

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 30, 09
Date

Honorable David Dewhurst
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on ~~HB 1759~~ SB 1759 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Watson
Watson

Averitt
Averitt

Huffman
Huffman

Oresti
Oresti

Williams
On the part of the Senate
Williams

Pickett
Pickett

Guillen
Guillen

Otto
Otto

Chisum
On the part of the House
Chisum

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

S.B. No. 1759

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the extended registration of a commercial fleet of
3 motor vehicles.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 502.001, Transportation Code, is amended
6 by adding Subdivision (1-a) to read as follows:

7 (1-a) "Commercial fleet" means a group of at least 25
8 nonapportioned motor vehicles owned by a corporation, limited or
9 general partnership, limited liability company, or other business
10 entity and used for the business purposes of that entity.

11 SECTION 2. Subchapter A, Chapter 502, Transportation Code,
12 is amended by adding Section 502.0023 to read as follows:

13 Sec. 502.0023. EXTENDED REGISTRATION OF COMMERCIAL FLEET
14 MOTOR VEHICLES. (a) Notwithstanding Section 502.158(c), the
15 department shall develop and implement a system of registration to
16 allow an owner of a commercial fleet to register the motor vehicles
17 in the commercial fleet for an extended registration period of not
18 less than one year or more than eight years. The owner may select
19 the number of years for registration under this section within that
20 range and register the commercial fleet for that period. Payment
21 for all registration fees for the entire registration period
22 selected is due at the time of registration.

23 (b) A system of extended registration under this section
24 must allow the owner of a commercial fleet to register:

1 (1) an entire commercial fleet in the county of the
2 owner's residence or principal place of business; or

3 (2) the motor vehicles in a commercial fleet that are
4 operated most regularly in the same county.

5 (c) In addition to the registration fees prescribed by
6 Subchapter D, an owner registering a commercial fleet under this
7 section shall pay:

8 (1) an annual commercial fleet registration fee of \$10
9 per motor vehicle in the fleet; and

10 (2) except as provided by Subsection (e), a one-time
11 license plate manufacturing fee of \$1.50 for each fleet motor
12 vehicle license plate.

13 (d) A license plate issued under this section:

14 (1) may, on request of the owner, include the name or
15 logo of the business entity that owns the vehicle;

16 (2) must include the expiration date of the
17 registration period; and

18 (3) does not require an annual registration insignia
19 to be valid.

20 (e) In addition to all other applicable registration fees,
21 an owner registering a commercial fleet under this section shall
22 pay a one-time license plate manufacturing fee of \$8 for each set of
23 plates issued that includes on the legend the name or logo of the
24 business entity that owns the vehicle instead of the fee imposed by
25 Subsection (c)(2).

26 (f) If a motor vehicle registered under this section has a
27 gross weight in excess of 10,000 pounds, the department shall also

1 issue a registration card for the vehicle that is valid for the
2 selected registration period.

3 (g) The department shall adopt rules to implement this
4 section, including rules on suspension from the commercial fleet
5 program for failure to comply with this section or rules adopted
6 under this section.

7 (h) The department and the counties in their budgeting
8 processes shall consider any temporary increases and resulting
9 decreases in revenue that will result from the use of the process
10 provided under this section.

11 SECTION 3. Subsection (b), Section 501.0234,
12 Transportation Code, is amended to read as follows:

13 (b) This section does not apply to a motor vehicle:

14 (1) that has been declared a total loss by an insurance
15 company in the settlement or adjustment of a claim;

16 (2) for which the certificate of title has been
17 surrendered in exchange for:

18 (A) a salvage vehicle title issued under this
19 chapter;

20 (B) a nonrepairable vehicle title issued under
21 this chapter;

22 (C) a certificate of authority issued under
23 Subchapter D, Chapter 683; or

24 (D) an ownership document issued by another state
25 that is comparable to a document described by Paragraphs (A)-(C);

26 [~~or~~]

27 (3) with a gross weight in excess of 11,000 pounds; or

1 (4) purchased by a commercial fleet buyer who is a
2 full-service deputy under Section 502.114 and who utilizes the
3 dealer title application process developed to provide a method to
4 submit title transactions to the county in which the commercial
5 fleet buyer is a full-service deputy.

6 SECTION 4. Section 386.252, Health and Safety Code, is
7 amended by amending Subsection (a) and adding Subsection (d) to
8 read as follows:

9 (a) Money in the fund may be used only to implement and
10 administer programs established under the plan and shall be
11 allocated as follows:

12 (1) for the diesel emissions reduction incentive
13 program, 87.5 percent of the money in the fund, of which not more
14 than four percent may be used for the clean school bus program, five
15 percent shall be used for the clean fleet program, and not more than
16 10 percent may be used for on-road diesel purchase or lease
17 incentives;

18 (2) for the new technology research and development
19 program, 9.5 percent of the money in the fund, of which up to
20 \$250,000 is allocated for administration, up to \$200,000 is
21 allocated for a health effects study, \$500,000 is to be deposited in
22 the state treasury to the credit of the clean air account created
23 under Section 382.0622 to supplement funding for air quality
24 planning activities in affected counties, not less than 20 percent
25 is to be allocated each year to support research related to air
26 quality for the Houston-Galveston-Brazoria and Dallas-Fort Worth
27 nonattainment areas by a nonprofit organization based in Houston of

1 which \$216,000 each year shall be contracted to the Energy Systems
2 Laboratory at the Texas Engineering Experiment Station for the
3 development and annual calculation of creditable statewide
4 emissions reductions obtained through wind and other renewable
5 energy resources for the State Implementation Plan, and the balance
6 is to be allocated each year to a nonprofit organization or an
7 institution of higher education based in Houston to be used to
8 implement and administer the new technology research and
9 development program under a contract with the commission for the
10 purpose of identifying, testing, and evaluating new
11 emissions-reducing technologies with potential for
12 commercialization in this state and to facilitate their
13 certification or verification; and

14 (3) for administrative costs incurred by the
15 commission and the laboratory, three percent of the money in the
16 fund.

