

Regular Session, 2010

HOUSE BILL NO. 726

BY REPRESENTATIVES CORTEZ, BOBBY BADON, HENRY BURNS, DOVE, FOIL, GISCLAIR, GUINN, HENDERSON, LITTLE, MONToucET, MORRIS, ST. GERMAIN, AND WILLIAMS

FUNDS/FUNDING: Creates the Alternative Fuels Conversion Revolving Loan Fund Program within the Dept. of Natural Resources to provide financial assistance to political subdivisions of the state for the costs of purchasing or converting all or a portion of the political subdivisions' fleets of motor vehicles to qualified clean fuel vehicles propelled by an alternative fuel

1 AN ACT

2 To enact Subpart B of Part XIII of Chapter 2 of Title 33 of the Louisiana Revised Statutes
3 of 1950, to be comprised of R.S. 33:1419.5 through 1419.10, relative to financial
4 assistance to political subdivisions; to create the Alternative Fuel Vehicle Revolving
5 Loan Fund Program within the Department of Natural Resources; to provide
6 financial assistance to political subdivisions of the state for the costs of purchasing
7 or converting all or a portion of the political subdivisions' fleets of motor vehicles
8 to qualified clean fuel vehicles propelled by an alternative fuel; to provide for the
9 forms of such financial assistance; to establish the Alternative Fuel Vehicle
10 Revolving Loan Fund and to provide with respect thereto; to provide for an effective
11 date; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. Subpart B of Part XIII of Chapter 2 of Title 33 of the Louisiana Revised
14 Statutes of 1950, comprised of R.S. 33:1419.5 through 1419.10, is hereby enacted to read
15 as follows:

16 SUBPART B. ALTERNATIVE FUEL VEHICLE REVOLVING

17 LOAN FUND

18 §1419.5. Legislative findings

19 A. This Subpart may be cited as the "Alternative Fuel Vehicle Revolving
20 Loan Fund Act".

1 B. The legislature finds and declares that:

2 (1) It is an important public purpose of the state that the motor vehicle fleets
3 of its parishes, municipalities, school boards, ports, levee districts, and other political
4 subdivisions of the state be economical and efficient in this time of expensive motor
5 vehicle fuels, as well as being propelled by clean fuel vehicle equipment which help
6 to keep the state's air clean.

7 (2) It also recognizes that the state has access to abundant reserves of natural
8 gas and other resources which may be effectively used to produce motor vehicle
9 fuels which are a clean alternative to gasoline and diesel, thus contributing to the
10 economic development of the state.

11 C.(1) To assist in financing its political subdivisions for these purposes, the
12 Alternative Fuel Vehicle Revolving Loan Fund Program is established in this
13 Subpart to facilitate a state effort and to operate to the extent determined feasible by
14 the Department of Natural Resources in conjunction with federal assistance under
15 a state transportation plan or any other federal or private source of assistance or
16 funding, or both.

17 (2) The financial administration of the Alternative Fuel Vehicle Revolving
18 Loan Fund shall be with the Department of Natural Resources.

19 (3) Relative to the Alternative Fuel Vehicle Revolving Loan Fund Program,
20 the Department of Natural Resources shall have the authority to establish assistance
21 priorities and perform oversight and other related activities.

22 §1419.6. Definitions

23 As used in this Subpart, the following terms shall have the meanings ascribed
24 to them in this Section, unless the context clearly indicates otherwise:

25 (1) "Administrative costs" means costs incurred by the Department of
26 Natural Resources in the administration of the program, including but not limited to:

27 (a) Program startup costs.

28 (b) Financial administrative costs of servicing loans and issuing debt.

1 (c) Costs associated with establishing assistance priorities and carrying out
2 oversight and related activities other than financial administration.

3 (d) Financial, management, and legal consulting fees.

4 (e) Any reasonable and necessary expense that the department determines
5 is necessary to effectively administer the program.

6 (2) "Alternative fuel" means a fuel which results in emissions of oxides of
7 nitrogen, volatile organic compounds, carbon monoxide, or particulates, or any
8 combination of these which are comparably lower than emissions from gasoline or
9 diesel and which meets or exceeds federal clean air standards, including but not
10 limited to compressed natural gas, liquefied natural gas, liquefied petroleum gas,
11 biofuel, biodiesel, methanol, ethanol, and electricity.

