

SUBJECT: Providing grant funding under TERP for certain natural gas vehicles

COMMITTEE: Energy Resources — favorable, without amendment

VOTE: 6 ayes — Keffer, Crownover, Carter, Craddick, J. Davis, Sheffield

0 nays

3 absent — C. Howard, Lozano, Strama

SENATE VOTE: On final passage, April 7 — 29-2 (Birdwell, Patrick)

WITNESSES: For — Tommy Foltz, America's Natural Gas Alliance; Ana Hargrove, CenterPoint Energy; Danny Smith, UPS; (*Registered, but did not testify:* Adrian Acevedo, Anadarko Petroleum; David Blackmon, El Paso Corporation and America's Natural Gas Alliance; Candice Brewer, National Association of Royalty Owners; Thure Cannon, Texas Pipeline Association; Teddy Carter, Texas Independent Producers and Royalty Owners Association; Gary Compton, Clean Energy Fuels and Pioneer Natural Resources; Tricia Davis, Texas Royalty Council; Tommy Foltz, Petrohawk Energy; Mark Gibson, Devon Energy; Adam Haynes, Chesapeake Energy; Chris Hosek, B.G. Group; Castlen Kennedy, Apache Corporation; David Power, Public Citizen; Grant Ruckel, Oneok; Ben Sebree, Texas Oil and Gas Association; Chris Shields, Fort Worth Transportation Authority; Bill Stevens, Texas Alliance of Energy Producers; Trent Townsend, AT&T; James Tramuto, Southwestern Energy Company; David Weinberg, Texas League of Conservation Voters)

Against — Michael Vasquez, Texas Conference of Urban Counties

On — Cyrus Reed, Lone Star Chapter, Sierra Club

BACKGROUND: The Texas Emissions Reduction Program (TERP) includes a number of financial incentive and assistance programs intended to address the goals of the State Implementation Plan (SIP), which is meant to show Texas' compliance with the federal Clean Air Act. TERP provides financial incentives to eligible individuals, businesses, and local governments to

reduce emissions from polluting vehicles and equipment. One TERP program is the Emissions Reduction Incentive Grants Program administered by the Texas Commission on Environmental Quality (TCEQ). The program provides grants to eligible projects in affected counties to offset the incremental costs of reducing nitrogen oxide (NOx) emissions from high-emitting mobile diesel sources in nonattainment areas and other affected counties.

Under the Health and Safety Code, 87.5 percent of TERP's funds are allocated to the Emissions Reduction Incentive Program, of which:

- no more than 4 percent may be used for the clean school bus program;
- no more than 10 percent may be used for on-road diesel purchase or lease incentives;
- a specified amount may be used for the new technology implementation grant program, from which a defined amount may be set aside for electricity storage projects related to renewable energy; and
- 5 percent must be used for the clean fleet program.

**DIGEST:**

SB 20 would establish two new programs under TERP, the natural gas vehicle rebate program and a program to fund natural gas fueling stations. Of the money allocated to the Emissions Reduction Incentive Program, at least 16 percent would have to be allocated to the natural gas vehicle rebate program and no more than 4 percent could be allocated to the refueling station program.

**Texas Natural Gas Vehicle Grant Program.** TCEQ would be required to establish and administer the Texas natural gas vehicle grant program to encourage an entity with a heavy-duty motor vehicle to repower the vehicle with a natural gas engine or replace the vehicle with a natural gas vehicle. Under the program, TCEQ would be required to provide grants for eligible heavy-duty motor vehicles to offset the incremental cost of repowering or replacing the heavy-duty motor vehicle.

*Qualifying vehicles.* A vehicle could be considered for a grant if during the calendar year the entity:

- purchased or leased it as a new heavy-duty motor vehicle that was natural gas-powered, was certified to federal emissions standards,

replaced a heavy-duty motor vehicle of the same weight class, and had an engine certified to emit no more than 0.2 grams of NOx per brake-horsepower hour; or

- repowered it as a heavy-duty motor vehicle powered by a natural gas engine that was certified to federal emissions standards and to emit no more than 0.2 grams of NOx per brake-horsepower hour.

