

## **BILL ANALYSIS**

C.S.S.B. 1728  
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Transportation  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Approximately 200 electric vehicle models will be on the market in the United States by 2022 and by some estimates, the average cost for a new electric vehicle will be cheaper than a gas-powered car by 2023. When that happens, it is anticipated that the state will see a rapid electrification of its transportation system. This forecast underscores the need for the state to immediately begin preparing a plan to accommodate the growing demand for a reliable electric vehicle infrastructure network. Furthermore, as the number of these vehicles traveling on Texas roads increases, there are concerns regarding the contribution of these vehicles to the funding of roads and infrastructure, which are currently funded using gasoline and diesel fuel taxes. On December 1, 2022, the Texas Department of Motor Vehicles released a report entitled "Study on Imposing Fees on Alternatively Fueled Vehicles." The findings of that study serve as the foundation of C.S.S.B. 1728 which seeks to address these issues by providing for fees for alternatively fueled vehicles and by creating the Texas Transportation Electrification Council to develop a comprehensive plan for the development of public electric vehicle charging infrastructure and associated technologies in Texas.

### **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 Department of Public Safety and to the Texas Department of Motor Vehicles in SECTION 3 of this bill.

### **ANALYSIS**

C.S.S.B. 1728 amends the Government Code to establish the Texas Transportation Electrification Council as an administrative attachment to the Texas Department of Transportation (TxDOT). The council is composed of the chair of, or if not applicable, the administrative head of or a senior-level designee from, each of 11 applicable state entities as specified by the bill. The bill provides for the administration and operation of the council and establishes that the council is funded using existing TxDOT funds. The bill requires the council annually to elect one member to serve as presiding officer, provides for the executive director of TxDOT to serve as the initial presiding officer, and requires the council to hold at least four public meetings each year.

C.S.S.B. 1728 requires the council, not later than March 1, 2022, to prepare an assessment of existing and planned public electric vehicle charging infrastructure and associated technologies in Texas using existing databases. The bill requires the assessment to include the number and types of electric vehicle chargers at each location. These provisions expire September 1, 2023.

C.S.S.B. 1728 requires the council to develop and biennially update a comprehensive plan for the development of public electric vehicle charging infrastructure and associated technologies in Texas through the year 2040. The bill requires the plan to do the following:

- include a phased implementation of the plan, in biennial increments, through the year 2040;
- identify areas in Texas for which additional charging infrastructure is needed to ensure that the vehicle choice of Texas residents is not constrained by a lack of access to that infrastructure;
- provide for sufficient charging infrastructure to meet and enable future demand for electric vehicles in Texas that meets certain criteria established by the bill;
- stimulate competition, innovation, and consumer choice in public electric vehicle charging and related infrastructure and services, and encourage private capital investment;
- specify the number and types of electric vehicle chargers per general location that are needed to meet the plan requirements;
- examine vehicle and charging infrastructure changes necessary to provide demand response functions and two-way electricity flow capability in order to allow vehicle to grid integration for cost savings, grid reliability, and resiliency; and
- provide for electric transportation corridors in and along TxDOT rights-of-way that include the infrastructure needed for vehicle electrification.

In developing and updating the plan, the council must, to the extent practicable, use publicly available electric vehicle projections and models based on industry standards to determine, for each year, the percentage and number of electric vehicles by vehicle class that are expected on roadways in Texas and the number of electric vehicle chargers that are needed to ensure that there is comprehensive and adequate access to public electric vehicle charging infrastructure in Texas. The council may also rely on scenarios provided by ERCOT or other information from appropriate sources for the percentage and number of electric vehicles by vehicle class on roadways in this state by year. In a temporary provision set to expire September 1, 2023, the bill also requires the council to use the infrastructure assessment in developing the plan.

C.S.S.B. 1728 requires the council to develop policy recommendations that state agencies may adopt to encourage the development of an adequate network of public electric vehicle charging infrastructure and associated technologies to meet electrified transportation needs in Texas through the year 2040.

C.S.S.B. 1728 requires the council to prepare and submit the following reports to the governor, the lieutenant governor, each member of the legislature, and relevant state and federal agencies:

- not later than December 1, 2022, an initial written report of the council's findings that includes the infrastructure assessment, infrastructure plan, and policy recommendations; and
- not later than December 1 of each even-numbered year beginning in 2024, a written report that includes a summary of the progress made on the implementation of the infrastructure plan, the biennial update to the plan, and any updates to the policy recommendations.

The provisions providing for the initial report expire September 1, 2025.

C.S.S.B. 1728 requires the council to seek advice and input from specified stakeholders in performing its duties. In performing those duties, the council may also contract with experts, academic scholars, and other appropriate professionals and consult with the Texas A&M Transportation Institute and institutions of higher education. The bill's provisions relating to the council expire and the council is abolished January 1, 2031.

