

ASSEMBLY, No. 3551

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED DECEMBER 6, 2012

Sponsored by:

Assemblywoman L. GRACE SPENCER

District 29 (Essex)

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

SYNOPSIS

Requires use of constitutionally dedicated moneys to fund conversion of certain diesel vehicles to compressed natural gas, liquefied petroleum gas, or electric vehicles.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the conversion of certain diesel-powered buses
2 and solid waste vehicles to operate on certain other fuels, and
3 amending and supplementing P.L.2005, c.219.

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

7
8 1. (New section) a. The owner of a regulated commercial bus
9 or regulated solid waste vehicle, in lieu of completing the
10 retrofitting required pursuant to P.L.2005, c.219 (C.26:2C-8.26 et
11 seq.), may convert the regulated commercial bus or regulated solid
12 waste vehicle to a bus or vehicle that is powered by compressed
13 natural gas, liquefied petroleum gas, or electricity instead of diesel
14 fuel.

15 b. The department may provide a grant, upon proper
16 application therefor, from the Diesel Risk Mitigation Fund to any
17 owner of a regulated commercial bus, regulated solid waste vehicle,
18 or diesel-powered school bus who wishes to convert the bus or
19 vehicle to one that is powered by compressed natural gas, liquefied
20 petroleum gas, or electricity instead of diesel fuel, provided,
21 however, no grant shall be provided for the conversion of any bus
22 or vehicle that has already been retrofitted or any school bus that
23 has been equipped with closed crankcase technology pursuant to
24 P.L.2005, c.219 (C.26:2C-8.26 et seq.). The grant shall be used to
25 reimburse the owner for the costs of the conversion.

26 c. The department shall allocate at least 20 percent of the
27 moneys annually credited to the Diesel Risk Mitigation Fund for
28 the grants authorized in subsection b. of this section.

29 d. The Department of Environmental Protection shall adopt,
30 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
31 (C.52:14B-1 et seq.), such rules and regulations as may be
32 necessary to implement the provisions of this section. The
33 Department of Environmental Protection shall cooperate and
34 consult with the New Jersey Motor Vehicle Commission when
35 developing and adopting any such rules and regulations pertaining
36 to school buses.

37
38 2. Section 20 of P.L.2005, c.219 (C.26:2C-8.45) is amended to
39 read as follows:

40 20. a. The provisions of section 6, section 7, section 14, sections
41 16 through 19, inclusive, and sections 29 through 31, inclusive, of
42 P.L.2005, c.219 (C.26:2C-8.31, C.26:2C-8.32, C.26:2C-8.39,
43 C.26:2C-8.41 through C.26:2C-8.44, and C.26:2C-8.54 through
44 C.26:2C-8.56) affecting the reimbursement of owners of regulated
45 vehicles or regulated equipment for the costs associated with 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 purchase and installation of retrofit devices, or of owners of
2 regulated commercial buses, regulated solid waste vehicles, or
3 school buses for the costs associated with a conversion allowed
4 pursuant to section 1 of P.L. , c. (C.) (pending before the
5 Legislature as this bill), to the contrary notwithstanding, the
6 Department of Environmental Protection may develop an alternative
7 approach for reimbursement of these costs to the owners if the
8 department determines that an alternative approach is feasible, cost-
9 effective, and efficient. The alternative approach may include, but
10 shall not be limited to, directly reimbursing the entity performing
11 the actual installation of the retrofit device or of the conversion
12 allowed pursuant to section 1 of P.L. , c. (C.) (pending
13 before the Legislature as this bill), in lieu of reimbursing the owner
14 **[of the regulated vehicle or regulated equipment]**. If the
15 department determines that an alternative approach is feasible, cost-
16 effective, and efficient and chooses to implement the alternative
17 approach, the department shall establish and implement the
18 alternative approach pursuant to rules and regulations adopted
19 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
20 (C.52:14B-1 et seq.). No such rule or regulation may modify any
21 procedure performed by, or any responsibility or requirement
22 imposed on, the New Jersey Motor Vehicle Commission, its
23 employees, or any persons licensed or contracted by the New Jersey
24 Motor Vehicle Commission, unless the rule or regulation is adopted
25 jointly by the New Jersey Motor Vehicle Commission and the
26 Department of Environmental Protection pursuant to the
27 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
28 seq.).

