

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Appropriations Subcommittee on General Government

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BILL: CS/SB 1538

INTRODUCER: Communications, Energy, and Public Utilities Committee and Senator Simpson

SUBJECT: Natural Gas Rebate Program

DATE: April 13, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	<b>Fav/CS</b>
2.	Blizzard	DeLoach	AGG	<b>Pre-meeting</b>
3.			AP	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1538 amends s. 377.810, F.S., to authorize the Department of Agriculture and Consumer Services (DACS) to use unencumbered funds from the natural gas fuel fleet vehicle rebate program for additional or new rebates.

The bill also creates a heavy transportation industry natural gas rebate program within the DACS. The DACS is authorized to award rebates for "eligible costs," a term defined to mean the cost of conversion, purchase, or lease of a locomotive, ship, or high horsepower engines which use natural gas fuel and which is placed into service on or after January 1, 2015.

The rebate:

- May not exceed 50 percent of the eligible costs of a natural gas locomotive or ship with a dedicated or bi-fuel natural gas fuel operating system placed into service on or after January 1, 2015;
- Is limited to a maximum of \$500,000 per vehicle;
- Is limited to a total of \$1,000,000 per applicant per fiscal year; and
- Is limited to fuel powered natural gas locomotives and ships that comply with applicable United States Environmental Protection Agency emission standards.

To receive a rebate, an applicant must submit to the DACS an application which meets specified requirements as to content. The total amount of rebates in each fiscal year may not exceed the amount appropriated for the program in that fiscal year. Rebates are to be allocated to eligible

applicants on a first-come, first-served basis, determined by the date the application is received, until all appropriated funds for the fiscal year are expended or the program ends, whichever comes first. Incomplete applications will not be accepted and do not secure a place in the first-come, first-served application process. The bill requires the DACS to determine and publish on its website, on a continuing basis, the amount of available funding for rebates remaining in each fiscal year.

The bill authorizes the DACS to adopt rules to implement and administer this section by January 1, 2016. By December 1, 2016, and each subsequent year of the rebate program, the DACS must provide an assessment of the program to the Executive Office of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability.

The bill authorizes an appropriation to the DACS from the General Revenue Fund beginning in the 2015-2016 fiscal year through the 2019-2020 fiscal year, for the heavy transportation industry natural gas rebate program, but does not provide a specific amount of funding. The DACS has indicated it will require one position and \$67,131 from the General Revenue Fund to implement the provisions in this bill.

The bill takes effect July 1, 2015.

## **II. Present Situation:**

Section 377.810, F.S., creates the natural gas fuel fleet vehicle rebate program within DACS for the purpose of helping to reduce transportation costs in this state and encourage freight mobility investments that contribute to the economic growth of the state.

Forty percent of the annual refund allocation is reserved for governmental applicants, with the remaining funds allocated for commercial applicants. A rebate may not exceed 50 percent of the eligible costs of a natural gas fuel fleet vehicle with a dedicated or bi-fuel natural gas fuel operating system placed into service on or after July 1, 2013. An applicant is eligible to receive a maximum rebate of \$25,000 per vehicle up to a total of \$250,000 per fiscal year. All natural gas fuel fleet vehicles eligible for the rebate must comply with applicable United States Environmental Protection Agency emission standards.

An applicant seeking to obtain a rebate must submit an application to the DACS by a specified date each year as established by department rule. The application must include:

- A complete description of all eligible costs,
- Proof of purchase or lease of the vehicle for which the applicant is seeking a rebate,
- A copy of the vehicle registration certificate,
- A description of the total rebate sought by the applicant,
- An affidavit from the applicant certifying that all information contained in the application is true and correct; and
- Any other information deemed necessary by the DACS.

The total amount of rebates allocated to certified applicants in each fiscal year may not exceed the amount appropriated for the program in the fiscal year. Rebates are allocated to eligible

applicants on a first-come, first-served basis, determined by the date the application is received, until all appropriated funds for the fiscal year are expended or the program ends, whichever comes first. Incomplete applications submitted to the DACS are not accepted and do not secure a place in the first-come, first-served application process.

The DACS is required to determine and publish on its website, on an ongoing basis, the amount of available funding for rebates remaining in each fiscal year.

