

BILL ANALYSIS

Senate Research Center
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S.B. 1612
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Finance
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Hydrogen is among the cleanest renewable energy sources. Texas currently has 13 hydrogen refineries, and is second only to California in production. However, the infrastructure needed to use hydrogen commercially and therefore, help reduce greenhouse gases, is not currently in place. By creating incentives for manufacturers and consumers of carbon-free hydrogen, Texas can help attract businesses interested in the production, storage, or retail of this valuable commodity.

As proposed, S.B. 1612 entitles a person who owns property that is used for the production, storage, distribution, or wholesale or retail sale of carbon-free hydrogen to an exemption from taxation of 25 percent of the appraised value of real and tangible personal property that the person owns. The bill also creates a bond program, which allows businesses to apply for general obligation bonds to be used to assist in the funding of carbon-free hydrogen projects, establishes an exemption from sales tax for hydrogen powered vehicles, and authorizes free toll passes and access to high occupancy vehicle lanes regardless of the number of passengers in the vehicle.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to comptroller of public accounts in SECTION 1 (Section 447.013, Government Code) of this bill.

Rulemaking authority is expressly granted to the Texas Department of Transportation (TxDOT) in SECTION 5 (Section 224.153, Transportation Code) and SECTION 6 (Section 371.001, Transportation Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 447, Government Code, by adding Section 447.013, as follows:

Sec. 447.013. HYDROGEN ENERGY LOAN PROGRAM. (a) Requires the state energy conservation office (office) to establish and administer a program (program) to make and guarantee loans to business entities for projects that expand the use of carbon-free hydrogen energy in this state, or relate to the manufacture, storage, distribution, or sale of carbon-free hydrogen energy in this state.

(b) Requires the carbon-free hydrogen to qualify under Section 49-p, Article III, Texas Constitution, for a project to be eligible for a loan or loan guarantee under the program established under this section.

(c) Requires the Texas Public Finance Authority to issue general obligation bonds in an aggregate amount not to exceed \$250 million as authorized by Section 49-p, Article III, Texas Constitution.

(d) Authorizes the program to be funded by the proceeds of bonds issued under Subsection (c) or gifts, grants, and donations made for that purpose.

(e) Authorizes the comptroller of public accounts (comptroller) to adopt rules to implement this section.

SECTION 2. Amends Subchapter B, Chapter 11, Tax Code, by adding Section 11.34, as follows:

Sec. 11.34. CARBON-FREE HYDROGEN PROPERTY. (a) Entitles a person to an exemption from taxation of 25 percent of the appraised value of real and tangible personal property that the person owns and that is used for the production, storage, distribution, or wholesale or retail sale of carbon-free hydrogen.

(b) Requires the carbon-free hydrogen to qualify under Section 1-p, Article VIII, Texas Constitution, to be eligible for an exemption under Subsection (a).

(c) Provides that for purposes of Subsection (a), pipelines and vehicles are included in the meaning of property used for the distribution of carbon-free hydrogen.

(d) Provides that this section does not apply to real or tangible personal property that is or was subject to a tax abatement agreement executed before January 1, 2008.

(e) Requires the comptroller to develop guidelines to assist local officials in the administration of this section.

SECTION 3. Amends Subchapter E, Chapter 152, Tax Code, by adding Section 152.090, as follows:

Sec. 152.090. CERTAIN HYDROGEN-POWERED MOTOR VEHICLES. (a) Defines "hydrogen-powered motor vehicle."

(b) Provides that the taxes imposed by this chapter (Taxes on Sale, Rental, and Use of Motor Vehicles) do not apply to the sale or use of a hydrogen-powered motor vehicle.

SECTION 4. Amends Subchapter D, Chapter 162, Tax Code, by adding Section 162.3022, as follows:

Sec. 162.3022. EXEMPTION FOR CARBON-FREE HYDROGEN AND HYDROGEN-POWERED MOTOR VEHICLES. (a) Provides that the tax imposed by this chapter (Motor Fuel Taxes) does not apply to carbon-free hydrogen.

(b) Provides that, notwithstanding any other provision of this chapter, a hydrogen-powered motor vehicle, as defined by Section 152.090, is not required to have a liquefied gas tax decal or a special use liquefied gas tax decal.

(c) Sets forth the conditions under which hydrogen is considered to be carbon-free for purposes of this section.

(d) Provides that, for purposes of Subsection (c), the generation of wind power, solar power, hydroelectricity, geothermal electricity, tidal electricity, or nuclear power is considered to result in no carbon.

SECTION 5. Amends Section 224.153, Transportation Code, by adding Subsections (e), (f), and (g), as follows:

(e) Authorizes a hydrogen-powered motor vehicle to use a high occupancy vehicle lane regardless of the number of occupants in the vehicle unless the use would impair the receipt of federal transit funds.

(f) Requires the Texas Department of Transportation (TxDOT) by rule to determine the best method for implementing the use of high occupancy vehicle lanes by hydrogen-powered motor vehicles under Subsection (e).

(g) Defines "hydrogen-powered motor vehicle."

SECTION 6. Amends Subtitle G, Title 6, Transportation Code, by adding Chapter 371, as follows:

CHAPTER 371. PROVISIONS APPLICABLE TO MORE THAN
ONE TYPE OF TOLL PROJECT

Sec. 371.001. HYDROGEN-POWERED MOTOR VEHICLES. (a) Defines "department," "hydrogen-powered motor vehicle," "toll project," and "toll project entity."

(b) Prohibits a toll project entity from requiring a hydrogen-powered motor vehicle to pay a toll for the use of a toll project.

(c) Requires the TxDOT by rule to provide procedures for implementing this section through the use of toll tags.

SECTION 7. Requires the office to establish a program under Section 447.013, Government Code, as added by this Act, not later than January 1, 2008.

SECTION 8. (a) Makes application of Section 11.34, Tax Code, as added by this Act, prospective to January 1, 2008.

(b) Makes application of the changes in law made by Sections 152.090 and 162.3022, Tax Code, as added by this Act, prospective to September 1, 2007.

SECTION 9. (a) Effective date, except as provided by Subsection (b): September 1, 2007.

(b) Makes application of SECTION 1 of this Act takes contingent on the constitutional amendment proposed by the 80th Legislature, Regular Session, 2007, authorizing the issuance of general obligation bonds to provide and guarantee loans to encourage the use of carbon-free hydrogen energy, being approved by the voters.

(c) Provides that SECTION 2 of this Act takes effect January 1, 2008, contingent on the constitutional amendment proposed by the 80th Legislature, Regular Session, 2007, to exempt from ad valorem taxation 25 percent of the assessed value of real and tangible personal property used for the production, storage, distribution, or wholesale or retail sale of carbon-free hydrogen being approved by the voters.