

BILL ANALYSIS

C.S.H.B. 2221
By: Canales
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

An estimated 200 electric vehicle models will be on the market in the United States by 2022. By some estimates, the average cost for a new electric vehicle will be cheaper than a gas-powered car by 2023. When that happens, it is anticipated that the state will see a rapid electrification of its transportation system. This forecast underscores the need for the state to immediately begin preparing a plan to accommodate the growing demand for a reliable electric vehicle infrastructure network. C.S.H.B. 2221 seeks to establish a framework for the electrification of transportation in Texas.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTION 9 of this bill, to the board of the Texas Department of Motor Vehicles in SECTION 10 of this bill, and to the Public Utility Commission of Texas in SECTIONS 12 and 14 of this bill.

ANALYSIS

C.S.H.B. 2221 sets out and revises provisions relating to mobile source emissions reductions and transportation electrification.

Texas Transportation Electrification Council

C.S.H.B. 2221 amends the Government Code to establish the Texas Transportation Electrification Council as an administrative attachment to the Texas Department of Transportation (TxDOT). The council is composed of the chair of, or if not applicable, the administrative head of or a senior-level designee from, each of 11 applicable state entities as specified by the bill. The bill provides for the administration and operation of the council and establishes that the council is funded using existing TxDOT funds.

Electric Vehicle Charging Infrastructure Assessment

C.S.H.B. 2221 requires the council, not later than March 1, 2022, to prepare an assessment of existing and planned public electric vehicle charging infrastructure and associated technologies in Texas using existing databases. The bill requires the assessment to include the number and types of electric vehicle chargers at each location. These provisions expire September 1, 2023.

Electric Vehicle Charging Infrastructure Plan

C.S.H.B. 2221 requires the council to develop and biennially update a comprehensive plan for the development of public electric vehicle charging infrastructure and associated technologies in Texas through the year 2040. The bill requires the plan to do the following:

- include a phased implementation of the plan, in biennial increments, through the year 2030;
- identify areas in Texas for which additional charging infrastructure is needed to ensure that the vehicle choice of Texas residents is not constrained by a lack of access to that infrastructure;
- provide for sufficient charging infrastructure to meet and enable future demand for electric vehicles in Texas that meets certain criteria established by the bill;
- stimulate competition, innovation, consumer choices in public electric vehicle charging and related infrastructure and services, and encourage private capital investment;
- specify the number and types of electric vehicle chargers per general location that are needed to meet the plan requirements;
- examine vehicle and charging infrastructure changes necessary to provide demand response functions and two-way electricity flow capability in order to allow vehicle to grid integration for cost savings, grid reliability, and resiliency; and
- provide for electric transportation corridors in and along TxDOT rights-of-way that include the infrastructure needed for vehicle electrification.

In developing and updating the plan, the council must, to the extent practicable, use publicly available electric vehicle projections and models based on industry standards to determine, for each year, the percentage and number of electric vehicles by vehicle class that are expected on roadways in Texas and the number of electric vehicle chargers that are needed to ensure that there is comprehensive and adequate access to public electric vehicle charging infrastructure in Texas. The council may also rely on scenarios provided by ERCOT or other information from appropriate sources for the percentage and number of electric vehicles by vehicle class on roadways in this state by year.

In a temporary provision set to expire September 1, 2023, the bill also requires the council to use the infrastructure assessment in developing the plan.

Policy Recommendations

C.S.H.B. 2221 requires the council to develop policy recommendations that state agencies may adopt to encourage the development of an adequate network of public electric vehicle charging infrastructure and associated technologies to meet electrified transportation needs in Texas through the year 2030.

Reporting Requirements

C.S.H.B. 2221 requires the council to prepare and submit the following reports to the governor, the lieutenant governor, each member of the legislature, and relevant state and federal agencies:

- not later than December 1, 2022, an initial written report of the council's findings that includes the infrastructure assessment, infrastructure plan, and policy recommendations; and
- not later than December 1 of each even-numbered year beginning in 2024, a written report that includes a summary of the progress made on the implementation of the infrastructure plan, the biennial update to the plan, and any updates to the policy recommendations.

