

CHAPTER 603

S.B. No. 737

AN ACT

relating to fuels and the creation of an alternative fuels council and an alternative fuels loan program; granting the authority to issue bonds.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 113.241, Natural Resources Code, is amended to read as follows:

Sec. 113.241. RULES REGARDING RESEARCH AND EDUCATION. The commission may adopt all necessary rules relating to *the purposes of this subchapter and activities [conducting research and educating the public]* regarding the use of LPG and other environmentally beneficial alternative fuels that are or have the potential to be effective in improving the quality of air in this state.

SECTION 2. Section 113.242, Natural Resources Code, is amended to read as follows:

Sec. 113.242. ADVISORY COMMITTEES. The commission may appoint one or more advisory committees composed of members representing the LPG *industry* and other *environmentally beneficial* alternative fuels *industries* [~~industry~~], consumers, and other interests to consult with and advise the commission on opportunities and methods to expand the use of LPG and other environmentally beneficial alternative fuels.

SECTION 3. Section 113.243, Natural Resources Code, is amended by amending Subsections (b), (c), and (d), and adding Subsection (e) to read as follows:

(b) The fund consists of money from:

- (1) fees charged under this subchapter;
- (2) the penalties for the late payment of the fee charged under this subchapter; ~~and~~
- (3) *gifts, grants, or other assistance received by the commission from any source for the purposes of this subchapter; and*
- (4) interest earned on amounts in the fund.

(c) The fund may be used only by the commission to pay for activities relating to the specific fuel from which the fee was derived *or the specific fuel, if any, for which the gift, grant, or other assistance is given*, including direct and indirect costs relating to:

- (1) researching all possible uses of LPG and other *environmentally beneficial* alternative fuels to enhance air quality;
- (2) researching, developing, and implementing marketing, advertising, and informational programs relating to alternative fuels to make alternative fuels more understandable and readily available to consumers;
- (3) developing *and implementing* conservation and distribution plans to minimize the frequency and severity of disruptions in the supply of alternative fuels;
- (4) developing a public information plan that will provide advisory services relating to alternative fuels to consumers;
- (5) developing voluntary participation plans to promote the use of alternative fuels by federal, state, and local agencies;
- (6) other functions the commission determines are necessary to add to a program established by the commission for the purpose of promoting the use of LPG or other environmentally beneficial alternative fuels; and
- (7) the administrative costs incurred by the commission under this subchapter.

(d) If a specific fee, *gift, grant, or other assistance* is *designated for or* collected from discrete components of the alternative fuels industry, ~~[other than LPG,]~~ the fee, *gift, grant, or other assistance* shall be deposited in a separate account *in* ~~[within]~~ the fund.

(e) *The commission may apply for, request, solicit, contract for, receive, and accept gifts, grants, and other assistance from any source for the purposes of this subchapter. Money received under this subsection shall be deposited in a separate account in the fund as provided in Subsection (d) of this section.*

SECTION 4. Chapter 113, Natural Resources Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. ALTERNATIVE FUELS COUNCIL

Sec. 113.281. *DEFINITION. In this subchapter, "council" means the Alternative Fuels Council.*

Sec. 113.282. *ALTERNATIVE FUELS COUNCIL. The Alternative Fuels Council is an agency of the state.*

Sec. 113.283. *COMPOSITION. (a) The council is composed of the following individuals:*

- (1) *the commissioner of the General Land Office;*
- (2) *the members of the Railroad Commission of Texas;*
- (3) *the chairman of the General Services Commission; and*
- (4) *the chairman of the Texas Air Control Board or its successor agency.*

(b) *A member may designate an individual from the state agency the member represents to serve in place of the member.*

(c) *The initial chairman of the council shall be the commissioner of the General Land Office or a person designated by the commissioner. Chairmanship of the council shall rotate annually between the commissioner of the General Land Office and the chairman of the Railroad Commission of Texas or individuals designated by those members under Subsection (b) of this section.*

Sec. 113.284. *ALTERNATIVE FUELS PROGRAM. (a) The council shall coordinate a comprehensive program to be carried out by state agencies in support of the use of environmentally beneficial alternative fuels.*

(b) *In developing a program under this section, the council may adopt rules necessary to achieve the purposes of this subchapter.*

Sec. 113.285. *LEGISLATIVE FINDINGS. (a) The legislature finds that this subchapter serves the public purposes of:*