C.S.S.B. 1728 amends the Transportation Code to establish the following additional vehicle registration fees for alternatively fueled vehicles:

- a fee of \$30 or \$40 for a plug-in hybrid electric vehicle, as determined by vehicle weight; and

- a fee of \$190 or \$240 for an alternatively fueled vehicle other than a plug-in hybrid electric vehicle, as determined by vehicle weight.

C.S.S.B. 1728 authorizes a person who applies for registration or registration renewal of an alternatively fueled vehicle that is equipped with an odometer to pay an annual mileage fee in lieu of paying the applicable additional registration fee and establishes the annual mileage fee schedule based on vehicle weight and annual mileage traveled. The bill authorizes a person to have an alternatively fueled vehicle subject to the two-year initial inspection period for certain passenger cars or light trucks inspected at the end of a one-year period for the purposes of paying the alternative mileage fee. The bill requires a vehicle inspection station or inspector, on completion of an inspection, to electronically submit odometer readings to the Department of Public Safety (DPS) inspection database. The bill requires DPS, in consultation with the Texas Department of Motor Vehicles (TxDMV), to adopt rules necessary to implement the mileage fee. A violation of those rules is considered to be a violation of provisions relating to compulsory vehicle inspection for the purposes of denying, revoking, or suspending a person's inspection station or inspector certification.

C.S.S.B. 1728 requires TxDMV on January 1 of each year, beginning after September 1, 2030, to increase the alternatively fueled vehicle registration and mileage fees as necessary to adjust for inflation as determined by the National Highway Construction Cost Index. The bill requires TxDMV to decrease the fees by specified amounts if the federal government collects a tax on an alternatively fueled vehicle. The bill requires TxDMV to post the planned fee increases or decreases on its website not later than November 1 of the previous year.

C.S.S.B. 1728 requires an applicant for registration or renewal of registration of an electric vehicle to pay a \$10 surcharge in addition to other registration fees at the time of application. In a temporary provision set to expire September 1, 2030, the bill requires each collected surcharge to be deposited to the credit of the general revenue fund to be used only for the operations of the Texas Transportation Electrification Council. Each other alternatively fueled vehicle fee and surcharge collected is required to be deposited to the credit of the state highway fund.

C.S.S.B. 1728 requires TxDMV to adopt rules to administer the alternatively fueled vehicle fees and exempts from those fees the following vehicles:

- a hybrid electric vehicle that is not a plug-in hybrid electric vehicle;
- a natural gas vehicle; and
- a vehicle used exclusively to provide public transportation services.

The bill defines "alternatively fueled vehicle," "conventionally fueled vehicle," "electric vehicle," "hybrid electric vehicle," "natural gas vehicle," and "plug-in hybrid electric vehicle."

### **EFFECTIVE DATE**

January 1, 2022.

### **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 1728 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute includes provisions absent from the engrossed establishing the Texas Transportation Electrification Council as an administrative attachment to TxDOT and providing for the composition, administration, operation, and reporting requirements of the council and for the electric vehicle charging infrastructure plan required to be developed by the council.

The substitute includes the following provisions, all of which were absent from the engrossed:

- definitions for "electric vehicle" and "plug-in hybrid electric vehicle";

- an exemption from alternatively fueled vehicle fees for a hybrid electric vehicle that is not a plug-in hybrid electric vehicle, a natural gas vehicle, and a vehicle used exclusively to provide public transportation services;
- provisions establishing a mileage fee alternative in lieu of paying the alternatively fueled vehicle fee and requiring DPS, in consultation with TxDMV, to adopt rules necessary to implement the mileage fee;
- a requirement for a vehicle inspection station or inspector, on completion of an inspection, to electronically submit odometer readings to the DPS inspection database;
- provisions establishing a \$10 electric vehicle registration surcharge;
- provisions requiring an annual adjustment of the alternatively fueled vehicle fee and mileage fee alternative;
- provisions allocating the deposit of each fee and surcharge collected under the bill's provisions relating to alternatively fueled vehicle fees; and
- a requirement for TxDMV to adopt rules necessary to administer the alternatively fueled vehicle fees.

The engrossed established additional vehicle registration fees for an alternatively fueled vehicle the amount of which is determined on the vehicle's weight. The substitute maintains those provisions but decreases the amount of each fee by \$10.

The substitute does not include provisions present in the engrossed requiring an applicant for registration or renewal of registration of a natural gas vehicle to pay an additional registration fee in an amount calculated by TxDMV. The substitute does not include the provision in the engrossed granting the board of TxDMV certain rulemaking authority.

The substitute changes the bill's effective date from September 1, 2021, as in the engrossed, to January 1, 2022.