HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 285 Natural Gas Fuel Fleet Vehicle Rebate Program
SPONSOR(S): Business & Professions Subcommittee; Ray
TIED BILLS: None. **IDEN./SIM. BILLS:** CS/SB 90

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professions Subcommittee	13 Y, 0 N, As CS	Whittier	Anstead
2) Agriculture & Natural Resources Appropriations Subcommittee	13 Y, 0 N	Lolley	Massengale
3) Regulatory Affairs Committee			

SUMMARY ANALYSIS

In 2013, the Legislature created the Natural Gas Fuel Fleet Vehicle Rebate Program (program) within the Department of Agriculture and Consumer Services (DACS) to "help reduce transportation costs in this state and encourage freight mobility investments that contribute to the economic growth of the state."

The Legislature appropriated $6 million beginning in the 2013-2014 fiscal year and each year thereafter through the 2017-2018 fiscal year from the General Revenue Fund to DACS to award rebates for the following eligible costs:

- The conversion or retrofitting of a diesel- or gasoline-powered motor vehicle to a natural gas fuel-powered motor vehicle or
- The purchase or lease of a natural gas fuel fleet motor vehicle.

Specifically, DACS must award rebates for up to 50 percent of the eligible costs of a natural gas fuel fleet vehicle 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 applicant per fiscal year, on a first-come, first-served basis.

DACS reports the following approximate unexpended balances by fiscal year since the program's inception:

- 2013-2014: $2,128,397,
- 2014-2015: $769,348, and
- 2015-2016: $3,397,406 (at December 1, 2015).

The bill allows any unexpended funds remaining for the fiscal year to be used by DACS to award additional rebates of $25,000 for each vehicle that has not received a rebate under the program, up to an additional $250,000 per applicant. Government applicants are to receive preference on a first-come, first-served basis and remaining funds will be available to eligible commercial applicants on a first-come, first-served basis.

The awarding of any additional rebates will begin in 2017. The provisions of the bill should lower the amount of any unexpended balance, if any, in Fiscal Years 2016-2017 and 2017-2018.

The act takes effect July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Natural Gas Fuel

During the past several years, exploration has uncovered a supply of natural gas in the United States, resulting in a reduction in the price of natural gas and an increased interest in natural gas-powered vehicles, fuel plants, and refueling infrastructure.

Natural gas is the cleanest of the fossil fuels.[1] The Natural Gas Supply Association points out that, "Pollutants emitted in the United States, particularly from the combustion of fossil fuels, have led to the development of many pressing environmental problems. Natural gas, emitting fewer harmful chemicals into the atmosphere than other fossil fuels, can help to mitigate some of these environmental issues." These concerns include:

- Greenhouse Gas Emissions;
- Smog, Air Quality, and Acid Rain;
- Industry and Electric Generation Emissions; and
- Pollution from the Transportation Sector.[2]

When compared using equivalent units of measure, natural gas is less expensive per gallon than traditional fuels. In July 2015, the U.S. Department of Energy reported the national average prices for the following:

- Gasoline at $2.82 a gallon;
- Diesel at $2.93 a gallon; and
- Compressed natural gas (CNG) for a gasoline gallon equivalent at $2.12.[3]

In 2013, Florida had approximately 32 CNG stations[4] and 61 in 2014.[5] Currently, there are approximately 67 CNG fueling stations in the state.[6]

Natural Gas Fuel Fleet Vehicle Rebate Program

In 2013, the Legislature created the Natural Gas Fuel Fleet Vehicle Rebate Program (program) within the Department of Agriculture and Consumer Services (DACS), the purpose of which was to "help reduce transportation costs in this state and encourage freight mobility investments that contribute to the economic growth of the state."[7]

[1] Swarthmore College, *Comparison Against Other Fossil Fuels*, Environmental Studies Capstone, 2010, *available at* http://www.swarthmore.edu/environmental-studies-capstone/comparison-against-other-fossil-fuels (last visited Oct. 29, 2015).
[2] NaturalGas.Org, http://www.naturalgas.org/environment/naturalgas/ (last visited Oct. 13, 2015).
[3] United States Department of Energy, *Clean Cities Alternative Fuel Price Report*, July 2015, p. 4, *available at* http://www.afdc.energy.gov/publications/ (last visited Oct. 13, 2015).
[4] Email from Dale Calhoun, Executive Director, Florida Natural Gas Association, RE: CNG Fueling Stations (Mar. 1, 2013).
[5] Isabel Lane, *Florida's natural gas vehicle incentive program creates 200% growth in fueling stations*, BioFuels Digest, (Oct. 6, 2014), *available at* http://www.biofuelsdigest.com/bdigest/2014/10/06/floridas-natural-gas-vehicle-incentive-program-creates-200-growth-in-fueling-stations/.
[6] Email from Dale Calhoun, Executive Director, Florida Natural Gas Association, RE: CNG Fueling Stations (Oct. 29, 2015).
[7] s. 377.810(1), F.S.

Section 377.810, F.S., provides the following pertinent definitions under the program:

- "Conversion costs" means the excess cost associated with retrofitting a diesel- or gasoline-powered motor vehicle to a natural gas fuel-powered motor vehicle.
- "Eligible costs" means 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 natural gas fuel fleet vehicle placed into service on or after July 1, 2013. The term does not include costs for project development, fueling stations, or other fueling infrastructure.
- "Incremental costs" means the excess costs associated with the purchase or lease of a natural gas fuel fleet motor vehicle as compared to an equivalent diesel- or gasoline-powered motor vehicle.
- "Fleet vehicles" means three or more motor vehicles registered in this state and used for commercial business or governmental purposes.
- "Natural gas fuel" means any:
    - Liquefied petroleum gas product,
    - Compressed natural gas product, or
    - Combination thereof used in a motor vehicle as defined in s. 206.01(23), F.S.