- (1) *development and diversification of the economy of the state;*
- (2) *elimination of unemployment or underemployment in the state; and*
- (3) *development or expansion of transportation or commerce in the state.*

(b) *The enumeration of public purposes in Subsection (a) of this section is not intended to be a complete list of the public purposes served by this subchapter and does not preclude a finding that this subchapter serves a public purpose not enumerated in that subsection.*

Sec. 113.286. *ALTERNATIVE FUELS CONVERSION FUND. (a) The alternative fuels conversion fund is in the state treasury.*

(b) *To the extent permitted by federal law or regulations, the council may use the money in the fund only to:*

- (1) *make loans or grants under this subchapter;*
- (2) *finance activities supporting or encouraging the use of alternative fuels; or*
- (3) *pay the costs of administering this subchapter.*

(c) *The council may apply for, request, solicit, contract for, receive, and accept gifts, grants, and other assistance from any source for the purposes of this subchapter.*

(d) *The council shall maintain a separate account in the fund for money received that is designated for the promotion of a specific fuel or that is collected from a discrete component of the alternative fuels industry. The council may use money in a separate account in the fund only to finance an activity that relates to the fuel for which the money is received.*

(e) *The fund consists of:*

- (1) oil overcharge funds appropriated by the legislature;
- (2) gifts, grants, and other assistance to the council or fund for the purpose of financing alternative fuels activities;
- (3) other money designated by the legislature or the executive branch;
- (4) payments of principal and interest on loans made under this subchapter; and
- (5) interest earned on amounts in the fund.

Sec. 113.287. **FUELS CONVERSION LOAN PROGRAM.** (a) The council may make loans, grants, or other distributions to eligible borrowers to fund conversion or infrastructure projects to promote the use of environmentally beneficial alternative fuels or for other purposes, subject to applicable regulations or approval of the United States Department of Energy.

(b) The council shall adopt rules necessary to administer the fuels conversion loan program.

(c) The council shall adopt rules under this section in accordance with applicable rules and regulations of the United States Department of Energy.

(d) The council by rule shall determine which individuals and businesses are eligible for a loan, grant, or other disbursement under this section. The rules shall provide for historically underutilized businesses, individuals with low incomes, institutions of higher education, and health care facilities to be eligible for loans, grants, or other disbursements to undertake conversion and infrastructure projects for alternative fuels.

(e) A state agency, county, municipality, school district, or mass transit authority or department is eligible to receive a loan, grant, or other disbursement under this subchapter to carry out an eligible conversion or infrastructure project regarding LPG or another environmentally beneficial alternative fuel to comply with alternative fuel requirements provided by or by rules adopted under:

- (1) Subchapter F, Chapter 382, Health and Safety Code;
- (2) Subchapter F, Chapter 21, Education Code;
- (3) Sections 3.03, 3.29, and 14.03, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes);
- (4) Sections 14(c)–(g), Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes);
- (5) Sections 20(e)–(i), Chapter 683, Acts of the 66th Legislature, 1979 (Article 1118y, Vernon's Texas Civil Statutes); and
- (6) Sections 6(k)–(o), Article 1118z, Revised Statutes.

(f) The council may make a loan to finance the construction of an infrastructure refueling facility only if the facility is to serve and be accessible to the general public to the extent practicable.

Sec. 113.288. **INTEREST AMOUNTS.** (a) The council may loan money under this subchapter at no interest to a state agency, county, municipality, school district, or mass transit authority or department.

(b) A loan to any other entity must bear interest at a rate that is not greater than the auction average rate quoted on a bank discount basis for 26-week treasury bills issued by the United States as published by the federal reserve board for the week preceding the week in which the interest rate is determined, plus two percent.

Sec. 113.289. **TERM OF LOAN.** A loan under this subchapter must be repaid not later than the fifth anniversary of the date the loan was issued.

Sec. 113.290. **TRANSFER OF VEHICLE OR OTHER PROPERTY CONVERTED WITH LOAN PROCEEDS.** A borrower may not transfer to another person a vehicle or other property converted to alternative fuel use with the proceeds of a loan under this subchapter unless before the transfer:

- (1) the loan is fully repaid; or

(2) *the alternative fuels equipment purchased, installed, or constructed with the loan proceeds is removed and installed on another vehicle or other property owned by the person.*

SECTION 5. The Texas Public Finance Authority Act (Article 601d, Vernon's Texas Civil Statutes) is amended by adding Section 9C to read as follows:

Sec. 9C. ISSUANCE OF OBLIGATIONS FOR ALTERNATIVE FUELS PROJECTS.

