

SUBJECT: Using fuel-saving technologies and savings from certain utility contracts

COMMITTEE: Government Reform — favorable, without amendment

VOTE: 5 ayes — Swinford, Callegari, Casteel, R. Cook, T. Smith

0 nays

2 absent — Gallego, Allen

WITNESSES: For — Jamie Mitchell, Energy Conservation Coalition; Ben Talamantez, Emissions Technology of Texas and Eco-Systems; Theodore Wickersham, Emissions Technology of Texas

Against — None

On — Dub Taylor, State Energy Conservation Office; Mark Vane, Gardere Wynne Sewell; Roger Williams, Texas Department of Transportation

DIGEST: HB 62 would require a state agency with 10 or more vehicles or nonroad diesels to reduce fuel consumption by at least 5 percent from 2002 levels by using cost-effective fuel-saving technologies. A fuel-saving technology would be considered cost-effective if the projected savings in fuel cost over a one-year period exceeded the cost of buying and using the technology. An agency would not have to begin meeting the goal until the State Energy Conservation Office (SECO) provided a list of proven fuel-saving technologies. An eligible technology would not include one that was known to increase nitrogen-oxide emissions or other toxic contaminants or that reasonably could be judged to degrade air quality, human health, or the environment. The bill would specify that a state agency:

- could purchase fuel-saving technologies out of its fuel budget;
- would have to evaluate competitively similar technologies;
- could require a vendor to refund the cost of the technology if it was determined to be ineffective within 90 days;
- could use technologies that it determined were cost-effective in applications providing other benefits, such as emissions reduction;

- could establish a voluntary program for employees to buy fuel-saving technologies and document fuel savings and emissions reductions; and
- would have to report annually to SECO.

Field demonstration. Under SECO's direction, the Texas Department of Transportation (TxDOT) would have to demonstrate the effectiveness of at least four technologies to determine which could reduce fuel consumption cost-effectively and save state revenue. The demonstration would have to include assessing a technology's performance in the normal course of operations and performing controlled field tests. In selecting technologies for evaluation, SECO would have to consult with organizations that now use fuel-saving technology; consider proven technologies that achieved fuel-efficiency gains in government or business fleets; and determine whether a technology had the potential to be cost-effective. A technology could be disqualified if it negatively affected engine life or performance, required additional maintenance, or degraded air quality.

Other agencies could be designated to assist with the field demonstration or reporting results, including the Texas Council on Environmental Technology (TCET), the University of Texas Center for Transportation Research, or the University of Houston Diesel Emissions Center.

On completing the demonstration, SECO would have to rank the technologies and list recommended applications, document negative or positive effects, and prepare a report of these findings. The office would have to provide the report to each affected state agency and to the Legislative Budget Board. TCET would have to research any technology that appeared to reduce emissions and could use the information to award grants for development of new emissions technology under Texas Emissions Reduction Plan.

The field demonstration and associated reports would have to be completed by September 1, 2004. SECO would have to provide on its website results from the demonstration and an updated list of proven technologies. Money from the state highway fund could not be used to buy, install, maintain, or operate the technologies. Any repairs to state equipment resulting from the demonstration would have to be paid from the same funds used to implement the demonstration.

Utility cost-savings contracts. Before a state agency could make a capital expenditure to build, improve, or maintain a state building or facility, the agency would have to determine whether the expenditure could be financed with money generated by a utility cost-savings contract. If an agency found it impractical to finance a capital expenditure in such a manner, it would have to justify the expenditure to the Legislative Budget Board. An agency would have to consider whether money from a utility cost-savings contract in one department could be used to finance a facility project in another department.

The bill would take effect November 1, 2003.

**SUPPORTERS
SAY:**

HB 62 would save the state money by reducing fuel costs and capital expenditures. New technologies provide a cost-effective method of reducing fuel consumption by vehicles and nonroad diesel engines. Requiring agencies to implement these technologies could create significant savings. Also, utility cost-savings contracts or performance contracts provide a means of financing capital improvements to certain facilities without using general revenue.

The bill would lower fuel costs by requiring state agencies with 10 or more vehicles to reduce fuel consumption at least 5 percent through cost-effective fuel-saving technologies. New technologies, such as fuel additives or installed devices, can reduce fuel consumption by up to 15 percent. Using these new technologies could save the state more than \$5 million per year. Moreover, by improving combustion in an engine, many of these technologies provide additional benefits, such as reducing emissions and lowering maintenance costs. No new technology would be required unless it would produce savings greater than the cost of buying and using the technology.

Before any agency adopted a fuel-saving technology, TxDOT and SECO would conduct a field demonstration to evaluate available technologies and determine the best technologies for specific applications. The assessment and testing would weed out any questionable technologies. No highway funds could be used for the demonstration, so vendors would have to cover the cost of providing the technologies for the demonstration. After the demonstration, SECO would provide the results to agencies and the public.

The technologies would not affect vehicle warranties. Federal law specifies that installing aftermarket equipment on a vehicle does not void a warranty.

Device technologies are installed in-line, like a fuel filter, and have been used in many applications without warranty claims. Fuel additives constitute only a tiny fraction of the fuel in a vehicle and would not affect a warranty.

The bill also would encourage state agencies to use performance contracts for capital expenditures. Current law already authorizes the use of such contracts (Government Code, sec. 2166.406). In a performance contract, an outside company conducts an energy analysis of a facility and identifies retrofits or improvements that could reduce energy costs, such as a more efficient boiler or higher-quality insulation. The company agrees to pay for the cost of buying and installing the energy-saving improvements in the facility, in exchange for the savings produced by the improvements. If the savings turn out to be less than the cost of the improvements, the company makes up the difference. A performance contract allows the state to avoid the cost of necessary upgrades or maintenance to a facility, while an outside company bears the risk if the improvements do not pay for themselves. HB 62 simply would require an agency to determine whether using a performance contract would be a practical means of financing a capital expenditure.

The author plans to offer a floor amendment that would exempt an agency from considering a performance contract if a capital expenditure required immediate action to prevent a hazard to health, safety, or property.

**OPPONENTS
SAY:**

While saving the state money is a worthy goal, HB 62 raises several concerns. It is difficult to predict how the new technologies would affect vehicle warranties, because the bill does not specify what technologies would be used. Installing or using certain technologies could void vehicle warranties. Also, claims of fuel savings from these new technologies may be questionable. Some supposedly “fuel-saving” technologies promise efficiency gains that they do not necessarily produce.

Requiring agencies to evaluate performance contracts before making capital expenditures could create problems in the event of an emergency. For example, if immediate repair to a state facility was necessary for health or safety reasons, an agency should not have to waste time determining savings from a performance contract before making the repair.