

SENATE, No. 231

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator PATRICK J. DIEGNAN, JR.

District 18 (Middlesex)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

SYNOPSIS

Establishes “Alternative Fuel Vehicle Transportation Financing Commission” to examine manner in which alternative fuel vehicles may be taxed to contribute to cost of maintaining State transportation system.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** establishing an “Alternative Fuel Vehicle Transportation
2 Financing Commission” and amending P.L.2006, c.3.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. (New section) a. There is created an “Alternative Fuel
8 Vehicle Transportation Financing Commission” (commission) to
9 consist of 13 members as follows:

10 (1) the State Treasurer, ex officio, or the State Treasurer’s
11 designee;

12 (2) the Commissioner of Transportation, ex officio, or the
13 commissioner’s designee;

14 (3) the Chief Administrator of the New Jersey Motor Vehicle
15 Commission, ex officio, or the chief administrator’s designee;

16 (4) the Commissioner of Environmental Protection, ex officio,
17 or the commissioner’s designee;

18 (5) the President of the Board of Public Utilities, ex officio, or
19 the president’s designee;

20 (6) one representative of a plug-in electric vehicle manufacturer
21 appointed by the Governor, with the advice and consent of the
22 Senate;

23 (7) one representative of a fuel cell electric vehicle
24 manufacturer appointed by the Governor, with the advice and
25 consent of the Senate;

26 (8) one member of the public appointed by the President of the
27 Senate;

28 (9) one member of the public appointed by the Speaker of the
29 General Assembly; and

30 (10) four members of the public appointed by the Governor,
31 with the advice and consent of the Senate.

32 b. The members of the public appointed to the commission
33 shall have a professional background in plug-in electric vehicle
34 infrastructure equipment, fuel cell electric vehicle infrastructure
35 equipment transportation capital finance, transportation capital
36 planning, or tax revenue collection. The commission shall organize
37 and hold its initial organizational meeting as soon after the
38 appointment of all of its public members as is practicable. A
39 vacancy in the membership of the commission shall be filled in the
40 same manner as the original appointment. Members of the
41 commission shall serve without compensation, except that public
42 members may be reimbursed for actual expenses incurred in the
43 performance of their duties and within the limits of funds available
44 to the commission. The commission may meet and hold hearings
45 open to the public at a place or places it designates within the State.

46 c. The State Treasurer, or the State Treasurer’s designee, shall
47 serve as chair of the commission. A recommendation of the

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 commission shall be approved upon receiving a majority vote of the
2 full membership of the commission. All designees of ex officio
3 members of the commission may lawfully vote and otherwise act on
4 behalf of the members for whom they constitute the designee.

5 d. The Department of the Treasury shall provide staff support
6 to the commission, including the appointment of a secretary by the
7 chair of the commission. Additionally, the commission shall be
8 entitled to call to its assistance and avail itself of the services of
9 employees of any State, county, or municipal department, board,
10 bureau, commission, or agency as the commission may require and
11 as may be available to the commission for its purposes.

12
13 2. (New section) It shall be the duty of the commission to
14 study and make findings and recommendations concerning the
15 taxation of motor vehicles that are powered by a fuel source that is
16 not subject to the motor fuels tax pursuant to P.L.2010, c.22
17 (C.54:39-101 et seq.) or the petroleum products gross receipts tax
18 pursuant to P.L.1990, c.42 (C.54:15B-1 et seq.), including, but not
19 limited to, electric vehicles and hydrogen fuel cell vehicles. The
20 report shall include recommendations to the Legislature for a
21 system of taxation that mandates that all vehicles operating on the
22 highways of this State contribute equitably to the cost of
23 maintaining the State transportation system.

24
25 3. (New section) The commission shall issue a report of its
26 findings and recommendations, pursuant to section 2 of this act, to
27 the Governor and, pursuant to section 2 of P.L.1991, c.164
28 (C.52:14-19.1), to the Legislature within 180 days after the initial
29 meeting of the commission. The report shall include the
30 commission's recommendations for legislation that may be
31 considered for adoption by the Legislature.