17 (d) The commission may allocate unexpended money designated
18 for the clean fleet program to other programs described under
19 Subsection (a) after the commission allocates money to recipients
20 under the clean fleet program.

21 SECTION 5. Subtitle C, Title 5, Health and Safety Code, is
22 amended by adding Chapter 391 to read as follows:

23 CHAPTER 391. TEXAS CLEAN FLEET PROGRAM

24 Sec. 391.001. DEFINITIONS. In this chapter:

25 (1) "Alternative fuel" means a fuel other than
26 gasoline or diesel fuel, including electricity, compressed natural
27 gas, liquified natural gas, hydrogen, propane, or a mixture of

1 fuels containing at least 85 percent methanol by volume.

2 (2) "Commission" means the Texas Commission on
3 Environmental Quality.

4 (3) "Golf cart" has the meaning assigned by Section
5 502.001, Transportation Code.

6 (4) "Hybrid vehicle" means a vehicle with at least two
7 different energy converters and two different energy storage
8 systems on board the vehicle for the purpose of propelling the
9 vehicle.

10 (5) "Incremental cost" has the meaning assigned by
11 Section 386.001.

12 (6) "Light-duty motor vehicle" has the meaning
13 assigned by Section 386.151.

14 (7) "Motor vehicle" has the meaning assigned by
15 Section 386.151.

16 (8) "Neighborhood electric vehicle" means a motor
17 vehicle that:

18 (A) is originally manufactured to meet, and does
19 meet, the equipment requirements and safety standards established
20 for "low-speed vehicles" in Federal Motor Vehicle Safety Standard
21 No. 500 (49 C.F.R. Section 571.500);

22 (B) is a slow-moving vehicle, as defined by
23 Section 547.001, Transportation Code, that is able to attain a
24 speed of more than 20 miles per hour but not more than 25 miles per
25 hour in one mile on a paved, level surface;

26 (C) is a four-wheeled motor vehicle;

27 (D) is powered by electricity or alternative

1 power sources;

2 (E) has a gross vehicle weight rating of less
3 than 3,000 pounds; and

4 (F) is not a golf cart.

5 (9) "Program" means the Texas clean fleet program
6 established under this chapter.

7 Sec. 391.002. PROGRAM. (a) The commission shall establish
8 and administer the Texas clean fleet program to encourage a person
9 that has a fleet of diesel-powered vehicles to replace them with
10 alternative fuel or hybrid vehicles. Under the program, the
11 commission shall provide grants for eligible projects to offset the
12 incremental cost of projects for fleet owners.

13 (b) An entity that places 25 or more qualifying vehicles in
14 service for use entirely in this state during a calendar year is
15 eligible to participate in the program.

16 Sec. 391.003. QUALIFYING VEHICLES. (a) A vehicle is a
17 qualifying vehicle that may be considered for a grant under the
18 program if during the calendar year the entity purchases a new
19 on-road vehicle that:

20 (1) is certified to current federal emissions
21 standards;

22 (2) replaces a diesel-powered on-road vehicle of the
23 same weight classification and use; and

24 (3) is a hybrid vehicle or fueled by an alternative
25 fuel.

26 (b) A vehicle is not a qualifying vehicle if the vehicle:

27 (1) is a neighborhood electric vehicle;

1 (2) has been used as a qualifying vehicle to qualify
2 for a grant under this chapter for a previous reporting period or by
3 another entity; or

4 (3) has qualified for a similar grant or tax credit in
5 another jurisdiction.

6 Sec. 391.004. APPLICATION FOR GRANT. (a) An entity
7 operating in this state that operates a fleet of at least 100
8 vehicles may apply for and receive a grant under the program.

9 (b) The commission may adopt guidelines to allow a regional
10 planning commission, council of governments, or similar regional
11 planning agency created under Chapter 391, Local Government Code,
12 or a private nonprofit organization to apply for and receive a grant
13 to improve the ability of the program to achieve its goals.

14 (c) An application for a grant under this chapter must be
15 made on a form provided by the commission and must contain the
16 information required by the commission.

17 Sec. 391.005. ELIGIBILITY OF PROJECTS FOR GRANTS. (a) The
18 commission by rule shall establish criteria for prioritizing
19 projects eligible to receive grants under this chapter. The
20 commission shall review and revise the criteria as appropriate.

21 (b) To be eligible for a grant under the program, a project
22 must:

23 (1) result in a reduction in emissions of nitrogen
24 oxides or other pollutants, as established by the commission, of at
25 least 25 percent, based on:

26 (A) the baseline emission level set by the
27 commission under Subsection (g); and

1 (B) the certified emission rate of the new
2 vehicle; and

3 (2) replace a vehicle that:

4 (A) is an on-road vehicle that has been owned,
5 registered, and operated by the applicant in Texas for at least the
6 two years immediately preceding the submission of a grant
7 application;

8 (B) satisfies any minimum average annual mileage
9 or fuel usage requirements established by the commission;

10 (C) satisfies any minimum percentage of annual
11 usage requirements established by the commission; and

12 (D) is in operating condition and has at least
13 two years of remaining useful life, as determined in accordance
14 with criteria established by the commission.

15 (c) As a condition of receiving a grant, the qualifying
16 vehicle must be continuously owned, registered, and operated in the
17 state by the grant recipient for at least five years from the date
18 of reimbursement of the grant-funded expenses. Not less than 75
19 percent of the annual use of the qualifying vehicle, either mileage
20 or fuel use as determined by the commission, must occur in the
21 state.