By October 1 of each year that the program is funded, the DACS must provide an annual assessment of the use of the rebate program during the previous fiscal year to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability. The assessment must include, at a minimum, the following information:

- The name of each applicant awarded a rebate;
- The amount of the rebates awarded to each applicant;
- The type and description of each eligible vehicle for which each applicant applied for a rebate; and
- The aggregate amount of funding awarded for all applicants claiming rebates.

By January 31, 2016, the Office of Program Policy Analysis and Government Accountability must release a report reviewing the rebate program to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The review must include an analysis of the economic benefits resulting to the state from the program.

Currently, there is no state incentive for the conversion to, purchase, or lease of natural gas fuel powered heavy transportation assets such as locomotives, waterborne ships, and high horsepower transportation engines.

### **III. Effect of Proposed Changes:**

CS/SB 1538 amends s. 377.810, F.S., to authorize the DACS to use unencumbered natural gas fuel fleet vehicle rebate program funds for additional or new rebates. Any unencumbered funds remaining after May 1 of each fiscal year may be used by the DACS to award an additional rebate of up to \$250,000 for a governmental applicant. Any unencumbered funds remaining after June 1 of each fiscal year may be used by the DACS to award an additional or new rebate of up to \$250,000 for a governmental or commercial applicant.

The bill creates a heavy transportation industry natural gas rebate program within the DACS for the purpose of helping to reduce transportation costs in this state, encouraging the use of a domestic fuel source, and encouraging freight mobility investments that contribute to the economic growth of the state. The DACS is to award rebates for “eligible costs,” a term defined to mean the cost of conversion<sup>1</sup> or the incremental cost<sup>2</sup> incurred by an applicant in connection

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<sup>1</sup> The bill defines the term “conversion costs” to mean the excess cost associated with retrofitting a diesel or gasoline powered locomotive or ship to a natural gas fuel powered motor vehicle.

<sup>2</sup> The bill defines the term “incremental costs” to mean the excess costs associated with the purchase or lease of a natural gas fuel powered locomotive or ship as compared to an equivalent diesel- or gasoline-powered locomotive or ship.

with an investment in the conversion, purchase, or lease lasting at least ten years, of a locomotive, ship, or other high horsepower engine placed into service on or after July 1, 2015.<sup>3</sup>

The rebate:

- May not exceed 50 percent of the eligible costs of a natural gas locomotive or ship with a dedicated or bi-fuel natural gas fuel<sup>4</sup> operating system placed into service on or after January 1, 2015;
- Is limited to a maximum of \$500,000 per vehicle;
- Is limited to a total of \$1,000,000 per applicant per fiscal year; and
- Is limited to fuel powered natural gas locomotives and ships that comply with applicable United States Environmental Protection Agency emission standards.

To receive a rebate, an applicant must submit an application to the DACS by a date established by department rule. The application must include:

- A complete description of all eligible costs;
- Proof of purchase or lease of the locomotive or ship for which the applicant is seeking a rebate;
- A copy of the vehicle registration certificate;
- A description of the total rebate sought by the applicant;
- An affidavit from the applicant certifying that all information contained in the application is true and correct; and
- Any other information deemed necessary by the DACS and set forth in department rule.

The bill requires the DACS to determine the rebate eligibility of each applicant in accordance with the requirements of this section and department rule. The total amount of rebates allocated to certified applicants in each fiscal year may not exceed the amount appropriated for the program in the fiscal year. Rebates are to be allocated to eligible applicants on a first-come, first-served basis, determined by the date the application is received, until all appropriated funds for the fiscal year are expended or the program ends, whichever comes first. Incomplete applications submitted to the DACS will not be accepted and do not secure a place in the first-come, first-served application process. The DACS is required to determine and publish on its website on an ongoing basis, the amount of available funding for rebates remaining in each fiscal year.

The bill authorizes the DACS to adopt rules to implement and administer this section by December 31, 2015, including rules relating to the forms required to claim a rebate, the required documentation and basis for establishing eligibility for a rebate, procedures and guidelines for claiming a rebate, and the collection of economic impact data from applicants.

By December 1, 2016, and each year thereafter that the program is funded, the DACS must provide an annual assessment of the use of the rebate program during the previous fiscal year.

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<sup>3</sup> The definition expressly excludes costs relating to fueling infrastructure.

<sup>4</sup> The bill defines the term “natural gas fuel” to mean any liquefied petroleum gas product, compressed natural gas product, or combination thereof used in a motor vehicle as defined in s. 206.01(23). 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, natural gas, or liquefied natural gas. This term does not include natural gas or liquefied petroleum placed in a separate tank of a motor vehicle for cooking, heating, water heating, or electric generation.