12 (3) "Alternative Fuel Vehicle Revolving Loan Fund" means the revolving
13 loan fund provided for pursuant to this Subpart.

14 (4) "Conversion to qualified clean fuel vehicles" or "fleet conversion" means
15 both of the following:

16 (a) The installation of qualified clean fuel vehicle equipment in order to
17 modify all or a portion of a local governing authority's fleet of motor vehicles which
18 are propelled by gasoline or diesel so that the motor vehicles may be partially or
19 wholly propelled by an alternative fuel.

20 (b) The purchase at retail of new motor vehicles by a local governing
21 authority which are originally equipped at purchase with qualified clean fuel vehicle
22 equipment.

23 (5) "Cost of conversion to a qualified clean fuel vehicle" means both of the
24 following:

25 (a) The retail cost paid by a local governing authority for the purchase and
26 installation of qualified clean fuel vehicle equipment in order to modify all or a
27 portion of a fleet of the local government's motor vehicles which are propelled by
28 gasoline or diesel so that they may be partially or wholly propelled by an alternative
29 fuel.

1 **(b) The cost to a local governing authority of new motor vehicles purchased**
2 **at retail which are originally equipped at purchase to be partially or wholly propelled**
3 **by an alternative fuel, but only for the cost of that portion of the motor vehicle which**
4 **is attributable to the storage of the alternative fuel, the delivery of the alternative fuel**
5 **to the engine of the motor vehicle, and the exhaust of gases from combustion of the**
6 **alternative.**

7 **(6) "Department" means the Department of Natural Resources.**

8 **(7) "Federal assistance under a state transportation plan" means federal**
9 **matching funds or other federal money which may be available under a State**
10 **Implementation Plan (SIP), maintenance plan, or other transportation plan of the**
11 **Department of Transportation and Development, a Metropolitan Planning**
12 **Organization, or other state entity pursuant to the federal Congestion Mitigation and**
13 **Air Quality (CMAQ) Improvement Program funding which provides funds for public**
14 **fleet conversions to cleaner fuels.**

15 **(8) "Local governing authority" means the governing authority of a parish,**
16 **municipality, school board, port, or port harbor, and terminal district, levee district,**
17 **or any other political subdivision of the state, and the governing authorities of their**
18 **agencies, offices, or instrumentalities.**

19 **(9) "Loan" means a loan of money from the Alternative Fuel Revolving Loan**
20 **Fund for eligible costs of the conversion of a fleet of motor vehicles of a local**
21 **governing authority to qualified clean fuel vehicles.**

22 **(10) "Net proceeds" means the funds raised from the sale of bonds minus**
23 **issuance costs, which costs include but are not limited to the underwriting discount,**
24 **printing of disclosure documents, bond certificates, and the fees of the underwriter's**
25 **legal counsel, bond counsel, financial advisor, rating agency, and trustee banks.**

26 **(11) "Program" means the Alternative Fuel Revolving Loan Fund Program**
27 **as established by this Subpart.**

1 (12) "Qualified clean fuel vehicle equipment" means equipment necessary
2 for a motor vehicle to partially or wholly operate on an alternative fuel, but shall not
3 include equipment necessary for operation of a motor vehicle on gasoline or diesel.

4 §1419.7. Alternative Fuel Vehicle Revolving Loan Fund Program

5 A. There shall be an Alternative Fuel Vehicle Revolving Loan Fund Program
6 within the Department of Natural Resources through which the state may provide
7 financial assistance to a local governing authority in the manner provided for in this
8 Subpart for the costs of converting all or a portion of the local governing authority's
9 fleet of motor vehicles to qualified clean fuel vehicles propelled by an alternative
10 fuel.

11 B. The Department of Natural Resources may promulgate rules and
12 regulations as are necessary to implement the provisions of this Subpart, in
13 accordance with the Administrative Procedure Act, subject to oversight by the Senate
14 Committee on Natural Resources and the House Committee on Natural Resources
15 and Environment.

16 §1419.8. Alternative Fuel Vehicle Revolving Loan Fund

17 A. There is hereby established the Alternative Fuel Vehicle Revolving Loan
18 Fund, hereinafter referred to in this Subpart as the "alternative fuels loan fund",
19 which shall be maintained, operated, and administered by the Department of Natural
20 Resources.