29 b. No provision of subsection a. of this section or any other
30 rule or regulation adopted pursuant thereto, shall be construed to
31 supersede or modify, the provisions of section 3, section 4,
32 subsection a. or subsections d. through f., inclusive, of section 6,
33 subsections a. through c. or subsections e. through f., inclusive, of
34 section 7, sections 8 through 13, inclusive, subsection d. or e. of
35 section 19, section 21, section 26, section 27, section 28, subsection
36 a. of section 29, or subsection b. of section 30 of P.L.2005, c.219
37 (C.26:2C-8.28, C.26:2C-8.29, C.26:2C-8.31, C.26:2C-8.32,
38 C.26:2C-8.33 through C.26:2C-8.38, C.26:2C-8.44, C.26:2C-8.46,
39 C.26:2C-8.51, C.26:2C-8.52, C.26:2C-8.53, C.26:2C-8.54, or
40 C.26:2C-8.55).

41 c. No entity performing the actual installation of a retrofit
42 device or of a conversion allowed pursuant to section 1 of P.L. ,
43 c. (C.) (pending before the Legislature as this bill), who is
44 reimbursed for the costs associated with the purchase and
45 installation of retrofit devices , or with the conversions allowed
46 pursuant to section 1 of P.L. , c. (C.) (pending before the
47 Legislature as this bill), pursuant to rules and regulations adopted
48 pursuant to subsection a. of this section, may impose any charge on

1 any owner of a regulated vehicle or piece of regulated equipment
2 for any cost associated with the purchase and installation of retrofit
3 devices required pursuant to P.L.2005, c.219 (C.26:2C-8.26 et al.)
4 or on any owner of a regulated commercial bus, regulated solid
5 waste vehicle, or school bus for any cost associated with the
6 conversion of any such bus or vehicle allowed pursuant to section 1
7 of P.L. , c. (C.) (pending before the Legislature as this bill).
8 No State agency, department, or political subdivision thereof may
9 impose any charge on any owner of a regulated vehicle or piece of
10 regulated equipment for any cost associated with the purchase and
11 installation of retrofit devices required pursuant to P.L.2005, c.219
12 (C.26:2C-8.26 et al.) or on any owner of a regulated commercial
13 bus, regulated solid waste vehicle, or school bus for any cost
14 associated with the conversion of any such bus or vehicle
15 allowed pursuant to section 1 of P.L. , c. (C.) (pending
16 before the Legislature as this bill), if entities performing the actual
17 installation of a retrofit device or the conversion are reimbursed for
18 the costs pursuant to rules and regulations adopted pursuant to
19 subsection a. of this section.
20 (cf: P.L.2005, c.219, s.20)

21
22 3. Section 28 of P.L.2005, c.219 (C.26:2C-8.53) is amended to
23 read as follows:

24 28. a. There is established in the Department of the Treasury a
25 special, nonlapsing fund to be known as the "Diesel Risk Mitigation
26 Fund." The fund shall be administered by the State Treasurer and
27 shall be credited with:

- 28 (1) constitutionally dedicated moneys;
- 29 (2) such moneys as are appropriated by the Legislature; and
- 30 (3) any return on investment of moneys deposited in the fund.

31 b. Moneys in the fund may be used by the Department of the
32 Treasury solely for:

33 (1) reimbursements to owners of regulated vehicles or regulated
34 equipment to reimburse the cost of required retrofit devices and the
35 installation thereof;

36 (2) reimbursements to owners of regulated commercial buses,
37 regulated solid waste vehicles, or school buses to reimburse the cost
38 of the conversions allowed pursuant to section 1 of P.L. , c.
39 (C.) (pending before the Legislature as this bill);

40 (3) the administrative costs incurred by the Department of
41 Environmental Protection to implement the provisions of P.L.2005,
42 c.219 (C.26:2C-8.26 et al.) up to \$900,000 per year; and

43 **[(3)]** (4) the administrative costs incurred by the New Jersey
44 Motor Vehicle Commission to implement the provisions of
45 P.L.2005, c.219 (C.26:2C-8.26 et al.) up to \$250,000 per year.

46 c. No moneys in the fund may be made available for any costs
47 associated with requirements imposed by P.L.2005, c.219 (C.26:2C-
48 8.26 et al.), unless the State Treasurer certifies that the

1 constitutionally dedicated moneys have been deposited in the fund
2 in that year.

3 If the moneys provided for the administrative costs of the New
4 Jersey Motor Vehicle Commission are not required by the
5 commission in a given year because they exceed the amount of the
6 administrative costs of the commission in that year, the State
7 Treasurer shall provide those moneys unexpended for that purpose
8 to the Department of Environmental Protection for administrative
9 costs, provided that the administrative costs paid from the
10 constitutionally dedicated moneys deposited in the fund do not
11 exceed \$1,150,000.

