HOUSE
RESEARCH
ORGANIZATION bill analysis 5/23/2009

SB 1425
Williams, et al. (Otto)
(CSSB 1425 by Legler)

SUBJECT: Creating an alternative fuel program under TERP

COMMITTEE: Environmental Regulation — committee substitute recommended

VOTE: 7 ayes — Cook, Burnam, Dunnam, Hancock, Legler, Veasey, Weber

0 nays

2 absent — Chisum, Farrar

SENATE VOTE: On final passage, May 8 — 30-0

WITNESSES: *(On House companion bill, HB 2978:)*
For — John Esparza, Texas Motor Transportation Association; Willie Rivero, Danny Smith, UPS (*Registered, but did not testify,* Walt Baum, Association of Electric Companies of Texas; Gregory Brazaitis, Energy Transfer Company; Michael Johnson, HEB; Kelly McBeth, Crosstex Energy, Martin Mid-Stream; Gardner Pate, EOG Resources; Celina Romero, Texas Pipeline Association; Grant Ruckel, Texas Gas Service; Mari Ruckel, Apache Corporation; Derek Seal, Clean Energy; Julie Williams, Texas Propane Gas Association)

Against — (*Registered, but did not testify,* Pat Carlson, Texas Eagle Forum)

BACKGROUND: The 77th Legislature in 2001 enacted SB 5 by Brown to create the Texas Emissions Reduction Plan (TERP). TERP includes several financial incentive and assistance programs designed to improve air quality in Texas. TERP is managed by the Texas Commission on Environmental Quality (TCEQ). TERP programs are intended to reduce pollutants, including emissions of nitrogen oxides (NOx). Counties in non-attainment and near-non-attainment areas are eligible for specific TERP incentive programs under SB 5.

TERP's primary incentive program is the Emissions Reductions Incentive Grant (ERIG) program. This program provides grants to reduce NOx emissions from high-emissions diesel sources in affected counties. Grants may be used to fund new purchases, replacements, retrofit technologies, and qualifying fuels.

DIGEST:

CSSB 1425 would create the Texas Clean Fleet Program as a new TERP program designed to encourage the conversion or replacement of diesel-powered vehicles with alternative fuel or hybrid vehicles. An entity that converted or replaced 25 or more vehicles in a year would be eligible for the program. The program would be allocated five percent of the TERP Fund.

Qualifying vehicles would be required to:

- be certified to current federal emissions standards,
- replace a diesel-powered vehicle of the same weight classification, and
- be a hybrid or alternatively fueled vehicle.

Entities that operated fleets of at least 100 cars would be eligible for grants. Neighborhood electric vehicles and vehicles that had already been used for a program grant or similar grant or tax credit in another jurisdiction would not qualify.

Eligible projects would be required to result in a 25 percent reduction in NOx or other pollutants and replace a vehicle that:

- had operated and been certified in Texas for at least two years;
- satisfied a minimum average annual mileage requirement;
- satisfied a minimum percentage of annual usage; and
- had at least two years of useful life remaining.

Qualifying vehicles would have be used in Texas at least 75 percent of the time and operate in Texas for five years after receiving a program grant. Replaced vehicles would have to be destroyed to an inoperable state. TCEQ would establish baseline NOx emissions levels for vehicles being replaced.

The commissioner would be authorized to require grant money to be returned if a recipient did not comply with program rules. Grants would be used to pay incremental project costs and not for administrative expenses. Grant amounts would be as follows:

- 80 percent of incremental costs for heavy-duty diesel engines made before California or federal emission standards were implemented;
- 70 percent of incremental costs for heavy duty diesel engines that met 1990-1997 federal standards;
- 60 percent of incremental costs for heavy duty diesel engines that met 1998-2003 federal standards;
- 50 percent of incremental costs for heavy duty diesel engines that met 2004 or later federal standards;
- 80 percent of incremental costs of light duty diesel vehicles made before the implementation of certification requirements and not certified to meet emission certification standards;
- 70 percent of incremental costs of light duty diesel vehicles that met federal standard prior to 2004; and
- 60 percent of incremental costs of light duty diesel vehicles that met federal standards after 2003.

The program would expire on August 31, 2017.

The bill would also direct TCEQ to commission a study on EPA credits that Texas may be eligible for in the State Implementation Plan for emissions reductions resulting from installing alternative fueling facilities.

The bill would take effect September 1, 2009.

SUPPORTERS SAY:

SB 1425 would improve air quality in Texas by providing incentives for the replacement of diesel vehicles with alternative fuel or hybrid vehicles. Through the reduction of NOx emissions, the new program set up by the bill would protect the environment and public health. Besides smog creation, NOx emissions can contribute to acid rain and oxygen depletion in bodies of water. Also, NOx emissions result in health problems, such as asthma and emphysema, while also aggravating heart disease and damaging lung tissue. By bolstering TERP, the bill would help reduce future costs to the state in public health and environmental remediation.

The bill would help bring Texas cities into compliance with federal air quality standards. Three metropolitan areas in Texas have air pollution levels that exceed the EPA eight-hour ozone standard: Houston-Galveston-Brazoria; Dallas-Fort Worth; and Beaumont-Port Arthur. Several other areas have rising pollution levels that are nearing non-attainment status. In order not to jeopardize federal highway funding, the state must implement more aggressive measures to reduce NOx emissions.

OPPONENTS SAY:

The bill would create an unfair competitive advantage for hybrid and alternatively fueled cars in the auto industry. The auto industry already has been negatively impacted by the global financial crisis, and government interference could further weaken the industry. Not all auto makers offer hybrid or alternatively fueled vehicles, and the bill would make it more difficult for these companies to sell their products.

NOTES:

The House companion bill, HB 2978 by Otto, was reported favorably, as substituted, by the Environmental Regulation Committee on May 1 and placed on the May 13 General State Calendar.