCEQ, occur in the counties any part of which are included in the area described by Section 393.010(a).

(d) Requires TCEQ to include and enforce the usage provisions in the grant contracts. Requires TCEQ to monitor compliance with the ownership, leasing, and usage requirements, including submission of reports on at least an annual basis, or more frequently as determined by TCEQ.

(e) Authorizes TCEQ by contract to require the return of all or a portion of grant funds for a grant recipient's noncompliance with the usage and percentage of use requirements under this section.

(f) Requires that a heavy-duty motor vehicle or engine replaced under this program be rendered permanently inoperable by crushing the vehicle, by making a hole in the engine block and permanently destroying the frame of the vehicle, or by another method approved by TCEQ that permanently removes the vehicle from operation in this state. Requires TCEQ to establish criteria for ensuring the permanent destruction of the engine and vehicle. Requires TCEQ to enforce the destruction requirements.

(g) Requires TCEQ to establish baseline emission levels for emissions of nitrogen oxides for on-road heavy-duty motor vehicles being replaced by using the emission certification for the engine or vehicle being replaced. Authorizes TCEQ to consider deterioration of the emission performance of the engine of the vehicle being replaced in establishing the baseline emission level. Authorizes TCEQ to consider and establish baseline emission rates for additional pollutants of concern, as determined by TCEQ.

(h) Authorizes mileage or fuel use requirements established by TCEQ under Subsection (b)(2)(A)(ii) to differ by vehicle weight categories and type of use.

(i) Authorizes the executive director to waive the requirements of Subsection (b)(2)(A)(i) on finding good cause, including short lapses in registration or operation due to economic conditions, seasonal work, or other circumstances.

Sec. 393.006. RESTRICTION ON USE OF GRANT. Requires a recipient of a grant under this chapter to use the grant to pay the incremental costs of the replacement for which the grant is made, which may include the initial cost of the natural gas vehicle or natural gas engine and the reasonable and necessary expenses incurred for the labor

needed to install emissions-reducing equipment. Prohibits the recipient from using the grant to pay the recipient's administrative expenses.

Sec. 393.007. AMOUNT OF GRANT. (a) Requires TCEQ to develop a grant schedule that assigns a standardized grant in an amount between 60 and 90 percent of the incremental cost of a natural gas vehicle purchase, lease, or repowering; and is based on the certified emission level of nitrogen oxides, or other pollutants as determined by TCEQ, of the engine powering the natural gas vehicle, the overall emissions reduction achieved by the natural gas vehicle, and the usage of the natural gas vehicle.

(b) Requires that not less than 50 percent of the total amount of grants awarded under this chapter for the purchase and repowering of motor vehicle be awarded to motor vehicles with a gross vehicle weight rating of at least 33,001 pounds. Provides that the minimum grant requirement under this subsection does not apply if TCEQ does not receive enough grant applications to satisfy the requirement for motor vehicles described by this subsection that are eligible to receive a grant under this chapter.

Sec. 393.008. GRANT PROCEDURES. (a) Requires TCEQ to adopt procedures for awarding grants under this chapter in the form of rebates; and streamlining the grant application, contracting, reimbursement, and reporting process for qualifying natural gas vehicle purchases or repowers.

(b) Requires that procedures adopted under this section:

(1) provide for a listing compiled by TCEQ of pre-approved natural gas vehicles powered by natural gas engines certified to emit not more than 0.2 grams of nitrogen oxides per brake horsepower hour;

(2) provide a method to calculate the reduction in emissions of nitrogen oxides, volatile organic compounds, carbon monoxide, particulate matter, and sulfur compounds for each replacement or repowering;

(3) assign a standardized rebate amount for each qualifying vehicle under Section 393.007;

(4) allow for processing rebates on an ongoing first-come, first-served basis;

(5) provide for contracts between TCEQ and participating dealers under Section 393.009;

(6) allow grant recipients to assign their grant funds to participating dealers to offset the purchase or lease price;

(7) require grant applicants to identify natural gas fueling stations that are available to fuel the qualifying vehicle in the area of its use;

(8) provide for payment not later than the 30th day after the date a grant is approved;

(9) provide for application submission and application status checks to be made over the Internet; and

(10) consolidate, simplify, and reduce the administrative work for applicants and the commission associated with grant application, contracting, reimbursement, and reporting requirements.