22 (d) The commission shall include and enforce the usage
23 provisions in the grant contracts. The commission shall monitor
24 compliance with the ownership and usage requirements, including
25 submission of reports on at least an annual basis, or more
26 frequently as determined by the commission.

27 (e) The commission by contract may require the return of all

1 or a portion of grant funds for a grant recipient's noncompliance
2 with the usage and percentage of use requirements under this
3 section.

4 (f) A vehicle or engine replaced under this program must be
5 rendered permanently inoperable by crushing the vehicle or making a
6 hole in the engine block and permanently destroying the frame of the
7 vehicle. The commission shall establish criteria for ensuring the
8 permanent destruction of the engine and vehicle. The commission
9 shall monitor and enforce the destruction requirements.

10 (g) The commission shall establish baseline emission levels
11 for emissions of nitrogen oxides for on-road vehicles being
12 replaced. The commission may consider and establish baseline
13 emission rates for additional pollutants of concern, as determined
14 by the commission.

15 (h) Mileage requirements established by the commission
16 under Subsection (b)(2)(B) may differ by vehicle weight categories
17 and type of use.

18 Sec. 391.006. RESTRICTION ON USE OF GRANT. A recipient of a
19 grant under this chapter shall use the grant to pay the incremental
20 costs of the project for which the grant is made, which may include
21 the initial cost of the alternative fuel vehicle and the reasonable
22 and necessary expenses incurred for the labor needed to install
23 emissions-reducing equipment. The recipient may not use the grant
24 to pay the recipient's administrative expenses.

25 Sec. 391.007. AMOUNT OF GRANT. (a) The amount the
26 commission shall award for each vehicle being replaced is:

27 (1) 80 percent of the incremental cost for replacement

1 of a heavy-duty diesel engine:

2 (A) manufactured prior to implementation of
3 federal or California emission standards; and

4 (B) not certified to meet a specific emission
5 level by either the U.S. Environmental Protection Agency or the
6 California Air Resources Board;

7 (2) 70 percent of the incremental cost for replacement
8 of a heavy-duty diesel engine certified to meet the federal
9 emission standards applicable to engines manufactured in 1990
10 through 1997;

11 (3) 60 percent of the incremental cost for replacement
12 of a heavy-duty diesel engine certified to meet the federal
13 emission standards applicable to engines manufactured in 1998
14 through 2003;

15 (4) 50 percent of the incremental cost for replacement
16 of a heavy-duty diesel engine certified to meet the federal
17 emission standards applicable to engines manufactured in 2004 and
18 later;

19 (5) 80 percent of the incremental cost for replacement
20 of a light-duty diesel vehicle:

21 (A) manufactured prior to the implementation of
22 certification requirements; and

23 (B) not certified to meet either mandatory or
24 voluntary emission certification standards;

25 (6) 70 percent of the incremental cost for replacement
26 of a light-duty diesel vehicle certified to meet federal Tier 1
27 emission standards phased in between 1994 and 1997; and

1 (7) 60 percent of the incremental cost for replacement
2 of a light-duty diesel vehicle certified to meet federal Tier 2
3 emission standards phased in between 2004 and 2009.

4 (b) The commission may revise the standards for determining
5 grant amounts, as needed to reflect changes to federal emission
6 standards and decisions on pollutants of concern.

7 Sec. 391.008. EXPIRATION. This chapter expires August 31,
8 2017.

9 SECTION 6. (a) In this section:

10 (1) "Alternative fuel" means a fuel other than
11 gasoline or diesel fuel, including electricity, compressed natural
12 gas, liquified natural gas, hydrogen, propane, methanol, or a
13 mixture of fuels containing at least 85 percent methanol by volume.

14 (2) "Commission" means the Texas Commission on
15 Environmental Quality.

16 (b) The commission shall conduct an alternative fueling
17 facilities study to:

18 (1) assess the correlation between the installation of
19 fueling facilities in nonattainment areas and the deployment of
20 fleet vehicles that use alternative fuels; and

21 (2) determine the emissions reductions achieved from
22 replacing a diesel-powered engine with an engine utilizing
23 alternative fuels.

24 (c) From the emissions reductions determined under
25 Subsection (b) of this section, the commission shall determine the
26 amount of emissions reductions that are fairly attributable to the
27 installation of an alternative fuel fueling facility and the

1 combustion of the alternative fuel in the vehicles fueled by the
2 alternative fuel fueling facility.

3 (d) In connection with the study conducted under this
4 section, the commission shall seek approval for credit in the state
5 implementation plan from the United States Environmental
6 Protection Agency for emissions reductions that can be:

7 (1) directly attributed to an alternative fuel fueling
8 facility; and

9 (2) achieved as a consequence of an alternative fuel
10 fueling facility encouraging the use of alternatively fueled
11 vehicles.

12 (e) The commission shall include in the commission's
13 biennial report to the legislature the findings of the study
14 conducted under this section and the status of the discussions with
15 the United States Environmental Protection Agency regarding credit
16 for emissions reductions in the state implementation plan which can
17 be achieved as a result of the installation of alternative fuel
18 fueling facilities.

19 (f) This section expires August 31, 2011.

20 SECTION 7. Section 502.0022, Transportation Code, is
21 repealed.

22 SECTION 8. (a) The Texas Department of Transportation
23 shall adopt the rules and establish the system required under
24 Section 502.0023, Transportation Code, as added by this Act, not
25 later than January 1, 2010.

26 (b) The Texas Commission on Environmental Quality shall
27 adopt rules under Section 391.005, Health and Safety Code, as added

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1 by this Act, as soon as practicable after the effective date of this
2 Act.

3 SECTION 9. This Act takes effect September 1, 2009.

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Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

SECTION 1. Section 502.001, Transportation Code, is amended by adding Subdivision (1-a) to read as follows:
(1-a) "Commercial fleet" means a group of at least 25 nonapportioned motor vehicles owned by a corporation, limited or general partnership, limited liability company, or other business entity and used for the business purposes of that entity.