21 B.(1) All grants, gifts, and donations received by the state for the purposes
22 of the alternative fuels loan fund program, money appropriated by the legislature to
23 the fund, and other revenues as may be provided by law, including federal funds and
24 state funds to match any federal funds which are available to fund the Alternative
25 Fuel Vehicle Revolving Loan Fund Program as provided in this Subpart, shall be
26 deposited into and credited to the Alternative Fuel Vehicle Revolving Loan Fund.

27 (2) In addition, all money within, credited to the accounts of, or to be
28 received by the alternative fuels loan fund, including sums to be received pursuant
29 to grants, gifts, donations, or letters of credit, shall be expended, committed, or

1 pledged in a manner consistent with the terms and conditions of the grants, gifts,
2 donations, letters of credit and other sources of such deposits, credits, and letters of
3 credit and as provided in federal and state law.

4 C.(1) The money in the fund not retained or used for loans and other
5 purposes of the Alternative Fuel Vehicle Revolving Loan Program shall be invested
6 by the treasurer in the same manner as money in the state general fund and interest
7 earned on the investment of the money shall be credited to the fund after compliance
8 with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana
9 relative to the Bond Security and Redemption Fund.

10 (2) All unexpended and unencumbered money in the fund at the end of a
11 fiscal year shall remain in the fund to be used for loans and other purposes of the
12 program in future fiscal years.

13 D.(1) The money in the Alternative Fuel Vehicle Revolving Loan Fund shall
14 be appropriated by the legislature and shall be used by the Department of Natural
15 Resources solely for administrative costs of and the purposes of the Alternative Fuel
16 Vehicle Revolving Loan Fund Program as provided for in this Subpart.

17 (2) Repayment of principal and interest on program loans and other
18 obligations financed from the fund may be used to finance other program loans and
19 obligations, provided that reserves for expenditures for administration of the fund
20 and program the department deems necessary and prudent may be retained in the
21 fund.

22 §1419.9. Use of the Alternative Fuel Vehicle Revolving Loan Fund

23 Money from the Alternative Fuel Vehicle Revolving Loan Fund may be used:

24 (1) To provide loans at or below market interest rates for a period not to
25 exceed ten years from the completion date of the conversion of all or a portion of
26 local governing authorities' fleets of motor vehicles to qualified clean fuel vehicles
27 propelled by alternative fuels which are financed by such loans. All such loans shall
28 be subject to approval by the Department of Natural Resources.

1 (2) To purchase or refinance, at an interest rate that is less than or equal to
2 the market interest rate, debt obligations arising from the program.

3 (3) To guarantee or purchase insurance for debt obligations arising from the
4 program, if the total proceeds of such debt obligation support a fleet conversion
5 eligible for assistance under this Subpart, or if such guarantee or purchase of
6 insurance would improve credit market access or reduce the interest rate applicable
7 for the obligation.

8 (4) To provide a source of revenue or security for the payment of principal,
9 interest, or premium on revenue or general obligation bonds or other evidences of
10 indebtedness issued by the Department of Natural Resources, or any political
11 subdivision, governmental agency, public corporation, public trust, or any other
12 entity having the authority to issue debt for or on behalf of the state, if the net
13 proceeds of such debt instruments are deposited in the alternative fuels loan fund, or
14 are used to finance a fleet conversion approved by the Department of Natural
15 Resources or are used to refund any obligation which finances a fleet conversion
16 approved under this Subpart.

17 §1419.10. Loan conditions and repayment

18 A. Upon approval of an application by the Department of Natural Resources,
19 the department may lend amounts on deposit in the Alternative Fuel Vehicle
20 Revolving Loan Fund to a local governing authority to finance all or a portion of the
21 cost of a fleet conversion. Such loans are subject to the borrower's compliance with
22 the conditions of the loan, as well as any applicable rules or regulations promulgated
23 by the department.

24 B. Prior to making a loan, the Department of Natural Resources shall
25 determine that the clean fuel vehicles will be fully insured and that the local
26 governing authority has the ability to repay the loan, and may require a dedicated
27 source of repayment and impose additional requirements as the department deems
28 necessary.

