

SUBJECT: Creating the Texas Alternative Fueling Facilities Program under TERP

COMMITTEE: Environmental Regulation — favorable, without amendment

VOTE: 9 ayes — W. Smith, Farrar, Aliseda, Burnam, Chisum, Hancock, Legler,
Lyne, Reynolds

0 nays

SENATE VOTE: On final passage, April 4 — 29-2 (Birdwell, Patrick)

WITNESSES: *(On House companion bill, HB 1037:)*

For — Danny Smith, UPS; Tom “Smitty” Smith, Public Citizen; David Weinberg, Texas League of Conservation Voters; *(Registered, but did not testify:)* Teddy Carter, Texas Independent Producers and Royalty Owners Association; Gary Compton, Pioneer Natural Resources and Clean Energy Fuels; John Esparza and Les Findeisen, Texas Motor Transportation Association; Debbra Hastings, Texas Oil and Gas Association; Russ Keene, Plug-In Texas (Electric Vehicle Coalition); Nef Partida, EOG Resources; TJ Patterson, City of Fort Worth; Robert Peeler, Ford Motor Company; Steve Perry, Chevron USA; Matt Phillips, The Nature Conservancy of Texas; Chris Shields, Toyota Manufacturing; Julie Williams, Texas Propane Gas Association)

Against — *(Registered, but did not testify:)* Kate Robertson, Environmental Defense Fund)

On — *(Registered, but did not testify:)* Cyrus Reed, Lone Star Chapter, Sierra Club; Joe Walton, Texas Commission on Environmental Quality (TCEQ))

BACKGROUND: The 77th Legislature in 2001 enacted SB 5 by Brown to create the Texas Emissions Reduction Plan (TERP). This incentive-based program is designed to reduce ozone emissions to improve air quality in Texas. Counties in nonattainment and near-nonattainment areas are eligible for specific TERP incentive programs managed by TCEQ. A non-attainment area is a part of the country where air pollution levels persistently exceed the national ambient air quality standards.

TERP's primary incentive program is the Diesel Emissions Reductions Incentive Program, which constitutes 87.5 percent of the money in the TERP fund. This program provides grants to reduce nitrogen oxide emissions from high-emissions diesel sources in nonattainment areas and affected counties.

The Texas Clean Fleet Program is a TERP program designed to encourage the conversion or replacement of diesel-powered vehicles with alternative fuel or hybrid vehicles. An entity that places 25 or more qualifying vehicles in service for use entirely in Texas in a year is eligible to participate in the program.

DIGEST:

SB 385 would create a new TERP program, the Texas Alternative Fueling Facilities Program (TAFFP), to offset the cost of fueling facilities for alternative fuel in nonattainment areas. Alternative fuel would be defined as a fuel other than gasoline or diesel, other than biodiesel, including electricity, compressed natural gas, liquefied natural gas, hydrogen, propane, or a mixture of fuels containing at least 85 percent methanol by volume. TAFFP would be administered by TCEQ.

Under TAFFP, TCEQ would provide a grant for each eligible alternative fueling facility. An entity operating in Texas that constructed, reconstructed, or acquired a facility to store, compress, or dispense alternative fuels could apply for and receive a grant under the program. TCEQ could adopt guidelines to allow a regional planning commission, council of governments, or private nonprofit organization to apply for and receive a grant to improve the ability of the program to achieve its goals.

TCEQ by rule would have to establish criteria for prioritizing alternative fueling facilities eligible to receive grants. To be eligible for a grant, the entity receiving the grant would have to agree to make the alternative fueling facility available to persons not associated with the entity at times designated by the grant agreement. A grant recipient could not receive a second grant for the same facility.

A grant recipient could use the grant only to pay the costs of the facility for which the grant was made. The grant could not be used for administrative expenses.

The grant would be the lesser of \$500,000 or 50 percent of the sum of the actual eligible costs incurred by the grant recipient within deadlines established by TCEQ to construct, reconstruct, or acquire the facility.

TAFFP would expire on August 31, 2018.

Within TERP's Diesel Emissions Reduction Incentive Program, 5 percent of the funds would have to be used for the Clean Fleet Program, and 2 percent could be used for TAFFP. TCEQ could allocate unexpended money designated for the TAFFP to other TERP programs.

The bill would take effect September 1, 2011.

**SUPPORTERS
SAY:**

SB 385 would encourage the development of infrastructure that supported the use of alternative fuel vehicles. The bill would make it easier for people to purchase and use vehicles powered by natural gas, propane, electricity, and other clean-burning fuels.

Increasing the number of alternative fuel vehicles in Texas depends on the availability of infrastructure to fuel these vehicles. Making alternative fueling stations and charging stations more widely available would give drivers the confidence to use alternative fuel vehicles both for daily commuting and for longer trips across the state.

The bill would help make Texas a leader in alternative fuels, reducing dependence on foreign oil, utilizing more of the state's natural resources, and cleaning up the air in Texas' major cities.

**OPPONENTS
SAY:**

It is important to ensure that there is sufficient funding for existing TERP programs that fulfill TERP's primary goal of reducing emissions and have been proven to work. TERP funding is likely to be significantly reduced in fiscal 2012-13, and shifting funds from existing programs would only make it harder to effectively run these programs. SB 385, by authorizing allocation of 2 percent of funds in the Diesel Emissions Reduction Incentive Program to the Texas Alternative Fueling Facilities Program, would reduce funds allocated to established grant programs by approximately \$2.3 million based on fiscal 2010-11 expenditure levels.

Increasing fueling infrastructure would not directly lead to emissions reductions. The most effective way to reduce emissions is to take older vehicles off the road or retrofit them. These efforts are supported by

existing TERP programs, which would have funding reduced under SB 385.

It is not the government's job to subsidize alternative energy. Subsidies distort the market. Alternative energy should succeed or fail on its own merits, not because it is favored by the state.

OTHER
OPPONENTS
SAY:

If one of the goals of SB 385 is to put more electric cars on the road, this will drive up the demand for electricity in Texas. The state should step up our commitment to energy conservation and efficiency to address increased electricity demand.

NOTES:

The House companion bill, HB 1037 by Otto, was considered in a public Hearing on April 13 by the House Environmental Regulation Committee and left pending.