Same as Senate version.

SECTION 1. Same as Senate version.

SECTION 2. Subchapter A, Chapter 502, Transportation Code, is amended by adding Section 502.0023 to read as follows:

SECTION 2. Subchapter A, Chapter 502, Transportation Code, is amended by adding Section 502.0023 to read as follows:

SECTION 2. Same as House version.

Sec. 502.0023. EXTENDED REGISTRATION OF COMMERCIAL FLEET MOTOR VEHICLES. (a) Notwithstanding Section 502.158(c), the department shall develop and implement a system of registration to allow an owner of a commercial fleet to register the motor vehicles in the commercial fleet for an extended registration period of not less than one year or more than eight years. The owner may select the number of years for registration under this section within that range and register the commercial fleet for that period. Payment for all registration fees for the entire registration period selected is due at the time of registration.

Sec. 502.0023. EXTENDED REGISTRATION OF COMMERCIAL FLEET MOTOR VEHICLES. (a) Notwithstanding Section 502.158(c), the department shall develop and implement a system of registration to allow an owner of a commercial fleet to register the motor vehicles in the commercial fleet for an extended registration period of not less than one year or more than eight years. The owner may select the number of years for registration under this section within that range and register the commercial fleet for that period. Payment for all registration fees for the entire registration period selected is due at the time of registration.

(b) A system of extended registration under this section must allow the owner of a commercial fleet to register:
(1) an entire commercial fleet in the county of the owner's residence or principal place of business; or
(2) the motor vehicles in a commercial fleet that are

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(b) In addition to the registration fees prescribed by Subchapter D, an owner registering a commercial fleet under this section shall pay:

- (1) an annual commercial fleet registration fee of \$10 per motor vehicle in the fleet; and
- (2) a one-time license plate manufacturing fee of \$1.50 for each fleet motor vehicle license plate.

(c) A license plate issued under this section:

- (1) may, on request of the owner, include the name or logo of the business entity that owns the vehicle;
- (2) must include the expiration date of the registration period; and
- (3) does not require an annual registration insignia to be valid.

(d) If a motor vehicle registered under this section has a gross weight in excess of 10,000 pounds, the department shall also issue a registration card for the vehicle that is valid for the selected registration period.

(e) The department shall adopt rules to implement this section, including rules on suspension from the

operated most regularly in the same county.

(c) In addition to the registration fees prescribed by Subchapter D, an owner registering a commercial fleet under this section shall pay:

- (1) an annual commercial fleet registration fee of \$10 per motor vehicle in the fleet; and
- (2) except as provided by Subsection (e), a one-time license plate manufacturing fee of \$1.50 for each fleet motor vehicle license plate.

(d) A license plate issued under this section:

- (1) may, on request of the owner, include the name or logo of the business entity that owns the vehicle;
- (2) must include the expiration date of the registration period; and
- (3) does not require an annual registration insignia to be valid.

(e) In addition to all other applicable registration fees, an owner registering a commercial fleet under this section shall pay a one-time license plate manufacturing fee of \$8 for each set of plates issued that includes on the legend the name or logo of the business entity that owns the vehicle instead of the fee imposed by Subsection (c)(2).

(f) If a motor vehicle registered under this section has a gross weight in excess of 10,000 pounds, the department shall also issue a registration card for the vehicle that is valid for the selected registration period.

(g) The department shall adopt rules to implement this section, including rules on suspension from the

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commercial fleet program for failure to comply with this section or rules adopted under this section.

(f) The department and the counties in their budgeting processes shall consider any temporary increases and resulting decreases in revenue that will result from the use of the process provided under this section.

SECTION 3. Subsection (b), Section 501.0234, Transportation Code, is amended to read as follows:

(b) This section does not apply to a motor vehicle:

- (1) that has been declared a total loss by an insurance company in the settlement or adjustment of a claim;
- (2) for which the certificate of title has been surrendered in exchange for:

- (A) a salvage vehicle title issued under this chapter;
- (B) a nonrepairable vehicle title issued under this chapter;

(C) a certificate of authority issued under Subchapter D, Chapter 683; or

(D) an ownership document issued by another state that is comparable to a document described by Paragraphs (A)-(C); ~~or~~

- (3) with a gross weight in excess of 11,000 pounds; or
- (4) purchased by a fleet buyer who is a full-service deputy under Section 502.114 and who utilizes the dealer title application process developed to provide a method to submit title transactions to the county in which the fleet buyer is a full-service deputy.

commercial fleet program for failure to comply with this section or rules adopted under this section.

(h) The department and the counties in their budgeting processes shall consider any temporary increases and resulting decreases in revenue that will result from the use of the process provided under this section.

SECTION 3. Subsection (b), Section 501.0234, Transportation Code, is amended to read as follows:

(b) This section does not apply to a motor vehicle:

- (1) that has been declared a total loss by an insurance company in the settlement or adjustment of a claim;
- (2) for which the certificate of title has been surrendered in exchange for:

- (A) a salvage vehicle title issued under this chapter;
- (B) a nonrepairable vehicle title issued under this chapter;

(C) a certificate of authority issued under Subchapter D, Chapter 683; or

(D) an ownership document issued by another state that is comparable to a document described by Paragraphs (A)-(C); ~~or~~

- (3) with a gross weight in excess of 11,000 pounds; or
- (4) purchased by a commercial fleet buyer who is a full-service deputy under Section 502.114 and who utilizes the dealer title application process developed to provide a method to submit title transactions to the county in which the commercial fleet buyer is a full-service

SECTION 3. Same as House version.

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deputy.