1 C. Each loan, unless prepaid, shall be payable subject to the loan agreement,
2 with principal and interest payments commencing not later than one year after the
3 completion date of the project for which the loan was made, and each loan shall be
4 fully amortized not later than ten years after the completion date.

5 D.(1) The interest rate on each loan shall be established by the secretary of
6 the Department of Natural Resources, subject to any limitations provided for federal
7 assistance under a state transportation plan or other limitations required for the use
8 of other federal funds by applicable federal law. Criteria to be considered in the
9 development of such interest rate shall include but are not limited to administrative
10 costs of the program, program priorities established by the department, the
11 creditworthiness of the applicant, the cost of bonds issued to provide loan funding,
12 and the long-term viability of the Alternative Fuel Vehicle Revolving Loan Fund.

13 (2) The interest rate for a loan may include any additional rate that the
14 Department of Natural Resources considers reasonable or necessary to provide a
15 reserve for the repayment of the loan. The additional rate may be fixed or variable,
16 may be calculated according to a formula, and may differ from the rate established
17 for any other loans.

18 E. Each loan shall be evidenced by a bond, note, or other evidence of
19 indebtedness of the borrower, in a form prescribed or approved by the Department
20 of Natural Resources. Such evidences of indebtedness shall be consistent with the
21 provisions of this Subpart and, if federal funds are used, consistent with the terms of
22 the appropriate federal act, and are not required to be identical for all loans.

23 Section 2. The Louisiana State Law Institute is hereby directed to redesignate R.S.
24 33:1418 and 1419 of Part XIII of Chapter 2 of Title 33 of the Louisiana Revised Statutes of
25 1950, as Subpart A of that Part.

26 Section 3. This Act shall become effective on July 1, 2010; if vetoed by the governor
27 and subsequently approved by the legislature, this Act shall become effective on July 1,
28 2010, or on the day following such approval by the legislature, whichever is later.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Cortez

HB No. 726

Abstract: Creates the Alternative Fuel Conversion Revolving Loan Fund Program and the Alternative Fuel Conversion Revolving Loan Fund within the Dept. of Natural Resources to provide financial assistance to political subdivisions of the state for the costs of purchasing or converting all or a portion of the political subdivisions' fleets of motor vehicles to qualified clean fuel vehicles propelled by an alternative fuel.

Proposed law creates the Alternative Fuel Vehicle Revolving Loan Fund Program within the Dept. of Natural Resources (DNR) through which the state may provide financial assistance to "local governing authorities" for the "costs of converting all or a portion of the local governing authority's fleet of motor vehicles to qualified clean fuel vehicles" propelled by an "alternative fuel".

"Local governing authority" is defined as the governing authority of a parish, municipality, school board, port, or port harbor, and terminal district, levee district, or any other political subdivision of the state, and the governing authorities of their agencies, offices, or instrumentalities.

"Cost of conversion to a qualified clean fuel vehicle" is defined as both of the following:

- (1) The retail cost paid by a local governing authority for the purchase and installation of "qualified clean fuel vehicle equipment" in order to modify all or a portion of a fleet of the local government's motor vehicles which are propelled by gasoline or diesel so that they may be partially or wholly propelled by an "alternative fuel".

"Qualified clean fuel vehicle equipment" is defined as the equipment necessary for a motor vehicle to operate partially or wholly on an "alternative fuel," but does not include equipment necessary for operation of a motor vehicle on gasoline or diesel.

- (2) The cost to a local governing authority of new motor vehicles purchased at retail which are originally equipped at purchase to be partially or wholly propelled by an "alternative fuel", but only for the cost of that portion of the motor vehicle which is attributable to the storage of the alternative fuel, the delivery of the alternative fuel to the engine of the motor vehicle, and the exhaust of gases from combustion of the alternative.

"Alternative fuel" is defined as a fuel which results in emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide, or particulates, or any combination of these which are comparably lower than emissions from gasoline or diesel and which meets or exceeds federal clean air standards, including but not limited to compressed natural gas, liquefied natural gas, liquefied petroleum gas, biofuel, biodiesel, methanol, ethanol, and electricity.