(a) *The authority may, if it determines that a project is financially viable and sufficient revenue is or will be available, issue and sell obligations for the financing of:*

(1) *the conversion of state agency vehicles and other sources of substantial energy output to alternative fuels under Section 3.29, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), and its subsequent amendments;*

(2) *the construction, acquisition, or maintenance by the General Services Commission of fueling stations supplying alternative fuels or equipment enhancing the use of engine-driven technology to support state agency vehicles and other energy applications that use alternative fuels;*

(3) *the conversion of school district motor vehicles and other sources of substantial energy output to alternative fuels under Section 21.174, Education Code, and its subsequent amendments;*

(4) *the construction, acquisition, or maintenance by a school district of fueling stations supplying alternative fuels or equipment enhancing the use of engine-driven technology to support school district motor vehicles and other energy applications that use alternative fuels;*

(5) *the conversion of local mass transit authority or department motor vehicles and other sources of substantial energy output to alternative fuels under Section 14, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), Section 20, Chapter 683, Acts of the 66th Legislature, 1979 (Article 1118y, Vernon's Texas Civil Statutes), and Section 6, Article 1118z, Revised Statutes, and their subsequent amendments;*

(6) *the construction, acquisition, or maintenance of fueling stations supplying alternative fuels or equipment enhancing the use of engine-driven technology by a local mass transit authority or department to support transit authority or department vehicles and other energy applications that use alternative fuels; and*

(7) *a joint venture between the private sector and a state agency or political subdivision that is required under law to use alternative fuels in the agency's or subdivision's vehicles or other energy applications to:*

(A) *convert vehicles or other sources of substantial energy output to alternative fuels;*

(B) *develop fueling stations and resources for the supply of alternative fuels and engine-driven applications;*

(C) *aid in the distribution of alternative fuels; and*

(D) *engage in other projects to facilitate the use of alternative fuels.*

(b) *The authority may not issue and sell more than \$50 million in obligations for projects under this section.*

(c) *The board may provide for the payment of the principal of or interest on the bonds and obligations issued under this section:*

(1) *by pledging all or a part of the revenue the state derives from the sale of alternative fuels, alternative fuels equipment or technology, or vehicles powered by alternative fuels;*

(2) *by contracting with a political subdivision or a private entity to pledge revenue the political subdivision or private entity derives from the sale of alternative fuels, alternative fuels equipment or technology, or vehicles powered by alternative fuels in an amount sufficient to ensure that the bonds or obligations are paid;*

(3) *by pledging appropriated general revenues of the state or other appropriated money in the state treasury; or*

(4) *from any other source of funds available to the board.*

(d) The authority shall attempt to include minority-owned businesses in the issuance and underwriting of at least 20 percent of the bonds and obligations issued under this section and women-owned businesses in the issuance and underwriting of at least 10 percent of the bonds and obligations issued under this section.

(e) The Alternative Fuels Council shall evaluate an application under this section by an eligible entity for the financing of the acquisition, construction, or improvement of alternative fuels infrastructure and shall determine whether the proposed project will increase energy or cost savings to the applicant. A bond or other obligation may not be issued under Subsection (a) of this section unless the Alternative Fuels Council certifies that the proposed project will increase energy or cost savings to the applicant. The Alternative Fuels Council may by rule adopt procedures and standards for the evaluation of an application for financing of a proposed project under this section.

(f) Costs of administration of the alternative fuels finance program shall be considered a part of project costs and shall be funded with bond proceeds.

SECTION 6. If the 73rd Legislature appropriates money to the alternative fuels conversion fund for the purposes of Section 113.286, Natural Resources Code, as added by this Act, an amount equal to 10 percent of such appropriation, up to a maximum of \$500,000, is made available in accordance with applicable rules and regulations of the United States Department of Energy for the purposes of H.B. No. 923, 73rd Legislature, Regular Session, 1993, if that bill is enacted and becomes law.

SECTION 7. If any provision in Section 4 of this Act conflicts with another statute enacted by the 73rd Legislature, Regular Session, 1993, this Act controls.

SECTION 8. This Act takes effect September 1, 1993.

SECTION 9. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on April 21, 1993, by a viva-voce vote; the Senate concurred in House amendments on May 25, 1993, by a viva-voce vote; passed the House, with amendments, on May 22, 1993, by a non-record vote.

Approved June 15, 1993.

Effective Sept. 1, 1993.