SECTION 4. The Texas Department of Transportation shall adopt the rules and establish the system required under Section 502.0023, Transportation Code, as added by this Act, not later than September 1, 2010.

SECTION 5. The Texas Department of Transportation shall adopt the rules and establish the system required under Section 502.0023, Transportation Code, as added by this Act, not later than January 1, 2010.

SECTION 8[part, see below]. Same as house version except adds:

(b) The Texas Commission on Environmental Quality shall adopt rules under Section 391.005, Health and Safety Code, as added by this Act, as soon as practicable after the effective date of this Act.

No equivalent provision.

SECTION 4. Section 502.0022, Transportation Code, is repealed.

SECTION 7. Same as House version.

SECTION 5. This Act takes effect September 1, 2009.

SECTION 6. Same as Senate version.

SECTION 9. Same as Senate version.

No equivalent provision.

SECTION __. Section 386.252, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:
(a) Money in the fund may be used only to implement and administer programs established under the plan and shall be allocated as follows:
(1) for the diesel emissions reduction incentive program,

SECTION 4. Same as House version.

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87.5 percent of the money in the fund, of which not more than four percent may be used for the clean school bus program, five percent shall be used for the clean fleet program, and not more than 10 percent may be used for on-road diesel purchase or lease incentives;

(2) for the new technology research and development program, 9.5 percent of the money in the fund, of which up to \$250,000 is allocated for administration, up to \$200,000 is allocated for a health effects study, \$500,000 is to be deposited in the state treasury to the credit of the clean air account created under Section 382.0622 to supplement funding for air quality planning activities in affected counties, not less than 20 percent is to be allocated each year to support research related to air quality for the Houston-Galveston-Brazoria and Dallas-Fort Worth nonattainment areas by a nonprofit organization based in Houston of which \$216,000 each year shall be contracted to the Energy Systems Laboratory at the Texas Engineering Experiment Station for the development and annual calculation of creditable statewide emissions reductions obtained through wind and other renewable energy resources for the State Implementation Plan, and the balance is to be allocated each year to a nonprofit organization or an institution of higher education based in Houston to be used to implement and administer the new technology research and development program under a contract with the commission for the purpose of identifying, testing, and evaluating new emissions-reducing technologies with

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potential for commercialization in this state and to facilitate their certification or verification; and

(3) for administrative costs incurred by the commission and the laboratory, three percent of the money in the fund.

(d) The commission may allocate unexpended money designated for the clean fleet program to other programs described under Subsection (a) after the commission allocates money to recipients under the clean fleet program.

No equivalent provision.

SECTION __. Subtitle C, Title 5, Health and Safety Code, is amended by adding Chapter 391 to read as follows:

CHAPTER 391. TEXAS CLEAN FLEET PROGRAM

Sec. 391.001. DEFINITIONS. In this chapter:

(1) "Alternative fuel" means a fuel other than gasoline or diesel fuel, other than biodiesel fuel, including electricity, compressed natural gas, liquified natural gas, hydrogen, propane, methanol, or a mixture of fuels containing at least 85 percent methanol by volume.

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "Hybrid vehicle" means a vehicle with at least two different energy converters and two different energy storage systems on board the vehicle for the purpose of

SECTION 5. Subtitle C, Title 5, Health and Safety Code, is amended by adding Chapter 391 to read as follows:

CHAPTER 391. TEXAS CLEAN FLEET PROGRAM

Sec. 391.001. DEFINITIONS. In this chapter:

(1) "Alternative fuel" means a fuel other than gasoline or diesel fuel, including electricity, compressed natural gas, liquified natural gas, hydrogen, propane, or a mixture of fuels containing at least 85 percent methanol by volume.

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "Golf cart" has the meaning assigned by Section 502.001, Transportation Code.

(4) "Hybrid vehicle" means a vehicle with at least two different energy converters and two different energy storage systems on board the vehicle for the purpose of

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propelling the vehicle.

(4) "Incremental cost" has the meaning assigned by Section 386.001.

(5) "Program" means the Texas clean fleet program established under this chapter.

Sec. 391.002. PROGRAM. (a) The commission shall establish and administer the Texas clean fleet program to encourage a person that has a fleet of vehicles to convert

propelling the vehicle.

(5) "Incremental cost" has the meaning assigned by Section 386.001.

(6) "Light-duty motor vehicle" has the meaning assigned by Section 386.151.

(7) "Motor vehicle" has the meaning assigned by Section 386.151.

(8) "Neighborhood electric vehicle" means a motor vehicle that:

(A) is originally manufactured to meet, and does meet, the equipment requirements and safety standards established for "low-speed vehicles" in Federal Motor Vehicle Safety Standard No. 500 (49 C.F.R. Section 571.500);

(B) is a slow-moving vehicle, as defined by Section 547.001, Transportation Code, that is able to attain a speed of more than 20 miles per hour but not more than 25 miles per hour in one mile on a paved, level surface;

(C) is a four-wheeled motor vehicle;

(D) is powered by electricity or alternative power sources;

(E) has a gross vehicle weight rating of less than 3,000 pounds; and

(F) is not a golf cart.

(9) "Program" means the Texas clean fleet program established under this chapter.

Sec. 391.002. PROGRAM. (a) The commission shall establish and administer the Texas clean fleet program to encourage a person that has a fleet of diesel-powered

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diesel-powered vehicles to alternative fuel or hybrid vehicles or replace them with alternative fuel or hybrid vehicles. Under the program, the commission shall provide grants for eligible projects to offset the incremental cost of projects for fleet owners.

(b) An entity that places 25 or more qualifying vehicles in service for use entirely in this state during a calendar year is eligible to participate in the program.