The report must be provided to the Executive Office of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability. The assessment must include, at a minimum:

- The name of each applicant awarded a rebate under this section;
- The amount of the rebates awarded to each applicant;
- The type and description of each eligible locomotive or ship for which each applicant applied for a rebate; and
- The aggregate amount of funding awarded for all applicants claiming rebates under this section.

Beginning in the 2015-2016 fiscal year, and each year thereafter through the 2019-2020 fiscal year, the bill authorizes that the General Appropriations Act may provide a specific appropriation in each fiscal year from the General Revenue Fund to the DACS, for the purpose of funding the heavy transportation industry natural gas rebate program.

The bill takes effect July 1, 2015.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

CS/SB 1538 provides that:

- Rebates are to be awarded for “eligible costs,” a term defined to mean the cost of conversion or the incremental cost incurred by an applicant in connection with an investment in the conversion, purchase, or lease lasting at least 5 years, of a locomotive or ship placed into service on or after January 1, 2015;
- Rebates are to be limited by four express restrictions or conditions;
- To receive a rebate, an application meeting specified requirements must be submitted to the DACS;
- The DACS is authorized to adopt rules to implement and administer the bill’s provisions, including rules relating to the basis for establishing eligibility for a rebate; and
- The DACS is required to determine the rebate eligibility of each applicant in accordance with the requirements in the bill and department rule.

It is unclear what additional eligibility requirements the bill contemplates will be established by department rule, and what legislative guidance the bill provides for crafting such rules. Dependent upon how the DACS implements the eligibility provisions, the uncertainty of legislative direction may raise issues of unlawful delegation of legislative authority. For example, the bill's provisions requiring that a vehicle have sufficient usage in Florida to be eligible for a rebate do not appear to apply to a vehicle used for nonhighway transportation purposes that has a high horsepower engine. If the rules created such a requirement, it may be subject to challenge.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

CS/SB 1538 may provide a rebate to those who own a locomotive or ship and convert it to natural gas fuel, or who purchase or lease a locomotive or ship that uses natural gas fuel.

The bill may benefit importers and suppliers of natural gas fuel, and, to the extent that it creates additional demand for natural gas fuel, may encourage investments in fueling infrastructure in Florida.

**C. Government Sector Impact:**

Natural Gas Fuel Fleet Vehicle Rebate Program

The bill authorizes the DACS to use unencumbered funds remaining after May 1 of each fiscal year, to award an additional rebate of up to \$250,000 for a governmental applicant. Additionally, the DACS is authorized to use unencumbered funds remaining after June 1 of each fiscal year to award additional or new rebates of up to \$250,000 for governmental or commercial applicants. In Fiscal Year 2013-2014, \$2,128,397 from the General Revenue Fund was unencumbered and reverted from the natural gas fuel fleet vehicle rebate program.

Heavy Transportation Industry Natural Gas Rebate Program

For the 2015-2016 fiscal year through the 2019-2020 fiscal year, the bill authorizes an appropriation to the DACS from the General Revenue Fund for the heavy transportation industry natural gas rebate program, but does not provide a specific amount of funding. The DACS advises it will require one position and \$61,146 in recurring funds and \$5,985 in nonrecurring funds from the General Revenue Fund to implement the provisions in this bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 377.810 of the Florida Statutes.

This bill creates section 377.811 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Communications, Energy, and Public Utilities on March 24, 2015:**

- Amends s. 377.810, F.S., to authorize DACS to use unencumbered natural gas fuel fleet vehicle rebate program funds for additional or new rebates;
- Amends the newly created new heavy transportation industry natural gas rebate program, including:
  - Requiring in the definition of “eligible costs” a lease be for at least 10 years (5 years in the original bill);
  - Adding to the definition of “eligible vehicle” any vehicle with a “high horsepower engine”;
  - Defining “high horsepower engine” as one providing more than 1,000 horsepower and used for nonhighway transportation purposes;
  - Deleting the requirement that OPPAGA do an annual report analyzing the benefits to the state resulting from the program; and
  - Inserting an appropriation section that states that, beginning in the 2015-2016 fiscal year and continuing through the 2019-2020 fiscal year, the General Appropriations Act may provide a specific appropriation from the General Revenue Fund to DACS for funding of this rebate program.

**B. Amendments:**

None.