

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 681  
By: Armbrister  
State Affairs  
3-16-97  
Committee Report (Substituted)

### **DIGEST**

Currently, any program substituted by a state for the Federal Clean Fuel Fleet program (FCFF) must achieve emission equivalency with FCFF. Local governments or private persons must have a portion of their fleet vehicles to be able to operate on alternative fuels.

This bill redefines "fleet vehicle" in order to delete vehicles owned and operated by the state or mass transit authorities from alternative fuel requirements under this section and to add a vehicle used in the maintenance or repair of underground mass transit facilities which is required by federal law or regulation to operate on diesel fuel. This bill also sets forth provisions dealing with the conversion of certain vehicles from gasoline-fueled or diesel-fueled to operate on an alternative fuel, and revises other purchasing, leasing, or acquisition requirements of the Texas Natural Resource Conservation Commission.

### **PURPOSE**

As proposed, S.B. 681 sets forth conditions for the Texas Natural Resource Conservation Commission for the alternative fuel program.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 382.131(7), Health and Safety Code, to redefine "fleet vehicle."

SECTION 2. Amends Section 382.132, Health and Safety Code, to provide that rules adopted by the Texas Natural Resource Conservation Commission (TNRCC) under Sections 382.133 through 382.136 apply only to a consolidated metropolitan statistical area or a metropolitan statistical area with a population of 350,000 or more that, under the federal national ambient air quality standards provided by Section 181, federal Clean Air Act, as amended (42 U.S.C. Section 7511 and Table 1), is a serious, severe, or extreme nonattainment area, rather than an area that has not met federal ambient air quality standards for ozone, carbon monoxide, oxides of nitrogen, or particulates.

SECTION 3. Amends Section 382.133(b), Health and Safety Code, to require the rules adopted under this section to require a mass transit authority to have 50 percent of the authority's fleet vehicles capable of using alternative fuel and to authorize certain vehicles acquired prior to September 1, 1999, to be counted by TNRCC toward compliance with the fleet percentage requirement under certain conditions which include meeting emission standards specifications. Authorizes the percentage requirement of this section to be met, in whole or in part, through the purchase, lease, or other acquisition of program compliance credits pursuant to Section 382.142, Health and Safety Code, or through the purchase, lease, or other acquisition of credits through the Texas Mobile Emissions Reduction Credit (MERC) Program established pursuant to Section 381.143. Deletes text outlining an alternative fuel schedule for certain vehicles under this section..

SECTION 4. Amends Section 382.134, Health and Safety Code, to require the rules adopted by the board of TNRCC (board) to require a local government or private person to have a proportion of the person's newly purchased fleet vehicles and a proportion of the fleet vehicles in the person's total fleet able to operate on an alternative fuel according to a schedule in which 70 percent of light-duty fleet

vehicles purchased after September 1, 2002 and 50 percent, rather than 45 percent, of the heavy-duty fleet vehicles purchased after September 1, 2002. Authorizes the requirements imposed under this section to be met by the conversion of currently owned or newly purchased gasoline-fueled or diesel-fueled vehicles to operate on an alternative fuel. Requires the conversion of a vehicle to operate on an alternative fuel to be treated the same as the purchase of a vehicle able to operate on an alternative fuel. Provides that nothing in this section shall be construed to require conversion.

SECTION 5. Amends Section 382.136(a), Health and Safety Code, to authorize TNRCC to make exceptions to rules adopted under Sections 382.133 and 382.134 if an alternative fuel that meets the normal requirements of the principal business of the affected entity is not available in the area in which the vehicles are to be operated, the projected net costs attributable to fueling from conversion or replacement and operation of conventionally fueled vehicles or engines with those capable of operating on the fuels required under Sections 382.133 and 382.134 reasonably are expected to exceed comparable costs for certain conventional vehicles, rather than vehicles operating on reformulated gasoline and diesel, or original equipment vehicles that may be converted to operate on an alternative fuel, that meet the affected entity's normal requirements and practices of the principal business and have been certified by the United States Environmental Protection Agency as a clean fuel vehicle are not available, among other provisions. Deletes a provision providing that the commission determines that the affected vehicles will be operating primarily in an area that does not have or cannot reasonably be expected to establish adequate refueling for the fuels required under Sections 382.133 and 382.134.

SECTION 6. Amends Section 382.142, Health and Safety Code, to require rules adopted under this section to provide for the issuance of appropriate program compliance credits to a vehicle owner or operator for one or any combination of certain actions. Authorizes fleet vehicles converted, purchased, leased, or otherwise acquired prior to September 1, 1995, rather than 1998, to be counted toward compliance with the applicable fleet percentage requirements of Section 382.134 if the vehicles are capable of operating on a fuel or power source recognized by any State of Texas fleet fuel program prior to September 1, 1995, rather than an alternative fuel. Prohibits this section from applying to all vehicles purchased, leased, or otherwise acquired pursuant to Section 2158.001(a), Government Code, and deletes nonapplicable sections.

SECTION 7. Amends Section 382.143(b), Health and Safety Code, to require the rules adopted under this section to provide for certain program elements, including all mobile emissions reduction credits generated in accordance with this section may, within the same nonattainment area, be sold, traded, or banked for later use among fleet vehicle owners or other mobile sources of emissions without discount or depreciation of such credits. Deletes text requiring this section to comply with the United States Environmental Protection Agency's minimum requirements for an approvable Mobile Emissions Reduction Credit program.