Sec. 391.003. QUALIFYING VEHICLES. (a) A vehicle is a qualifying vehicle that may be considered for a grant under the program if during a calendar year the entity:

(1) purchases the vehicle and the vehicle

is a hybrid vehicle or is fueled by an alternative fuel;

(2) converts the vehicle to be a hybrid vehicle or to be fueled by an alternative fuel in a manner other than the manner described by Subdivision (3); or

(3) replaces the vehicle's power source with a power source that is fueled by an alternative fuel or that causes the vehicle to be a hybrid vehicle.

(b) A vehicle is not a qualifying vehicle if the vehicle:

(1) is a neighborhood electric vehicle, as defined by Section 551.301, Transportation Code;

(2) has been used as a qualifying vehicle to qualify for a grant under this chapter for a previous reporting period or by another entity; or

vehicles to replace them with alternative fuel or hybrid vehicles. Under the program, the commission shall provide grants for eligible projects to offset the incremental cost of projects for fleet owners.

(b) An entity that places 25 or more qualifying vehicles in service for use entirely in this state during a calendar year is eligible to participate in the program.

Sec. 391.003. QUALIFYING VEHICLES. (a) A vehicle is a qualifying vehicle that may be considered for a grant under the program if during the calendar year the entity

purchases a new on-road vehicle that:

(1) is certified to current federal emissions standards;

(2) replaces a diesel-powered on-road vehicle of the same weight classification and use; and

(3) is a hybrid vehicle or fueled by an alternative fuel.

(b) A vehicle is not a qualifying vehicle if the vehicle:

(1) is a neighborhood electric vehicle;

(2) has been used as a qualifying vehicle to qualify for a grant under this chapter for a previous reporting period or by another entity; or

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(3) has qualified for a similar grant or tax credit in another jurisdiction.

Sec. 391.004. APPLICATION FOR GRANT. (a) An entity operating in this state that operates a fleet of at least 100 vehicles may apply for and receive a grant under the program.

(b) The commission may adopt guidelines to allow a regional planning commission, council of governments, or similar regional planning agency created under Chapter 391, Local Government Code, or a private nonprofit organization to apply for and receive a grant to improve the ability of the program to achieve its goals.

(c) An application for a grant under this chapter must be made on a form provided by the commission and must contain the information required by the commission.

Sec. 391.005. ELIGIBILITY OF PROJECTS FOR GRANTS. (a) The commission by rule shall establish criteria for setting priorities for projects eligible to receive grants under this chapter. The commission shall review and may modify the criteria and priorities as appropriate.

(b) A qualifying vehicle must be used on a regular, daily route and must have at least two years of useful life remaining.

(c) A qualifying vehicle must remain in the state for at least five years. The commission by rule shall create a monitoring program to ensure compliance under this subsection as well as penalties against the recipient of the grant if the vehicle is removed from the state before the

(3) has qualified for a similar grant or tax credit in another jurisdiction.

Sec. 391.004. APPLICATION FOR GRANT. (a) An entity operating in this state that operates a fleet of at least 100 vehicles may apply for and receive a grant under the program.

(b) The commission may adopt guidelines to allow a regional planning commission, council of governments, or similar regional planning agency created under Chapter 391, Local Government Code, or a private nonprofit organization to apply for and receive a grant to improve the ability of the program to achieve its goals.

(c) An application for a grant under this chapter must be made on a form provided by the commission and must contain the information required by the commission.

Sec. 391.005. ELIGIBILITY OF PROJECTS FOR GRANTS. (a) The commission by rule shall establish criteria for prioritizing projects eligible to receive grants under this chapter. The commission shall review and revise the criteria as appropriate.

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fifth anniversary of the date the grant is awarded.

(b) To be eligible for a grant under the program, a project must:

(1) result in a reduction in emissions of nitrogen oxides or other pollutants, as established by the commission, of at least 25 percent, based on:

(A) the baseline emission level set by the commission under Subsection (g); and

(B) the certified emission rate of the new vehicle; and

(2) replace a vehicle that:

(A) is an on-road vehicle that has been owned, registered, and operated by the applicant in Texas for at least the two years immediately preceding the submission of a grant application;

(B) satisfies any minimum average annual mileage or fuel usage requirements established by the commission;

(C) satisfies any minimum percentage of annual usage requirements established by the commission; and

(D) is in operating condition and has at least two years of remaining useful life, as determined in accordance with criteria established by the commission.

(c) As a condition of receiving a grant, the qualifying vehicle must be continuously owned, registered, and operated in the state by the grant recipient for at least five years from the date of reimbursement of the grant-funded expenses. Not less than 75 percent of the annual use of the qualifying vehicle, either mileage or fuel use as determined by the commission, must occur in the state.

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(d) The commission shall include and enforce the usage provisions in the grant contracts. The commission shall monitor compliance with the ownership and usage requirements, including submission of reports on at least an annual basis, or more frequently as determined by the commission.

(e) The commission by contract may require the return of all or a portion of grant funds for a grant recipient's noncompliance with the usage and percentage of use requirements under this section.

(f) A vehicle or engine replaced under this program must be rendered permanently inoperable by crushing the vehicle or making a hole in the engine block and permanently destroying the frame of the vehicle. The commission shall establish criteria for ensuring the permanent destruction of the engine and vehicle. The commission shall monitor and enforce the destruction requirements.

(g) The commission shall establish baseline emission levels for emissions of nitrogen oxides for on-road vehicles being replaced. The commission may consider and establish baseline emission rates for additional pollutants of concern, as determined by the commission.

(h) Mileage requirements established by the commission under Subsection (b)(2)(B) may differ by vehicle weight categories and type of use.

Sec. 391.006. RESTRICTION ON USE OF GRANT. A recipient of a grant under this chapter shall use the grant to pay the incremental costs of the project for which the

Sec. 391.006. RESTRICTION ON USE OF GRANT. A recipient of a grant under this chapter shall use the grant to pay the incremental costs of the project for which the

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grant is made, which may include the initial cost of the alternative fuel vehicle and the reasonable and necessary expenses incurred for the labor needed to install emissions-reducing equipment. The recipient may not use the grant to pay the recipient's administrative expenses.

