

**STORAGE NAME:** h2079a.ca

**DATE:** April 20, 1999

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
COMMUNITY AFFAIRS  
ANALYSIS**

**BILL #:** HB 2079

**RELATING TO:** Florida Clean Air Act

**SPONSOR(S):** Representative Gay

**COMPANION BILL(S):** CS/SB 2148 (s)

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) COMMUNITY AFFAIRS (PRC) YEAS 8 NAYS 0
- (2) ENVIRONMENTAL PROTECTION (RLC)
- (3) GOVERNMENTAL OPERATIONS (PRC)
- (4) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS (FRC)
- (5)

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I. SUMMARY:

This bill establishes the Clean Air Florida Advisory Board (board) to study the use and implementation of alternative fuel programs for Florida. The board must develop recommendations to the Florida Legislature on future alternative fuel vehicle programs. Also, the board must make recommendations for establishing pilot programs for Florida that provide "experience and support the best use expansion of the alternative fuel industry."

The bill has an insignificant fiscal impact.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Concerns about energy conservation, and the environmental effects of increasing use of fossil fuel have prompted research and development of alternative fueled motor vehicles with the intent of substantially reducing pollutants in the atmosphere. The federal government addresses the use of alternative fueled vehicles by creating programs to promote the development and use of alternative fueled vehicles.

Federal regulations require automobile manufacturers, federal agencies and fuel suppliers to produce specific percentages of alternative fueled vehicles. In addition, the federal Clean Air Act creates state and local incentive-based programs to further encourage alternative fuel usage. However, the federal government does not mandate that Florida produce alternative fueled vehicles nor does it require that the state implement any alternative fuel-based program.

According to Florida Power & Light Company approximately 25 states, including California, Georgia, Massachusetts, Minnesota, New York, Oklahoma, and Wisconsin have some type of alternate fuel vehicle programs. Such programs may consist of incentives for taxpayers who use alternative fuel vehicles. The incentives vary from state to state, but range from use of "high occupancy vehicle" lanes to \$ 10,000 rebate for the purchase or lease of an alternative fuel vehicle.

Florida is a unique state with unique environmental needs. Consequently, it may not be prudent to apply another state's alternative fuel vehicle program to Florida. Many in the alternative fuel vehicle industry suggest that Florida needs an alternative fuel vehicle program tailored to its unique circumstances. They further suggest that a study is needed to develop such an alternative fuel vehicle program for Florida.

"Alternative fuel" is defined under s. 206.86(4), F.S., as "any liquefied petroleum gas product or compressed natural gas product or combination thereof used in an internal combustion engine or motor to propel any form of vehicle, machine, or mechanical contrivance. This term includes, but is not limited to, all forms of fuel commonly or commercially known or sold as natural gasoline, butane gas, propane gas, or any other form of liquefied petroleum gas or compressed natural gas." Section 205.86 (5), F.S., defines "natural gas gasoline" as a liquid hydrocarbon that is produced by natural gas and must be blended with other liquid petroleum products to produce motor fuel."

B. EFFECT OF PROPOSED CHANGES:

The bill creates the "Florida Clean Fuel Act" that establishes the Clean Fuel Florida Advisory Board (board). The bill's purpose is to have the board:

- (1) Study the implementation of alternative fuel vehicles;
- (2) Make recommendations to the Secretary of the Department Community Affairs (DCA) on expanding the use of alternative fuel vehicles in Florida;
- (3) Make funding available for implementation;
- (4) Serve as a resource for the DCA; and
- (4) Provide the Governor, Legislature, and the Secretary of DCA with private sector and other public agency perspectives on achieving the goal of increasing the use of alternative fuel vehicles in Florida.

For purposes of this bill, "alternative fuel" is defined to "include electricity, biodiesel, natural gas, propane, and any other fuel that may be deemed appropriate in the future by the Department of Community Affairs with the guidance from the Clean Fuel Florida Advisory Board." However, a representative from the petroleum industry points out that the definition does not expressly include reformulated gas or low sulphur gas. The representative stated that these are some of the cleanest fuels available to date. It is unclear whether or not the bill intends to include these fuels as "any other fuel that may be deemed appropriate in the future by the Department of Community Affairs with guidance from the Clean Fuel Florida Advisory Board." In addition, "alternative fuel vehicles" is

defined to "include on-road and off-road transportation vehicles and light-duty, medium-duty, and heavy-duty vehicles that are powered by an alternative fuel or a combination of alternative fuels.