A heavy-duty motor vehicle would not qualify if it or its natural gas engine had been previously awarded a grant or tax credit.

*Eligibility for grants.* TCEQ, by rule, would be required to establish criteria for prioritizing qualifying vehicles eligible to receive the grants.

To be eligible for a grant, the use of the qualifying vehicle would have to reduce NOx by at least 25 percent compared to the heavy-duty motor vehicle or engine being replaced, based on certain criteria.

*Grant conditions.* As a condition of receiving a grant, the qualifying vehicle would have to be continuously owned or financed and registered and operated in Texas by the grant recipient until the earlier of the fourth anniversary of the reimbursement of the grant-funded expenses or until the vehicle had been in operation for 400,000 miles after the reimbursement.

The TCEQ executive director would have to waive the requirement that the vehicle be owned and registered for at least two years immediately before the grant application submission on a finding of good cause, which could include short lapses in registration or operation due to economic conditions, seasonal work, or other circumstances.

At least 75 percent of the annual use of the qualifying vehicle, either mileage or fuel use, would have to occur in the counties along the interstate highways connecting Houston, San Antonio, Dallas, and Fort Worth or counties designated as nonattainment areas.

TCEQ would be required to include and enforce the usage provisions in the grant contracts and to monitor compliance with the ownership, leasing, and usage requirements, including submission of reports at least annually. TCEQ could require the return of all or part of the grant funds for a grant recipient's noncompliance with the usage and percentage of use requirements.

A heavy-duty motor vehicle replaced under this program would have to be rendered permanently inoperable. TCEQ would be required to ensure and enforce the destruction of the replaced vehicles.

*Restriction on the use of a grant.* A grant recipient would have to use the grant to pay the incremental costs of the replacement for which the grant was made, which could 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. The recipient would not be able to use the grant to pay administrative expenses.

*Amount of the grant.* TCEQ would be required to develop a grant schedule that:

- assigned a standardized grant in an amount between 60 and 90 percent of the incremental cost of a natural gas vehicle purchase, lease, other commercial finance, or repowering; and
- was based on the certified emission level of NO<sub>x</sub> or other pollutants 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.

At least 60 percent of the total amount of grants awarded for the purchase and repowering of motor vehicles would have to be awarded to motor vehicles with a gross vehicle weight rating of at least 33,001 pounds. The minimum grant requirement would not apply if TCEQ did not receive enough grant applications to satisfy the requirement for motor vehicles eligible to receive a grant.

*Grant procedures.* TCEQ would be required to adopt certain procedures for awarding grants as rebates and streamlining the grant application, contracting, reimbursement, and reporting processes for qualifying natural gas vehicle purchases or repowers.

*Participating dealers.* A participating dealer would have to agree to the terms and conditions of a standardized contract developed by TCEQ and to provide information regarding natural gas vehicle grants to fleet operators, assist an applicant who purchased a natural gas vehicle or engine with the completion of the application, and submit completed applications and documentation to TCEQ on behalf of an applicant.

TCEQ would be required to maintain an online 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.

**Fueling station grant program.** Under the bill, TCEQ would be required to award grants to support the development of a Clean Transportation Triangle, or a network of natural gas vehicle fueling stations along the interstate highways connecting Houston, San Antonio, Dallas, and Fort Worth.

In awarding the grants, TCEQ would be required to provide for:

- 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;
- grants to be dispersed through competitive bidding to offset a portion of the cost of installation of the natural gas dispensing equipment;
- contracts that would require the recipient stations to meet operational, maintenance, and reporting requirements as specified by TCEQ; and
- an online listing of all natural gas vehicle fueling stations that had received grant funding, including locations and hours of operation.

TCEQ would not be able to award more than three station grants to any single entity.

Stations funded by these grants would have to be publicly accessible and located within three miles of an interstate highway system. TCEQ would be required to give preference to stations providing both liquefied natural gas and compressed natural gas at a single location and stations located within one mile of an interstate highway system.