Sec. 391.007. AMOUNT OF GRANT. The amount the commission shall award for each vehicle is:

- (1) for a federally certified low-emission vehicle fueled by an alternative fuel, 50 percent of the incremental cost;
- (2) for a federally certified ultra-low-emission vehicle or federally certified inherently low-emission vehicle fueled by an alternative fuel, 75 percent of the incremental cost;
- (3) for a federally certified super-ultra-low-emission vehicle or federally certified zero-emission vehicle fueled by an alternative fuel, 85 percent of the incremental cost; or
- (4) for a hybrid vehicle, 80 percent of the incremental cost.

grant is made, which may include the initial cost of the alternative fuel vehicle and the reasonable and necessary expenses incurred for the labor needed to install emissions-reducing equipment. The recipient may not use the grant to pay the recipient's administrative expenses.

Sec. 391.007. AMOUNT OF GRANT. (a) The amount the commission shall award for each vehicle being replaced is:

- (1) 80 percent of the incremental cost for replacement of a heavy-duty diesel engine:
 - (A) manufactured prior to implementation of federal or California emission standards; and
 - (B) not certified to meet a specific emission level by either the U.S. Environmental Protection Agency or the California Air Resources Board;
- (2) 70 percent of the incremental cost for replacement of a heavy-duty diesel engine certified to meet the federal emission standards applicable to engines manufactured

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in 1990 through 1997;

(3) 60 percent of the incremental cost for replacement of a heavy-duty diesel engine certified to meet the federal emission standards applicable to engines manufactured in 1998 through 2003;

(4) 50 percent of the incremental cost for replacement of a heavy-duty diesel engine certified to meet the federal emission standards applicable to engines manufactured in 2004 and later;

(5) 80 percent of the incremental cost for replacement of a light-duty diesel vehicle;

(A) manufactured prior to the implementation of certification requirements; and

(B) not certified to meet either mandatory or voluntary emission certification standards;

(6) 70 percent of the incremental cost for replacement of a light-duty diesel vehicle certified to meet federal Tier 1 emission standards phased in between 1994 and 1997; and

(7) 60 percent of the incremental cost for replacement of a light-duty diesel vehicle certified to meet federal Tier 2 emission standards phased in between 2004 and 2009.

(b) The commission may revise the standards for determining grant amounts, as needed to reflect changes to federal emission standards and decisions on pollutants of concern.

Sec. 391.008. EXPIRATION. This chapter expires August 31, 2017.

Sec. 391.008. EXPIRATION. This chapter expires August 31, 2017.

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No equivalent provision.

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SECTION ___. (a) In this section:

(1) "Alternative fuel" means a fuel other than gasoline or diesel fuel, other than biodiesel fuel, including electricity, compressed natural gas, liquified natural gas, hydrogen, propane, methanol, or a mixture of fuels containing at least 85 percent methanol by volume.

(2) "Commission" means the Texas Commission on Environmental Quality.

(b) The commission shall conduct an alternative fueling facilities study to:

(1) assess the correlation between the installation of fueling facilities in nonattainment areas and the deployment of fleet vehicles that use alternative fuels; and

(2) determine the emissions reductions achieved from replacing a diesel-powered engine with an engine utilizing alternative fuels.

(c) From the emissions reductions determined under Subsection (b) of this section, the commission shall determine the amount of emissions reductions which are fairly attributable to the installation of an alternative fuel fueling facility and the combustion of the alternative fuel in the vehicles fueled by the alternative fuel fueling facility.

(d) In connection with the study conducted under this section, the commission shall seek approval for credit in the state implementation plan from the United States Environmental Protection Agency for emissions reductions that can be:

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SECTION 6. Same as House version except adds fuel other than biodiesel fuel to the definition of "alternative fuel."

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- (1) directly attributed to an alternative fuel fueling facility; and
- (2) achieved as a consequence of an alternative fuel fueling facility encouraging the use of alternatively fueled vehicles.
- (e) The commission shall include in the commission's biennial report to the legislature the findings of the study conducted under this section and the status of the discussions with the United States Environmental Protection Agency regarding credit for emissions reductions in the state implementation plan which can be achieved as a result of the installation of alternative fuel fueling facilities.
- (f) This section expires August 31, 2011.

No equivalent provision.

SECTION __.
The Texas Commission on Environmental Quality shall adopt rules under Section 391.005, Health and Safety Code, as added by this Act, as soon as practicable after the effective date of this Act.

SECTION 8[part]. Same as House version except adds:

The Texas Department of Transportation shall adopt the rules and establish the system required under Section 502.0023, Transportation Code, as added by this Act, not later than January 1, 2010.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 30, 2009

TO: Honorable David Dewhurst , Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: SB1759 by Watson (Relating to the extended registration of a commercial fleet of motor vehicles.), Conference Committee Report

Estimated Two-year Net Impact to General Revenue Related Funds for SB1759, Conference Committee Report: an impact of \$0 through the biennium ending August 31, 2011.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from State Highway Fund 6	Probable Revenue Gain/(Loss) from Counties
2010	\$69,400,000	\$30,550,000
2011	\$83,920,000	\$34,989,688
2012	(\$3,067,500)	(\$5,465,625)
2013	(\$4,575,000)	(\$6,480,938)
2014	(\$6,082,500)	(\$7,496,250)

Fiscal Analysis

The bill would amend the Transportation Code to allow the registered owner of a commercial fleet of vehicles consisting of at least 25 nonapportioned motor vehicles used for business purposes to apply to the Texas Department of Transportation (TxDOT) for license plates, permanent decals, and registration cards. The bill would require an annual fleet management fee of \$10 per fleet vehicle, a one-time license plate manufacturing fee of \$1.50 or each set of plates or \$8 for each set of plates with the name or logo of the business entity, and the advance payment of all registration license taxes and fees for a period of no less than one year and no greater than 8 years. Under the provisions of the bill, no annual validation window sticker would be required for the vehicles during the period of years for which fees have been paid in advance.

