

Regular Session, 2010

SENATE BILL NO. 103

BY SENATORS N. GAUTREAUX AND MICHOT AND REPRESENTATIVE JANE SMITH

FUNDS/FUNDING. Creates the Alternative Fuel Vehicle Revolving Loan Fund Program within the Department 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. (7/1/10)

1 AN ACT

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

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Subpart B of Part XIII of Chapter 2 of the Louisiana Revised Statutes of
12 1950, comprised of R. S. 33:1419.5 through 1419.10 is hereby enacted to read as follows:

13 **SUBPART B. ALTERNATIVE FUEL VEHICLE REVOLVING**

14 **LOAN FUND**

15 **§1419.5. Legislative findings**

16 **A. This Subpart may be cited as the "Alternative Fuel Vehicle Revolving**
17 **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**
3 **fleets of its parishes, municipalities, school boards, ports, levee districts, and**
4 **other political subdivisions of the state be as economical and efficient in this**
5 **time of expensive motor vehicle fuels, as well as being propelled by clean fuel**
6 **vehicle equipment which help to keep the state's air clean.**

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

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

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

19 **(3) Relative to the Alternative Fuel Vehicle Revolving Loan Fund**
20 **Program, the Department of Natural Resources shall have the authority to**
21 **establish assistance 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**
24 **ascribed 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**
27 **limited to:**

28 **(a) Program startup costs.**

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

1 (c) Costs associated with establishing assistance priorities and carrying
2 out 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
5 determines is necessary to effectively administer the program.

6 (2) "Alternative fuel" means a fuel which results in emissions of oxides
7 of nitrogen, volatile organic compounds, carbon monoxide, or particulates, or
8 any combination of these which are comparably lower than emissions from
9 gasoline or diesel and which meets or exceeds federal clean air standards,
10 including but not limited to compressed natural gas, liquefied natural gas,
11 liquefied petroleum gas, 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"
15 means 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
18 which are propelled by gasoline or diesel so that the motor vehicles may be
19 partially or 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
22 vehicle equipment.

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

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

1 **(b) The cost to a local governing authority of new motor vehicles**
2 **purchased at retail which are originally equipped at purchase to be partially or**
3 **wholly propelled by an alternative fuel, but only for the cost of that portion of**
4 **the motor vehicle which is attributable to the storage of the alternative fuel, the**
5 **delivery of the alternative fuel to the engine of the motor vehicle, and the**
6 **exhaust of gases from combustion of the 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**
11 **the Department of Transportation and Development, a Metropolitan Planning**
12 **Organization, or other state entity pursuant to the federal Congestion**
13 **Mitigation and Air Quality (CMAQ) Improvement Program funding which**
14 **provides funds for public fleet conversions to cleaner fuels.**

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

19 **(9) "Loan" means a loan of money from the Alternative Fuels Revolving**
20 **Loan Fund for eligible costs of the conversion of a fleet of motor vehicles of a**
21 **local 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**
24 **discount, printing of disclosure documents' bond certificates, and the fees of the**
25 **underwriter's legal counsel, bond counsel, financial advisor, rating agency, and**
26 **trustee banks.**

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

29 **(12) "Qualified clean fuel vehicle equipment" means equipment**

1 necessary for a motor vehicle to partially or wholly operate on an alternative
2 fuel, but shall not include equipment necessary for operation of a motor vehicle
3 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
6 Program within the Department of Natural Resources through which the state
7 may provide financial assistance to a local governing authority in the manner
8 provided for in this Subpart for the costs of converting all or a portion of the
9 local governing authority's fleet of motor vehicles to qualified clean fuel vehicles
10 propelled by an alternative 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
14 Senate Committee on Natural Resources and the House Committee on Natural
15 Resources and Environment.

16 §1419.8. Alternative Fuel Vehicle Revolving Loan Fund

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

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

28 (2) In addition, all money within, credited to the accounts of, or to be
29 received by the alternative fuels loan fund, including sums to be received

1 pursuant to grants, gifts, donations, or letters of credit, shall be expended,
2 committed, or pledged in a manner consistent with the terms and conditions of
3 the grants, gifts, donations, letters of credit and other sources of such deposits,
4 credits, and letters of credit and as provided in federal and state law.

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

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

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

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

24 §1419.9. Use of the Alternative Fuel Vehicle Revolving Loan Fund

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

27 (1) To provide loans at or below market interest rates for a period not
28 to exceed ten years from the completion date of the conversion of all or a
29 portion of local governing authorities' fleets of motor vehicles to qualified clean

1 fuel vehicles propelled by alternative fuels which are financed by such loans. All
2 such loans shall be subject to approval by the Department of Natural Resources.

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

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

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

19 §1419.10. Loan conditions and repayment

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

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

1 department deems necessary.

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

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

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

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

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

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

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Riley Boudreaux.

DIGEST

Proposed law creates the Alternative Fuel Vehicle Revolving Loan Fund Program within the Department 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 which 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, the Department of Natural Resources must 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 through 1419.10)