Proposed law creates the Alternative Fuel Vehicle Revolving Loan Fund, maintained, operated, and administered by the DNR. Requires deposit to the fund of all grants, gifts, and donations received by the state for the purposes of the alternative fuels loan fund program; money appropriated by the legislature to the fund; and other revenues as may be provided by law, including state funds to match any federal funds which are available to fund the program. The money in the fund must be appropriated by the legislature and used by the department solely for administrative costs of and for the purposes of the program.

Repayment of principal and interest on program loans and other obligations financed from the fund may be used to finance other program loans and obligations, provided that reserves for expenditures for administration of the fund and program the department deems necessary and prudent may be retained in the fund.

The money in the fund must be invested by the treasurer in the same manner as money in the state general fund and interest earned on the investment is credited to the fund. All unexpended and unencumbered money in the fund at the end of the year remains in the fund to be used for loans and other purposes of the program in future fiscal years.

Proposed law authorizes money from the fund to be used:

- (1) To provide loans at or below market interest rate for a period not to exceed 10 years from the completion date of the fleet conversion. All such loans are subject to approval by DNR.
- (2) To purchase or refinance, at an interest rate that is less than or equal to the market interest rate, debt obligations arising from the program.
- (3) To guarantee or purchase insurance for debt obligations arising from the program, if the total proceeds of such debt obligation support a fleet conversion and would improve credit market access or reduce the interest rate applicable for the obligation.
- (4) To provide a source of revenue or security for the payment of principal, interest, or premium on revenue or general obligation bonds or other evidences of indebtedness issued by DNR, or any political subdivision, governmental agency, public corporation, public trust, or any other entity having the authority to issue debt for or on behalf of the state, if the "net proceeds" of such debt instruments are deposited in the alternative fuels loan fund, or are used to finance a fleet conversion approved by DNR or are used to refund any obligation which finances a fleet conversion.

"Net proceeds" is defined as the funds raised from the sale of bonds minus issuance costs, which costs include but are not limited to the underwriting discount, printing of disclosure documents' bond certificates, and the fees of the underwriter's legal counsel, bond counsel, financial advisor, rating agency, and trustee banks.

Proposed law provides for loan conditions and repayment as follows:

Upon approval of an application, DNR may lend amounts from the fund to a local governing authority to finance all or a portion of the cost of a fleet conversion. Such loans are subject to the borrower's compliance with the conditions of the loan, as well as any applicable rules or regulations promulgated by the department. Prior to making a loan, DNR shall determine that the clean fuel vehicles will be fully insured and that the local governing authority has the ability to repay the loan, and may require a dedicated source of repayment and impose additional requirements as it deems necessary. Principal and interest payments must commence not later than one year after the completion date of the project for which the loan was made, and each loan must be fully amortized not later than 10 years after the completion date.

The interest rate on each loan is established by the secretary of DNR, subject to any limitations provided for "federal assistance under a state transportation plan" or other limitations required for the use of other federal funds by applicable federal law. "Federal assistance under a state transportation plan" means federal matching funds or other federal money which may be available under a State Implementation Plan (SIP), maintenance plan, or other transportation plan of DOTD, an MPO, or other state entity pursuant to the federal Congestion Mitigation and Air Quality (CMAQ) Improvement Program funding which provides funds for public fleet conversions to cleaner fuels.

Criteria to be considered in the development of the interest rate must include but is not limited to administrative costs of the program, program priorities established by the department, the creditworthiness of the applicant, the cost of bonds issued to provide loan funding, and the long-term viability of the revolving loan fund.

"Administrative costs" is defined as costs incurred by DNR in the administration of the program, including but not limited to:

- (1) Program startup costs.
- (2) Financial administrative costs of servicing loans and issuing debt.
- (3) Costs associated with establishing assistance priorities and carrying out oversight and related activities other than financial administration.
- (4) Financial, management, and legal consulting fees.
- (5) Any reasonable and necessary expense that the department determines is necessary to effectively administer the program.

The interest rate is authorized to include any additional rate that DNR considers reasonable or necessary to provide a reserve for the repayment of the loan. The additional rate may be fixed or variable, may be calculated according to a formula, and may differ from the rate established for any other loans.

Proposed law authorizes the DNR to promulgate rules and regulations as are necessary to implement the program in accordance with the APA, subject to oversight by the Senate Committee on Natural Resources and the House Committee on Natural Resources and Environment.

Effective July 1, 2010.

(Adds R.S. 33:1419.5-1419.10)