12 d. Any owner of a regulated vehicle or piece of regulated
13 equipment, or owner of a regulated commercial bus, regulated solid
14 waste vehicle, or school bus that has been converted as allowed
15 pursuant to section 1 of P.L. , c. (C.) (pending before the
16 Legislature as this bill), is eligible for reimbursement from the fund.
17 Notwithstanding the provisions of the "Local Budget Law"
18 (N.J.S.40A:4-1 et seq.) to the contrary, a county, municipality, or an
19 authority as defined in section 3 of P.L.1983, c.313 (C.40A:5A-3)
20 required to comply with the provisions of P.L.2005, c.219
21 (C.26:2C-8.26 et al.) may anticipate in its annual budget or any
22 amendments or supplements thereto, those sums to be reimbursed
23 from the fund for the costs of retrofit devices and their installation
24 that are required to be used in or on any regulated vehicle or piece
25 of regulated equipment in a given year in which the county,
26 municipality, or authority incurs the cost, or for the costs of
27 conversions allowed pursuant to section 1 of P.L. ,
28 c. (C.) (pending before the Legislature as this bill). For the
29 purposes of subsection 1. of section 3 of P.L.1976, c.68 (C.40A:4-
30 45.3) and subsection g. of section 4 of P.L.1976, c.68 (C.40A:4-
31 45.4), the costs of retrofit devices and their installation or the costs
32 of conversions allowed pursuant to section 1 of P.L. , c. (C.)
33 (pending before the Legislature as this bill) shall be considered an
34 amount to be received from State funds in reimbursement for local
35 expenditures and therefore exempt from the limitation on local
36 budgets imposed pursuant to section 2 of P.L.1976, c.68 (C.40A:4-
37 45.2).

38 (cf: P.L.2005, c.219, s.28)

39

40 4. Section 29 of P.L.2005, c.219 (C.26:2C-8.54) is amended to
41 read as follows:

42 29. a. Moneys in the fund shall be allocated and used to provide
43 reimbursement to the owners of regulated vehicles or regulated
44 equipment for 100% of the costs of the purchase and installation of
45 the retrofit device pursuant to P.L.2005, c.219 (C.26:2C-8.26 et al.)
46 or the costs of conversions allowed pursuant to section 1 of P.L. ,
47 c. (C.) (pending before the Legislature as this bill), other than
48 fuel.

1 b. The owner or operator of a regulated vehicle **[or]** , piece of
2 regulated equipment , or school bus seeking the reimbursement
3 authorized in subsection a. of this section shall file an application
4 on a form to be developed by the State Treasurer and the
5 Department of Environmental Protection, with the department, with
6 the documentation required by the department and the State
7 Treasurer pursuant to section 30 of P.L.2005, c.219 (C.26:2C-8.55).
8 Neither the State Treasurer nor the Department of Environmental
9 Protection may charge an application fee.

10 c. Upon a determination that an application for reimbursement
11 meets all established criteria for an award from the fund, the
12 Department of Environmental Protection and the State Treasurer
13 shall approve the application. Upon the department approval of an
14 application for reimbursement from the fund, the State Treasurer
15 shall award the reimbursement to an owner upon the availability of
16 sufficient moneys in the fund. If moneys in the fund are not
17 sufficient at any point to fund all applications for reimbursement
18 that have been approved by the State Treasurer, the State Treasurer
19 shall award reimbursement to approved owners based upon the date
20 of approval of the application.

21 (cf: P.L.2005, c.219, s.29)

22

23 5. Section 30 of P.L.2005, c.219 (C.26:2C-8.55) is amended to
24 read as follows:

25 30. a. The State Treasurer shall adopt, in consultation with the
26 Department of Environmental Protection, pursuant to the
27 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
28 seq.), rules and regulations:

29 (1) establishing the filing requirements for a complete
30 application for reimbursement from the fund; and

31 (2) to require an owner:

32 (a) to submit documentation or other information demonstrating
33 that the retrofit device has been purchased and installed on a
34 regulated vehicle, which shall include the vehicle identification
35 number of the vehicle, or on regulated equipment the serial number;

36 (b) to submit documentation of the actual costs incurred for the
37 purchase of the retrofit device required to be installed, the nature
38 and scope of work performed to install the retrofit device, and the
39 actual costs incurred to install the technology;