(c) Requires TCEQ, or its designee, to oversee the grant process and provides that TCEQ is responsible for final approval of any grant.

(d) Provides that grant recipients are responsible for meeting all grant conditions, including reporting and monitoring as required by TCEQ through the grant contract.

Sec. 393.009. PARTICIPATING DEALERS. (a) Defines "participating dealer" in this section.

(b) Requires a participating dealer to agree to the terms and conditions of a standardized contract developed by TCEQ.

(c) Requires a participating dealer to:

(1) provide information regarding natural gas vehicle grants to fleet operators;

(2) assist an applicant who purchases or leases a natural gas vehicle or engine from the dealer with the completion of the application; and

(3) submit completed applications and documentation to TCEQ on behalf of an applicant who purchases or leases a natural gas vehicle or engine from the dealer.

(d) Prohibits a participating dealer from approving a grant.

(e) Requires TCEQ to maintain and make available to the public online a list of all qualified dealers; and establish requirements for participation in the program by sellers of on-road heavy duty natural gas vehicles and natural gas engines.

Sec. 393.010. CLEAN TRANSPORTATION TRIANGLE. (a) Requires TCEQ, to ensure that natural gas vehicles purchased or leased or repowered under the program have access to fuel, and to build the foundation for a self-sustaining market for natural gas vehicles in Texas, to award grants to support the development of a network of natural gas vehicle fueling stations along the interstate highways between Houston, San Antonio, and the Dallas-Fort Worth area. Requires TCEQ, in awarding the grants, to provide for:

(1) strategically placed natural gas vehicle fueling stations in and between the Houston, San Antonio, and Dallas-Fort Worth areas to enable a natural gas vehicle to travel along that triangular area relying solely on natural gas fuel;

(2) grants to be dispersed through a competitive bidding process to offset a portion of the cost of installation of the natural gas dispensing equipment;

(3) contracts that require the recipient stations to meet operational, maintenance, and reporting requirements as specified by TCEQ; and

(4) a listing, to be maintained by TCEQ and made available to the public online, of all natural gas vehicle fueling stations that have received grant funding, including location and hours of operation.

(b) Prohibits TCEQ from awarding more than three station grants to any entity.

(c) Requires that stations funded by grants under this section be publicly accessible and located not more than three miles from an interstate highway system. Requires TCEQ to give preference to:

(1) stations providing both liquefied natural gas and compressed natural gas at a single location; and

(2) stations located not more than one mile from an interstate highway system.

(d) Authorizes TCEQ, to met the goals of this section, to solicit grant applications under this section for a new fueling station in a specific area or location.

(e) Provides that grants made under this section are not subject to the requirements of Sections 393.002 through 393.008. Requires TCEQ to develop an application package and review applications in accordance with Sections 386.110 and 386.111.

(f) Requires TCEQ, in consultation with the natural gas industry, to determine the most efficient use of funding for the station grants under this section to maximize the availability of natural gas fueling stations.

Sec. 393.011. **ADDITIONAL INCENTIVES FOR NATURAL GAS VEHICLES.** Requires the Texas Department of Transportation and local transportation authorities to provide additional incentives for natural gas vehicles such as access to high occupancy vehicle lanes and preferred parking in urban areas.

Sec. 393.012. **ADMINISTRATION OF PROGRAM.** Requires TCEQ to contract with one or more entities for administration of the program.

Sec. 393.013. **EXPIRATION.** Provides that this chapter expires August 31, 2017.

SECTION 3. Requires TCEQ to adopt rules and establish procedures under Chapter 393, Health and Safety Code, as added by this Act, as soon as practicable after the effective date of this Act.

SECTION 4. Provides that to the extent of any conflict, this Act prevails over another Act of the 82nd Legislature, Regular Session, 2011 relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 5. Effective date: September 1, 2011.