TCEQ, in consultation with the natural gas industry, would be required to determine the most efficient use of funding for the station grants to maximize the availability of natural gas fueling stations.

**Program expiration date.** These programs would expire August 31, 2017.

**Additional incentives for natural gas vehicles.** TCEQ would be required to work with the Texas Department of Transportation (TxDOT) and local transportation authorities to provide additional incentives for natural gas vehicles, such as access to high-occupancy vehicle (HOV) lanes and preferred parking in urban areas.

**Effective date.** The bill would take effect September 1, 2011.

**SUPPORTERS  
SAY:**

SB 20 would create two new grant programs to encourage the use of natural gas vehicles in Texas. SB 20 would allocate 20 percent of the funds for the Emissions Reduction Incentive Grants Program in TERP for the Texas Natural Gas Vehicle Program.

SB 20 would help reduce diesel emissions by seeding the natural gas vehicle industry in Texas through the Texas Clean Transportation Triangle. The Texas Clean Transportation Triangle would encourage an alternative fueling system linking Houston, San Antonio, and Dallas/Fort Worth along I-10, I-35, and I-45. A recent study by America's Natural Gas Alliance found that only 13 stations and 550 vehicles would be needed to attract significant market share and encourage a sustainable natural gas vehicle industry in the state. By focusing TERP on this long-term goal of natural gas vehicle self-sufficiency, the funds invested in the Texas Clean Transportation Triangle would have a multiplying effect.

Despite concerns that SB 20 would divert TERP funds from their original purpose, only a portion of the Emissions Reduction Incentive Grants Program funding in TERP is allocated to specific uses; 81 percent of its money is unallocated. SB 20 would just allocate 20 percent toward the natural gas vehicle programs. Also, the programs created under SB 20 would have an expiration date of August 31, 2017.

**OPPONENTS  
SAY:**

TERP is the state's major emissions reduction program aimed at replacing and retrofitting larger heavy-duty mobile sources, such as construction equipment that emits a high level of pollutants and contributes to the formation of ground-level ozone. SB 20 would lower the amount of available grant funds that are provided as diesel emissions grants by 20 percent in favor of creating a new natural gas vehicle rebate program and a new refueling station program. Every time a new carve-out is created, the

available pot of money is reduced. While incentivizing the purchase of natural gas vehicles would reduce emissions, a dedicated 20-percent carve-out for this would not be the most cost-effective way to reduce emissions.

TERP funding for fiscal 2012-13 likely will be cut in half compared to fiscal 2010-11 levels, so the amount of funds available for existing programs will be greatly reduced. Adding new programs would further reduce funding for existing programs. Further, SB 20 is just one of several bills filed this session that would divert TERP funds to a specific purpose. In June, the Environmental Protection Agency (EPA) is expected to introduce new significantly lower NOx standards. The lower standards would likely push near-nonattainment counties such as El Paso, Bexar, and Travis into nonattainment, making the TERP money even more important. If these new carve-outs are implemented, TCEQ should have the authority to reduce the funds for those programs if they interfered with TCEQ's ability to implement the State Implementation Plan.

The bill would require TCEQ to work with TxDOT and local transportation authorities to provide additional incentives for natural gas vehicles such as access to HOV lanes. The chief purpose of HOV lanes is to move more people efficiently and quickly. Allowing operators of natural gas vehicles to use these lanes, regardless of the number of people in each vehicle, would contradict this purpose. Access to HOV lanes should be based exclusively on the number of vehicle occupants and not the type of vehicle someone drives.

**NOTES:**

A floor amendment is expected to be proposed that would authorize TCEQ to reduce the funds for those programs if they interfered with its ability to implement the State Implementation Plan. The floor amendment also would remove the provision regarding use of the HOV lane as an additional incentive for natural gas vehicles.

According to the fiscal note, SB 20 is not expected to have a significant fiscal impact. However, the bill is expected to lower the amount of available grant funds that are provided as diesel emissions grants by a total of 20 percent in favor of the newly created natural gas vehicle rebate program and the refueling station program.