32
33 4. Section 6 of P.L.2006, c.3 (C.27:1B-22.2) is amended to
34 read as follows:

35 6. There is hereby created in the Executive Branch of the State
36 Government, a body corporate and politic, with corporate
37 succession, to be known as the Transportation Policy Review
38 Board. For the purpose of complying with the provisions of Article
39 V, Section IV, paragraph 1 of the New Jersey Constitution, the
40 board is hereby allocated within the Department of Transportation,
41 but, notwithstanding that allocation, the board shall be independent
42 of any supervision or control by the department or by any body or
43 officer thereof. The board is hereby constituted as an
44 instrumentality of the State exercising public and essential
45 governmental functions, and the exercise by the board of the powers
46 conferred by this act shall be deemed and held to be an essential
47 governmental function of the State.

1 The board shall be comprised of nine public members with
2 experience in transportation finance and policy. The Governor shall
3 appoint three of the members with the advice and consent of the
4 Senate, two of whom shall be experts that perform academic
5 research in the areas of transportation and public transportation
6 policy, planning, or engineering, and one of whom shall be an
7 expert in the area of transportation capital finance. The remaining
8 members shall be appointed by the Governor as follows: two upon
9 the recommendation of the President of the Senate, one upon the
10 recommendation of the Minority Leader of the Senate, two upon the
11 recommendation of the Speaker of the General Assembly, and one
12 upon the recommendation of the Minority Leader of the General
13 Assembly. Each member shall have a professional background in
14 passenger rail service, freight rail management, transportation
15 capital planning, transportation and public transportation capital
16 construction, federal transportation policy, State transportation
17 policy, or transportation capital finance. Each member shall serve
18 for a four-year term and shall serve until the member's successor is
19 appointed and qualified; provided, however, that in order to achieve
20 non-concurrent terms, of the members first appointed pursuant to
21 this section, two members appointed by the Governor shall serve for
22 four years; while the three members appointed upon the
23 recommendations of the President of the Senate and the Minority
24 Leader of the Senate and the three members appointed upon the
25 recommendations of the Speaker of the General Assembly and the
26 Minority Leader of the General Assembly shall serve for three years
27 each, and the remaining member appointed by the Governor shall
28 serve for two years; and further provided that any member serving
29 on the effective date of P.L.2016, c.56 (C.27:1B-22.5 et al.) shall
30 serve until the expiration of that member's term, notwithstanding
31 the criteria for appointment established pursuant to P.L.2016, c.56
32 (C.27:1B-22.5 et al.). The Transportation Policy Review Board
33 shall be deemed to be constituted immediately upon appointment
34 and qualification in the manner provided in this section of at least
35 five members.

36 The purpose of the board is to assure fiscal discipline through
37 evaluating the financing of transportation; independently analyzing
38 and reporting on the cost effectiveness of spending in the
39 transportation capital program; conducting and commissioning
40 research on best practices in the areas of transportation and public
41 transportation construction, planning, finance, and engineering;
42 providing policy recommendations to the Legislature on the best
43 ways to organize the capital program and appropriate capital
44 program funds; and preparing an annual State of Condition of
45 Transportation Financing certification.

46 The board shall annually appear before the Senate Budget and
47 Appropriations Committee, or its successor, and the Assembly
48 Budget Committee, or its successor, and provide independent

1 analysis of the transportation capital program, provide comments on
2 the cost effectiveness of the program, evaluate the condition of the
3 State transportation system, and identify needed infrastructure
4 investments. The board shall annually appear before the Senate
5 Transportation Committee, or its successor, and the Assembly
6 Transportation and Independent Authorities Committee, or its
7 successor, and report on best practices and cost savings in areas
8 related to transportation and public transportation construction,
9 planning, finance, infrastructure, and governance. The board shall
10 also make itself available to the aforementioned budget and
11 transportation committees to conduct research and provide
12 recommendations on policy issues that those committees request of
13 the board. The board shall issue an annual report on or before June
14 1 of each year which summarizes the work of the board for the prior
15 year, evaluates the reports issued by the department pursuant to
16 section 22 of P.L.1984, c.73 (C.27:1B-22), and provides
17 independent recommendations for administering the annual capital
18 program.