40 (c) to submit a certification that the owner has not engaged in
41 any of the conduct described in subsection a. of section 31 of
42 P.L.2005, c.219 (C.26:2C-8.56);

43 (d) to submit a certification that the retrofit device installed on a
44 regulated vehicle or regulated equipment is in conformance with
45 rules and regulations of the Department of Environmental
46 Protection; **[and]**

1 (e) to provide access at reasonable times to the regulated
2 vehicles or regulated equipment to determine compliance with the
3 terms and conditions of the reimbursement award ;

4 (f) to submit documentation or other information demonstrating
5 that the conversion allowed pursuant to section 1 of P.L. , c. (C.)
6 (pending before the Legislature as this bill) has been completed,
7 which shall include the vehicle identification number of the vehicle,
8 or other verifying information required by the State Treasurer; and

9 (g) to submit documentation of the actual costs of the
10 conversion allowed pursuant to section 1 of P.L. , c. (C.)
11 (pending before the Legislature as this bill).

12 b. In establishing requirements for applications for
13 reimbursement, the State Treasurer:

14 (1) may not impose conditions that interfere with the everyday
15 normal operations of an owner's business activities, except to the
16 extent necessary to ensure the owner has complied with the
17 provisions of P.L.2005, c.219 (C.26:2C-8.26 et al.);

18 (2) shall strive to minimize the complexity and costs to owners
19 of complying with such requirements; and

20 (3) shall expeditiously process all applications in accordance
21 with a schedule established, in consultation with the Department of
22 Environmental Protection, for the review and the taking of final
23 action within 30 days after the receipt of the completed application.

24 (cf: P.L.2005, c.219, s.30)

25

26 6. Section 31 of P.L.2005, c.219 (C.26:2C-8.56) is amended to
27 read as follows:

28 31. a. The State Treasurer may deny an application for
29 reimbursement from the fund, and any reimbursement from the fund
30 may be recoverable by the State Treasurer, upon a finding that:

31 (1) the owner of a regulated vehicle **[or]**, regulated equipment ,
32 or school bus failed to commence or complete the purchase or
33 installation of best available retrofit technology on the vehicle or
34 equipment, or the conversion allowed pursuant to section 1 of
35 P.L. , c. (C.) (pending before the Legislature as this bill),
36 for which an application for reimbursement was filed in accordance
37 with the applicable rules and regulations; or

38 (2) the owner of a regulated vehicle **[or]**, regulated equipment ,
39 or school bus provided false information or withheld information on
40 an application that would render the owner ineligible for
41 reimbursement from the fund, that resulted in the owner receiving a
42 larger reimbursement than the owner would otherwise be eligible,
43 or that resulted in payments from the fund in excess of the actual
44 costs incurred by the owner or the amount to which the owner is
45 legally eligible.

46 b. Nothing in this section shall be construed to require the State
47 Treasurer, the Department of Environmental Protection, or any
48 other State agency or department, to undertake an investigation or

1 make any findings concerning the conduct described in subsection
2 a. of this section.

3 (cf: P.L.2005, c.219, s.31)

4

5 7. This act shall take effect immediately.

6

7

8

STATEMENT

9

10 This bill would allow the owner of a diesel commercial bus or
11 diesel solid waste vehicle, in lieu of completing the retrofitting for
12 control of particulate matter pollution which is required of such
13 diesel vehicles pursuant to P.L.2005, c.219 (C.26:2C-8.26 et seq.),
14 to convert the bus or vehicle to one that is powered by compressed
15 natural gas, liquefied petroleum gas, or electricity instead of diesel
16 fuel.

17 The bill would authorize the Department of Environmental
18 Protection to provide a grant, upon proper application therefor,
19 from the Diesel Risk Mitigation Fund to any owner of a regulated
20 commercial bus, regulated solid waste vehicle, or diesel-powered
21 school bus who wishes to convert the bus or vehicle to one that is
22 powered by compressed natural gas, liquefied petroleum gas, or
23 electricity instead of diesel fuel. The grant would be used to
24 reimburse the owner for the costs of the conversion. The bill also
25 specifies that if, pursuant to P.L.2005, C.219, a bus or vehicle has
26 already been retrofitted or a school bus has been equipped with
27 closed crankcase technology, that bus or vehicle would not be
28 eligible for a conversion grant under this bill.

29 In addition, the bill would require the department to allocate at
30 least 20 percent of the moneys annually credited to the Diesel Risk
31 Mitigation Fund to fund the grants for conversions from diesel to
32 compressed natural gas, liquefied petroleum gas, or electric power
33 authorized in the bill.