The provisions providing for the initial report expire September 1, 2025.

Third-Party Assistance

C.S.H.B. 2221 requires the council to seek advice and input from specified stakeholders in performing its duties. In performing those duties, the council may also contract with experts,

academic scholars, and other appropriate professionals and consult with the Texas A&M Transportation Institute and institutions of higher education.

Texas Emissions Reduction Plan

C.S.H.B. 2221 amends the Health and Safety Code to revise provisions governing the Texas emissions reduction plan as provided below.

Light-Duty Motor Vehicle Purchase and Lease Incentives

C.S.H.B. 2221 includes as a condition of eligibility for the \$2,500 incentive for new electric light-duty motor vehicles the condition that the vehicle is not designed, used, or maintained primarily to transport property. However, the bill establishes a limited \$4,000 incentive for a new light-duty motor vehicle that would otherwise qualify for the \$2,500 but that is designed, used, or maintained primarily to transport property. To be eligible for the \$4,000 incentive the vehicle must be acquired on or after September 1, 2021, or a later date as established by the Texas Commission on Environmental Quality (TCEQ), by the person applying for the incentive and for use by that person and not for resale. The bill caps the total number of \$4,000 incentives provided in each state fiscal biennium at 2,000.

C.S.H.B. 2221 requires TCEQ, at the beginning of the second state fiscal year of the biennium, to adjust the initial caps on the number of vehicles eligible to receive a given incentive based on demand for incentives during the preceding state fiscal year.

Grant Program

C.S.H.B. 2221 requires TCEQ to establish and administer a grant program to encourage the purchase, construction, and installation of infrastructure needed to support the use of drayage trucks or cargo handling equipment that are powered by an alternative fuel. A grant awarded under the program may not exceed more than 80 percent of the purchase, construction, and installation costs of the infrastructure project, provided that TCEQ may establish a reasonable maximum amount of a grant awarded per infrastructure project as needed.

Texas Emissions Reduction Plan Fund

C.S.H.B. 2221 provides for the deposit of federal funds to the credit of the Texas emissions reduction plan fund. The bill exempts those funds from the requirement for TCEQ to transfer the unencumbered balance of the fund remaining on the last day of the state fiscal biennium to the credit of the Texas emissions reduction plan account and provides that federal funds deposited to the credit of the fund may be used only as provided by the terms of the applicable federal funds agreement.

Texas Alternative Fueling Facilities Program

C.S.H.B. 2221 changes the cap on the amount of the money in the plan fund and the plan account that may be used for the Texas alternative fueling facilities program from a flat \$6 million cap to an eight percent cap. The bill removes the \$600,000 cap on the amount of grants awarded under the program for a facility to provide alternative fuels other than natural gas.

Electric Vehicle Metering

C.S.H.B. 2221 amends the Occupations Code to require the Texas Commission of Licensing and Regulation (TCLR), by rule and not later than December 1, 2024, to establish the following:

- specifications, tolerances, and other technical requirements for metering devices used in electric vehicle charging stations used in commercial transactions; and

- standards for electric vehicle charging services that ensure the accuracy of measurements, enhance consumer protections, and promote fair competition.

In adopting these rules, TCLR must consider recommendations from relevant state and federal agencies and stakeholders.

Electric Vehicle Surcharge

C.S.H.B. 2221 amends the Transportation Code to require an applicant for registration or renewal of registration for a fully electric vehicle to pay a \$100 surcharge in addition to the applicable regular vehicle registration fee. The bill requires the amount collected from this surcharge to be deposited to the credit of the state highway fund, except that \$40 of each surcharge must be deposited to credit of the general revenue fund for use in funding the operations of the Texas Transportation Electrification Council through the end of the 2025 fiscal year. The bill requires the board of the Texas Department of Motor Vehicles to adopt rules necessary to administer registration for an electric vehicle.