The bill would amend the Health and Safety Code to create the Texas Clean Fleet Program (CFP) to be administered by the Texas Commission on Environmental Quality (TCEQ). The CFP would provide for the conversion of diesel-powered or gasoline-powered vehicles to alternative fuel vehicles and the purchase of alternative-fuel vehicles, including hybrid-electric, compressed natural gas, liquefied natural gas, hydrogen, or other alternative fuel (propane, ethanol, or fuel mixtures with at least 85 percent methanol or ethanol) vehicles, to reduce exposure of the citizens living in nonattainment areas of the state. The bill would exclude neighborhood electric vehicles and vehicles that have already received grants under the CFP from being eligible for grants. Vehicles that have qualified for a similar grant or tax credit in another jurisdiction would also be excluded.

The bill would amend the Health and Safety Code to require that 5 percent of funding from the 87.5 percent of the money available in the General Revenue-Dedicated Texas Emissions Reduction Plan (TERP) Account No. 5071 fund for the diesel emissions reduction incentive program be spent on the CFP.

The bill would amend the Health and Safety Code to require the TCEQ to conduct a study of alternative fueling facilities to assess the correlation between fueling facilities in nonattainment areas and the deployment of fleet vehicles that use alternative fuels and determine the emissions reductions achieved from a diesel-powered engine with an engine utilizing alternative fuels. The TCEQ would provide findings of the study to the Legislature on a biennial basis regarding credit for emissions reductions in the state implementation plan (SIP) that could be achieved as a result of the installation of alternative fuel fueling facilities. The TCEQ currently is appropriated \$103.7 million per fiscal year out of the TERP Account No. 5071 for the diesel emissions reduction incentive program. Upon passage of the bill, \$5.2 million, or 5 percent of these funds, would go to the CFP instead. Because the TCEQ reports that diversion of TERP funds to programs with less of a connection to achieving SIP goals such as the CFP is not expected to have a significant impact on approval of the SIP, this estimate assumes that the TCEQ would not require an increase in appropriations to implement the bill.

The bill would take effect September 1, 2009.

Methodology

TxDOT estimates there are approximately 400,000 fleet vehicles in Texas and that approximately 37,500 fleet vehicles would be added each fiscal year. Based on the analysis of TxDOT, it is assumed half of the current fleet vehicles (200,000) would apply for an 8-year fleet registration in fiscal year (FY) 2010, the remaining half would apply for a 8-year fleet registration in FY 2011, and an additional 37,500 would apply in FY 2011 and each year thereafter. All applicable fees would be paid in advance for the 10-year period. For the purposes of this analysis, it is assumed 67 percent of the registration fees would be deposited to the State Highway Fund and 33 percent would be retained by the counties. The tables above also reflect the impact of the \$10/\$5 optional county road and bridge fee, of which 97 percent is deposited to county road and bridge funds and 3 percent to the State Highway Fund. It is assumed half of the fleet vehicles would be registered in counties assessing the \$10 optional fee and the remainder would be registered in counties assessing a \$5 optional fee. For the purposes of this analysis, it is assumed an \$8 plate manufacturing fee would be applied for each set of plates. Based on current law, the new \$10 fleet management fee and one-time \$8 plate manufacturing fee would be deposited to the State Highway Fund. The advance payment of all applicable fees would result in a revenue gain in the initial year of the fleet registration and a revenue loss in subsequent years as the fleet vehicles would not be required to pay annual fees until the term of the fleet registration has expired.

Based on the analysis of TxDOT, it is assumed any costs or duties associated with implementing the provisions of the bill could be absorbed within existing resources.

Administration costs of the new CFP created by amending the Health and Safety Code and costs of conducting the alternative fueling facilities are expected to be absorbed using existing TCEQ resources.

Local Government Impact

The fiscal impact to units of local government to implement the changes to the Transportation Code is reflected in the table above.

Local governments could experience a positive fiscal impact if they were able to obtain grant funding through the new CFP program created by amending the Health and Safety Code. The amount of funding such entities could receive would depend on the competitiveness of the entities' grant proposals.

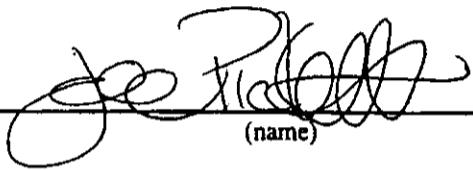
Source Agencies: 304 Comptroller of Public Accounts, 582 Commission on Environmental Quality, 601 Department of Transportation, 712 Texas Engineering Experiment Station

LBB Staff: JOB, KJG, SD, MW, ZS, TG, TL, SZ

Certification of Compliance with Rule 13, Section 6(b), House Rules of Procedure

Rule 13, Section 6(b), House Rules of Procedure, requires that a copy of a conference committee report signed by a majority of each committee of the conference must be furnished to each member of the committee in person or if unable to deliver in person by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Section 10(a) of this rule. The paper copies of the report submitted to the chief clerk under Section 10(b) of this rule must contain a certificate that the requirement of this subsection has been satisfied, and that certificate must be attached to the printed copy of the report furnished to each member under Section 10(d) of this rule. Failure to comply with this subsection is not a sustainable point of order under this rule.

I certify that a copy of the conference committee report on S. B. 1759 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Section 10(b), Rule 13, House Rules of Procedure.



(name)

5/30/09

(date)