  The 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, compressed 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.[8]

The Legislature appropriated $6 million beginning in the 2013-2014 fiscal year and each year thereafter through the 2017-2018 fiscal year from the General Revenue Fund to DACS to award rebates for the eligible costs of conversion or retrofitting of a diesel- or gasoline-powered motor vehicle to a natural gas fuel-powered motor vehicle or the incremental costs associated with the purchase or lease of a natural gas fuel fleet motor vehicle. Specifically, DACS must award rebates for up to 50 percent of the eligible costs of a natural gas fuel fleet vehicle 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 applicant per fiscal year, on a first-come, first-served basis. Forty percent of the annual allocation must be reserved for governmental applicants and 60 percent for commercial applicants.[9]

The law requires DACS to determine and publish on its website, on an ongoing basis, the amount of available funding for rebates remaining in each fiscal year[10] and to provide an annual assessment of the use of the rebate program during the previous 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 (OPPAGA) by October 1. The law also requires OPPAGA to release a report reviewing the rebate program, including an analysis of the economic benefits resulting to the state, to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 31, 2016.[11]

<u>Effect of Proposed Changes</u>

The bill allows any unexpended funds each fiscal year to be used by DACS to award additional rebates of $25,000 for each vehicle up to an additional $250,000 per applicant. Between June 1 and June 30 of each fiscal year, eligible applicants may apply for additional funds for vehicles that have not already received a rebate. Additional applications will be held and reviewed after all applications from applicants who have not reached the maximum rebate are received and reviewed.
The additional rebates will be awarded after June 30 on a first-come, first-served basis, determined by the date the application is received. Governmental applicants have preference and the remaining unexpended funds may be used by commercial applicants. The 40/60 percentage reservation for

[8] s. 377.810(2), F.S.
[9] s. 377.810(3) and (4)(b), F.S.
[10] s. 377.810(6), F.S.
[11] s. 377.810(7) and (8), F.S.

government and commercial applicants will not apply to the awarding of additional rebates. The awarding of additional rebates will begin at the end of Fiscal Year 2016-2017.

The bill also removes an obsolete rulemaking deadline and makes technical corrections to two definitions.

B. SECTION DIRECTORY:

Section 1. Amends s. 377.810, F.S.; authorizing the Department of Agriculture and Consumer Services to award additional rebates under the Natural Gas Fuel Fleet Vehicle Rebate Program.

Section 2. Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill allows the unexpended balance remaining in the program for the fiscal year to be used by DACS to award additional rebates of $25,000 for each vehicle up to an additional $250,000 per applicant.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill authorizes eligible governmental applicants to have preference to receive unencumbered funds for an additional maximum rebate of $25,000 per vehicle up to a total of $250,000 on a first-come, first-served basis.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may result in increased savings for commercial entities using vehicles powered by natural gas fuel; an increase in conversions of vehicle fleets from being powered by traditional fuels to natural gas fuel; and an increase in natural gas fueling infrastructure across the state to meet the additional demand created by natural gas-powered vehicles.

D. FISCAL COMMENTS:

DACS reports the following unexpended balances by fiscal year since the inception of the program:

- 2013-2014: $2,128,397,
- 2014-2015: $769,348, and
- 2015-2016: $3,397,406.[12]

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

[12] Florida Department of Agriculture and Consumer Services, Office of Energy, http://www.freshfromflorida.com/Divisions-Offices/Energy/Natural-Gas-Fuel-Fleet-Vehicle-Rebate (last visited Dec. 1, 2015).

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Current rulemaking authority for the program is provided in s. 377.810(5), F.S. DACS will need to adopt rules to implement the awarding of additional rebates. The bill removes an obsolete deadline in this subsection.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Beginning on line 48, the bill specifies that all of *unexpended* balance remaining for the fiscal year may be used by the department to award additional rebates. However, section 216.301, F.S., requires that "any appropriation not identified as an incurred obligation effective June 30th shall revert to the fund from which it was appropriated and shall be available for reappropriation by the Legislature." An appropriation may be obligated at June 30, but not yet expended. Obligations not paid at June 30 are paid in the following fiscal year. Unobligated or *unencumbered* appropriations are what revert.

Additionally, s. 216.351, F.S., specifies that subsequent inconsistent laws supersede chapter 216, "only to the extent that they do so by express reference to this section." If it becomes law, the bill clearly authorizes DACS to award rebates and, as subsequent enactment by the Legislature, would appear to be an exception to the requirements of ss. 216.301 and 216.351, F.S.

However, consideration should be given to amending the sentence beginning at line 48 to read: "<u>Notwithstanding ss. 216.301 and 216.351, all of the unencumbered balance remaining after June 30 of each fiscal year shall not revert</u> and may be used by the department to award additional rebates described in this section."

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On October 21, 2015, the Business & Professions Subcommittee considered and adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Clarifies the process that will be used by DACS to determine the order of preference for awarding the additional rebates.
- Removes an obsolete rulemaking date and makes technical corrections to two statutory definitions.

This staff analysis is drafted to reflect the committee substitute.