19 The board shall be provided with a budget each year to be funded
20 through the capital program, and the budget shall be sufficient to
21 allow the board to commission independent research from academic
22 and other experts in the area of research to be conducted, to avail
23 itself of any professional or consultant services necessary to
24 perform its functions, and to complete the reports and certifications
25 required pursuant to this section.

26 The board may call to its assistance and avail itself of the
27 services of the employees of any State, county, or municipal
28 department, board, bureau, task force, or agency as it may require
29 and as may be available to it for its purposes, and to employ
30 stenographic and clerical assistance and incur traveling and other
31 miscellaneous expenses necessary to perform its duties, within the
32 limits of funds appropriated or otherwise made available to it for its
33 purposes.

34 **【**The board shall submit reports to the Governor, and to the
35 Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1)
36 no later than April 1, 2017 concerning the taxation of motor
37 vehicles that are powered by a fuel source that is not subject to the
38 motor fuels tax pursuant to P.L.2010, c.22 (C.54:39-101 et seq.) or
39 the petroleum products gross receipts tax pursuant to P.L.1990, c.42
40 (C.54:15B-1 et seq.), including, but not limited to electric vehicles
41 and hydrogen fuel cell vehicles. The report required pursuant to
42 this subsection shall include recommendations to the Legislature for
43 a new system of taxation that mandates that all vehicles operating
44 on the highways of this State contribute equitably to the cost of
45 maintaining the State transportation system.**】**

46 The State of Condition of Transportation Financing certification
47 shall ensure that the financing and expenditures of the New Jersey

1 Transportation Trust Fund Authority (the "authority") adhere to
2 certain standards. The standards are:

3 a. The bonding limitation as provided in subsection i. of
4 section 9 of P.L.1984, c.73 (C.27:1B-9) **[.]**;

5 b. For the fiscal year commencing July 1, 2007, the amount
6 expended from the revenues and other funds of the authority for
7 permitted maintenance shall not exceed the amount expended for
8 permitted maintenance in the fiscal year commencing July 1, 2006
9 **[.]**; and

10 c. The total amount authorized to be appropriated from the
11 revenues and other funds of the authority for project costs
12 commencing with the fiscal year beginning July 1, 2007 through the
13 fiscal year beginning July 1, 2015 shall not exceed \$1,600,000,000
14 annually, and for the fiscal year beginning on July 1, 2016 through
15 the fiscal year beginning on July 1, 2023 shall not exceed an
16 aggregate \$16,000,000,000 over that eight-year period.

17 Commencing with the fiscal year beginning July 1, 2007, the
18 board shall submit to the Governor, the Legislature, and the
19 commissioner on an annual basis the State of Condition of
20 Transportation Financing certification as to the requirements of
21 certification standard a. referencing therein a certification with
22 regard to certification standards b. and c. to the extent feasible,
23 given the other provisions of this section. The certifications shall
24 be based on the board's review of the State's fiscal year final
25 expenditures from the preceding fiscal year, including bonding and
26 expenditures from the annual independent audit of the authority,
27 and the amount of authority funds programmed for permitted
28 maintenance. If the capital program and its financing are found to
29 be in compliance, the first annual certification required by this
30 paragraph shall be submitted by February 1, 2008, after the
31 certification is concurred with by the members of the authority, and
32 by February 1 of each year thereafter. The board shall advise the
33 commissioner and the authority on February 1, 2008 and on each
34 succeeding February 1, if the board finds that the authority is not in
35 compliance with the bonding requirements as provided in
36 certification standard a. of the section, and that a corrective action
37 plan is needed. The authority shall submit a corrective action plan
38 that would reduce its future bond sales to offset the amount of
39 excess bonding or to reduce future debt service payments, or both,
40 as the case may be. Upon approval of the corrective action plan by
41 the board, the certification shall be issued with certain conditions.
42 The Annual Transportation Capital Program submitted to the
43 Legislature for the forthcoming year shall be in compliance with the
44 provisions of the corrective action plan. If the board does not
45 approve the corrective action plan, the authority shall submit a
46 financial plan showing bonding only for existing projects, noting
47 that no bonds shall be issued for new projects shown in the
48 department's Annual Transportation Capital Program. The board