SECTION 8. Amends Section 451.301, Transportation Code, by amending Subsections (a) and (b) and adding Subsections (d) and (e), to prohibit the governing board of an authority from purchasing or leasing a motor vehicle, excluding any law enforcement and any emergency vehicle, this is not capable of performing certain functions. Defines "fleet vehicle." Authorizes vehicles converted, purchased, leased, or otherwise acquired prior to September 1, 1999, to be counted toward compliance with the fleet percentage requirement of Subsection (b), under certain conditions. Makes conforming changes.

SECTION 9. Amends Section 451.302(c), Transportation Code, to require a certification under this section to state that the authority is unable to acquire or be provided vehicles certified as low-emission vehicles (LEV) that meet the normal requirements of the authority due to unavailability for purchase from an original equipment manufacturer or as a conversion.

SECTION 10. Amends Section 452.251, Transportation Code, by amending Subsections (a) and (b) and adding Subsections (d) and (e), to make conforming changes.

SECTION 11. Amends Section 452.252(b), Transportation Code, to make conforming changes.

SECTION 12. Amends Section 453.251, Transportation Code, by amending Subsections (a) and (b) and adding Subsections (d) and (e), to make conforming changes.

SECTION 13. Amends Section 453.252(b), Transportation Code, to make conforming and nonsubstantive changes.

SECTION 14. Effective date: September 1, 1997.

SECTION 15. Emergency clause.

### **SUMMARY OF COMMITTEE CHANGES**

Amends SECTION 1, Section 382.131(7), Health and Safety Code, to redefine "fleet vehicle" to include a vehicle that is fueled at facilities serving both business customers and the general public. Adds new Subdivision (C) to include a vehicle used in the maintenance or repair of underground mass transit facilities which is required by federal law or regulation to operate on diesel fuel. Makes conforming and nonsubstantive changes.

Amends SECTION 2, Section 382.132, Health and Safety Code, to make a nonsubstantive change.

Amends SECTION 3, to add a new SECTION 3, Section 382.133(b), Health and Safety Code, and redesignates proposed SECTIONS 3 through 6 as new SECTIONS 3 through 7. Requires rules adopted under this section to require a mass transit authority to have certain percentages of alternative fuel vehicles and stipulates the method to be used to count these vehicles toward compliance with the rules adopted by TNRCC using certain emissions standards. Authorizes the percentage requirements of this section to be met through certain methods established pursuant to Section 381.143, Health and Safety Code.

Amends SECTION 4, Section 382.134, Health and Safety Code, to add text providing that nothing in this section shall be construed to require conversion. Deletes existing Subsection (g), which provided that this section does not require any person to perform certain functions.

Amends SECTION 5, Section 382.136(a), Health and Safety Code, to authorize TNRCC to make exceptions to rules adopted under Section 382.133 and 382.134 if the projected cost attributable to fueling for conversion or replacement and operation of conventionally fueled vehicles or engines with those capable of operating on the fuels required under Sections 382.133 and 382.134, Health and Safety Code, reasonably are expected to exceed comparable costs for certain conventional vehicles, rather than vehicles operating on reformulated gasoline and diesel. Deletes proposed Subdivision (5) and adds new Subsection (5) to authorize TNRCC to make exceptions to rules adopted under Sections 382.133 and 382.134, Health and Safety Code, if original equipment vehicles, or vehicles that may be converted to operate on an alternative fuel, that meet the affected entity's normal requirements and practices of the principal business and have been certified by the U.S. EPA as a clean fuel vehicle, are not available.

Amends SECTION 6, Section 382.142, Health and Safety Code, to provide that Subdivisions (1)-(3) include the phrase: the purchase, lease, or acquisition of clean-fueled vehicles before each of the respective provisions of these subdivisions. Authorizes fleet vehicles converted, purchased, leased, or otherwise acquired prior to September 1, 1995 to be counted toward compliance with the applicable fleet percentage requirements of Section 382.134, Health and Safety Code, if the vehicles are capable of operating on a fuel or power source recognized by any State of Texas fleet fuel program prior to September 1, 1995. Prohibits this section from applying to all vehicles purchased, leased, or to otherwise acquired pursuant to Section 2158.001(a), Government Code and deletes Sections 451.301, 452.251, and 453.251, Transportation Code from this provision. Makes conforming changes.

Amends SECTION 7, Section 382.143(b), Health and Safety Code, to make a nonsubstantive change.

Adds SECTION 8, Section 451.301, Transportation Code, by amending Subsections (a) and (b) and

adding Subsections (d) and (e), as follows: Prohibits the board from purchasing or leasing a motor vehicle, excluding any law enforcement and any emergency vehicle, that is not capable of using certain fuels. Defines "fleet vehicle." Authorizes vehicles converted, purchased, leased, or otherwise acquired prior to September 1, 1999, to be counted toward compliance with the fleet percentage requirement of Subsection (b), under certain conditions which include certain emissions standards. Makes conforming changes.

Adds SECTION 9, Section 451.302(c), Transportation Code, to require a certification under this section to state that the authority is unable to acquire or be provided vehicles certified as low-emission vehicles (LEV) that meet the normal requirements of the authority due to unavailability for purchase from an original equipment manufacturer or as a conversion.

Adds SECTION 10, Section 452.251, Transportation Code, by amending Subsections (a) and (b) and adding Subsections (d) and (e), to make conforming changes.

Adds SECTION 11, Section 452.252(b), Transportation Code, to make conforming changes.

Adds SECTION 12, Section 453.251, Transportation Code, by amending Subsections (a) and (b) and adding Subsections (d) and (e), to make conforming changes.

Adds SECTION 13, Section 453.252(b), Transportation Code, to make conforming changes.

Redesignates proposed SECTIONS 7 and 8 as new SECTIONS 14 and 15 to provide the effective date and the emergency clause.