The bill provides that the board is established within the DCA and its membership must consist of the :

- Secretary of the DCA, or the Secretary's designee from the DCA;
- Secretary of the Department of Environmental Protection (DEP), or the Secretary's designee from DEP;
- Secretary of Education, or the Secretary's designee from the Department of Education;
- Secretary of Transportation, or the Secretary's designee from the Department of Transportation;
- Commissioner of Agriculture or the Commissioner's designee from the Department of Agriculture and Consumer Services; and
- Secretary of Management Services or the Secretary's designee from the Department of Management Services.

A representative from the petroleum industry observes that more often than not it will be the designee that will serve on the board. With such an important and high profile issue as alternative fuel vehicle, the representative strongly asserts the importance of having the agency heads serve on the board and not a designee.

The bill requires the DCA to appoint one representative from each of the following within 30 days after the effective date of the bill:

- Florida biodiesel industry
- Florida electric utility
- Florida natural gas industry
- Florida propane gas industry
- Automobile manufacturers' association
- Florida Clean Cities Coalition designated by the United States Department of Energy
- Enterprise Florida, Inc.
- EV Ready Broward
- Florida petroleum industry
- Florida League of Cities
- Florida Association of counties
- Motor vehicle manufacturer
- Florida local environment resource agencies

Since the bill charges the board with determining a reasonable way to address current motor fuel tax as applied to alternative fuels and at what threshold of market penetration, the Florida Petroleum Council (council) believes that the Department of Revenue must be represented on the board. The council also states that there is not a petroleum marketing representative on the board.

The bill establishes an operating framework for the board membership as to the length of terms, reappointment, vacancies, election of a chairperson, and travel expenses. Meetings are once a quarter or more at the call of the chairperson or the Secretary of DCA. The meetings are exempt from the notice requirements of chapter 120, Florida Statutes. However, the bill provides that sufficient notice must be given to afford interested persons reasonable notice under the circumstances. The bill provides for the termination of the board after five years.

Pursuant to the bill, the board must review the performance of the state with reference to alternative fuel vehicle implementation in complying with federal laws and maximizing available federal funding and **may**:

- Advise the Governor, Legislature, and the Secretary of DCA and make recommendations regarding implementation and use of alternative fuel vehicles;

- Identify potential improvements in this bill and Florida's alternative fuel policy;
- Request from all state agencies any information the board determines relevant to board duties; and
- Report, regularly, to the Governor, Legislature, President of the Senate, Speaker of the House of Representatives, and Secretary of DCA regarding the board's findings and recommendations.

Within 90 days after the board's first meeting, it must make recommendations to the DCA for establishing pilot programs in Florida that provide experience and support the best use expansion of the alternative fuel vehicle industry in Florida. A representative from the petroleum industry states that requiring 90 days to submit recommendations for pilot programs is inadequate for any serious study. However, a Clean Fuel Florida Coalition has not indicated that the board might have difficulty in meeting this deadline. General Revenue funds for the pilot projects must be matched by at least 50 percent matching private or local monies .

The bill provides that the board must assess federal, state, and local initiatives to identify incentives that encourage successful alternative fuel vehicle programs, obstacles to alternative fuel vehicle use, and programs that educate the public about alternative fuel vehicles.

The bill provides that the board must develop recommendations to the Legislature on future alternative fuel vehicles programs and legislative changes providing the best use of state and other resources to enhance the alternative fuel vehicle market in Florida and maximize the return on investment pertaining to jobs, economic development, and emissions reduction. However, the bill does not provide a deadline for reporting these recommendations.