Public Utility Regulatory Act

C.S.H.B. 2221 amends the Utilities Code to exclude from consideration as an electric utility or a retail electric provider, by revising those definitions, for purposes of provisions governing electric utilities a person not otherwise considered as such who owns or operates equipment used solely to provide electricity charging service for consumption by alternatively fueled vehicles. The bill provides that such a person is not on the basis of that activity considered a retail electric utility, by revising the definition, for purposes of provisions requiring a certificate of convenience and necessity. The Public Utility Commission of Texas (PUC) by rule may also exempt a provider who owns or operates equipment used solely to provide electricity charging service for a mode of transportation from those definitions.

Lithium-Ion and Other Propulsion Batteries

C.S.H.B. 2221 requires TCEQ, using existing funds, to conduct a study on policies pertaining to the recovery and recycling of lithium-ion and other propulsion batteries sold with electric vehicles in Texas. The bill sets out the required components of the study and requires TCEQ not later than January 1, 2022, to establish and convene an advisory group to provide guidance and direction for purposes of conducting the study and making legislative recommendations based on the study. The bill provides for the composition of the advisory group and requires the advisory group to meet at least quarterly. The bill requires the advisory group, in advising TCEQ, to consult with universities and research institutions that have conducted research in the area of battery recycling, manufacturers of electric and hybrid vehicles, and the recycling industry.

C.S.H.B. 2221 requires TCEQ, not later than December 1, 2022, to prepare and submit to the governor, the lieutenant governor, and each member of the legislature a written report that includes a summary of the results of the study and any legislative recommendations based on the study. The advisory group is abolished and these study-related provisions expire January 1, 2023.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2221 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute revises the original's provisions establishing the Texas Transportation Electrification Council to do the following:

- provide an option for a senior-level designee from an applicable state entity to serve as that entity's representative on the council as an alternative to the administrative head of the entity serving in that capacity, whereas the original did not provide such an option;
- change the initial presiding officer of the council from the chair of the PUC, as in the original, to the executive director of TxDOT;
- include as additional required contents of the plan developed by the council, which were not included in the original:
 - examining vehicle and charging infrastructure changes necessary to provide demand response functions and two-way electricity flow capability in order to allow vehicle to grid integration for cost savings, grid reliability, and resiliency; and
 - providing for electric transportation corridors in and along TxDOT rights-of-way that include the infrastructure needed for vehicle electrification;
- expanding the list of stakeholders specified in the original from which the council must seek input and advice in performing the council's duties to include nonprofit organizations that represent utilities, electric vehicle manufacturers, and charging companies; and
- postponing the date on which the provisions establishing the council's initial reporting requirement expire from September 1, 2023, as in the original, to September 1, 2025.

The substitute extends the period during which \$40 of each \$100 surcharge for the registration of a fully electric vehicle is diverted from the state highway fund to the general revenue fund for purposes of funding the council through fiscal year 2025, whereas that diversion ended after fiscal year 2023 in the original.

The substitute revises the original's provisions relating to the motor vehicle purchase and lease incentive program to omit the following:

- a provision excluding from the program a person who rents or leases a light-duty motor vehicle to a person for a term of 30 days or less;
- provisions revising the duties of TCEQ with respect to the administration of the program, including regarding the manner in which incentives are accounted for and how information on program incentives is made available; and
- provisions relating to the following:
 - the \$5,000 program incentive;
 - the manner in which a seller or lessor applies for a program incentive; and
 - the reservation of program incentives.

The substitute includes provisions that do not appear in the original that do the following:

- require TCEQ to establish and administer a grant program for alternatively fueled drayage trucks or cargo handling equipment; and
- remove the \$600,000 cap on the amount of a grant awarded under the alternative fueling facilities program.