1 shall advise the commissioner on February 1, 2008 and on each
2 succeeding February 1, if the board finds that the Department of
3 Transportation has exceeded the limitation for the amount of
4 authority funds spent on permitted maintenance pursuant to
5 certification standard b. of this section, or for the amount authorized
6 to be appropriated for project costs pursuant to certification
7 standard c. of this section and that a corrective action plan is
8 needed. The department shall submit a corrective action plan that
9 would offset the excess amount spent, or the excess amount
10 appropriated, in the prior year with less funding for permitted
11 maintenance or for projects, as the case may be, in the proposed
12 capital budget request. Upon approval of the corrective action plan
13 by the board, a certification as to these matters shall be issued with
14 certain conditions. The Annual Transportation Capital Program
15 submitted to the Legislature for the forthcoming year shall be in
16 compliance with the provisions of the corrective action plan. If the
17 board does not approve the corrective action plan, the authority
18 shall submit a financial plan showing bonding only for existing
19 projects, noting that no bonds shall be issued for new projects
20 shown in the department's Annual Transportation Capital Program.
21 (cf: P.L.2016, c.56, s.7)
22

23 5. This act shall take effect immediately and sections 1 through
24 3 shall expire on the first day following the submission by the
25 commission of its report to the Governor and the Legislature
26 pursuant to section 3 of this act.
27
28

29 STATEMENT

30
31 This bill establishes an "Alternative Fuel Vehicle Transportation
32 Financing Commission" (commission) to consist of 13 members as
33 follows:

- 34 1) the State Treasurer, ex officio, or the State Treasurer's
35 designee;
- 36 2) the Commissioner of Transportation, ex officio, or the
37 commissioner's designee;
- 38 3) the Chief Administrator of the New Jersey Motor Vehicle
39 Commission, ex officio, or the chief administrator's designee;
- 40 4) the Commissioner of Environmental Protection, ex officio,
41 or the commissioner's designee;
- 42 5) the President of the Board of Public Utilities, ex officio, or
43 the president's designee;
- 44 6) one representative of a plug-in electric vehicle manufacturer
45 appointed by the Governor, with the advice and consent of the
46 Senate;

1 7) one representative of a fuel cell electric vehicle
2 manufacturer appointed by the Governor, with the advice and
3 consent of the Senate;

4 8) one member of the public appointed by the President of the
5 Senate;

6 9) one member of the public appointed by the Speaker of the
7 General Assembly; and

8 10) four members of the public appointed by the Governor, with
9 the advice and consent of the Senate.

10 The public members of the commission are to have a
11 professional background in plug-in electric vehicle infrastructure
12 equipment, fuel cell electric vehicle infrastructure equipment,
13 transportation capital finance, transportation capital planning, or tax
14 revenue collection. The State Treasurer, or the State Treasurer's
15 designee, is to serve as chair of the commission.

16 The commission is to study and make findings and
17 recommendations concerning the taxation of motor vehicles that are
18 powered by a fuel source that is not subject to the motor fuels tax or
19 the petroleum products gross receipts tax, including, but not limited
20 to, electric vehicles and hydrogen fuel cell vehicles. The report is
21 to include recommendations to the Legislature for a system of
22 taxation that mandates that all vehicles operating on the highways
23 of this State contribute to the cost of maintaining the State
24 transportation system. The bill transfers the responsibility for the
25 study and report from the Transportation Policy Review Board to
26 the commission.

27 The commission is to issue a report of its findings and
28 recommendations to the Governor and the Legislature within 180
29 days after the initial meeting of the commission. The report is to
30 include the commission's recommendations for legislation that may
31 be considered for adoption by the Legislature.