The bill provides for a budget for the board to be developed by the DCA and all board expenditures must be approved by the DCA. At the conclusion of the first year, the DCA must conduct an audit of the board and board programs. It might be more judicious to allow a more neutral agency to perform the audit such as the Office of Program Policy Analysis & Government Accountability with the Office of the Auditor General.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

- a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The Department of Community Affairs through its secretary must oversee the Clean Fuel Florida Advisory Board to include board appointees, meetings, and budgeting matters.

(3) any entitlement to a government service or benefit?

N/A

- b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

- (2) what is the cost of such responsibility at the new level/agency?

N/A

- (3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

N/A

- b. Does the bill require or authorize an increase in any fees?

N/A

- c. Does the bill reduce total taxes, both rates and revenues?

N/A

- d. Does the bill reduce total fees, both rates and revenues?

N/A

- e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Private entities and local government must match General Revenue funding before pilot program projects are implemented.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

None.

E. SECTION-BY-SECTION ANALYSIS:

**This bill creates sections 1-4:**

**Section 1.** Creates the "Florida Clean Fuel Act," and provides that the purposes of the act are to establish the Clean Fuel Florida Advisory Board under the Department of Community Affairs, authorize a study of the implementation of alternative fuel vehicles, formulate and provide recommendations to the Secretary of Community Affairs on expanding the use of alternative fuel vehicles in Florida, and make funding available for implementation.

**Section 2.** Defines "alternative fuels," and "alternative fuel vehicles."

**Section 3.** Establishes the membership, duties, and responsibilities of the Clean Fuel Advisory Board.

**Section 4.** Provides that this bill takes effect upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS: **(See FISCAL COMMENT SECTION)**

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Private entities must match General Revenue funding before alternative fuel vehicle pilot program projects are implemented.

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

The petroleum industry may experience increased competition from alternative fuel vehicles.

D. FISCAL COMMENTS:

The bill provides for a budget for the board; however, the actual amount needed to adequately operate the board is pending determination by the DCA. However, whatever the amount is determined to be, it is anticipated that the cost is insignificant.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require cities or counties to spend money or take action that requires expenditure of money.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce revenue raising authority.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the state tax shared with cities and counties.

V. COMMENTS:

The Florida Petroleum Council opposes the bill. The Florida Petroleum Marketers has not provided its position on the bill.

The Clean Fuel Florida Coalition (CFF) supports the bill. As of 1998, membership in the CFF includes Florida Power & Light; EV Ready Broward, Florida Propane Gas Association, Gulf Power Company, Florida Natural Gas, Ford Motor Company, and American Automobile Manufacturers Association.

The Florida Chapter of the American Planning Association (association) seems to support the bill in concept, but has several specific concerns with the bill. The association thinks that the definition of alternate fuels provided in the bill is troublesome. The association believes that the definition implies that all alternative fuels are clean fuels, which it states is not accurate. For example, the association points out that electricity is not necessarily a clean alternative. It says that whether or not electricity is a clean fuel "depends upon the fuel source utilized, the pollution control technologies in place, the relative system efficiencies, and other such factors."

The association recommends a number of other fuels that are worth consideration as an alternative fuel. Other issues of concern by the association include:

- Providing the Department of Community Affairs (DCA) "very" broad discretion to determine what other fuels constitute "alternative fuels";
- Requiring only 30 days to appoint the members of the Clean Fuel Florida Advisory Board (board). The association thinks this period is too short, given that the DCA did not request this bill and the new Secretary has only recently come on board with a very heavy workload;
- Failing to provide better balance and scope to the composition of the board. The association recommends that several important additions be made to the board including a representative from the photovoltaic industry; bio-fuel industry, the Center for Urban Transportation Research, and appropriate non-profit organizations representing energy efficiency and conservation concerns;
- Scheduling a 90 day deadline for recommendations required by the board. The association believes this is an unrealistic deadline; and
- Appropriating 60 percent of the funds for this program in the Specific Appropriations has a damaging effect on the state's overall energy programs.



**STORAGE NAME:** h2079a.ca

**DATE:** April 20, 1999

**PAGE 9**

Although the association expressed many concerns with the bill, it has pledged to work on the bill with the sponsor and other interested parties to the bill.

A representative from the Floridians For Better Transportation expressed concern over the bill's lack of direct attention to the state tax consequences of using alternative fuels.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

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