

STATE OF ILLINOIS
OFFICE OF THE GOVERNOR
SPRINGFIELD, 62706GEORGE H. RYAN
GOVERNOR

August 28, 2002

To the Honorable Members of the
Illinois House of Representatives
92nd General Assembly

Pursuant to the authority vested in the Governor by Article IV, Section 9(e) of the Illinois Constitution of 1970, and re-affirmed by the People of the State of Illinois by popular referendum in 1974, and conforming to the standard articulated by the Illinois Supreme Court in People ex Rel. Klinger v. Howlett, 50 Ill. 2d 242 (1972), Continental Illinois National Bank and Trust Co. v. Zagel, 78 Ill. 2d 387 (1979), People ex Rel. City of Canton v. Crouch, 79 Ill. 2d 356 (1980), and County of Kane v. Carlson, 116 Ill. 2d 186 (1987), that gubernatorial action be consistent with the fundamental purposes and the intent of the bill, I hereby return House Bill 2 entitled "AN ACT in relation to alternate fuels," with my specific recommendations for change.

House Bill 2 contains important provisions to further promote the use of clean alternative fuels in the State, especially in the Chicago area, fostering research, outreach and facility construction for the ethanol and alternative fuel industry. The existing programs for alternate fuel rebates and ethanol research, which will sunset in December of this year, are extended until 2004. In addition, House Bill 2 creates the Alternate Fuel Infrastructure Program and provides that the Department of Commerce and Community Affairs (DCCA) shall administer a Clean Fuel Education Program. House Bill 2 also creates an Alternate Fuel Infrastructure Advisory Board to provide private sector input into the State's efforts to expand the alternate fuel industry in Illinois.

House Bill 2 is the product of cooperative efforts of industry representatives, IEPA, DCCA and state legislators to provide state programming for alternative fuel development, research, facility and continuation of the Clean Fuels Fleet program. Each of these initiatives serves to foster vital components of the alternative fuel industry in Illinois. The State can play a pivotal role in securing the expansion of alternative fuel production and use, bringing both economic and environmental benefits to the State of Illinois.

However, the language in House Bill 2, as passed by the General Assembly, creates significant fiscal and legal implications for the State of Illinois. House Bill 2 eliminates the existing funding structure for Fiscal Year 2002, exposing the State to possible litigation for user fees collected and expended during this period. In addition, House Bill 2 mandates that the state agencies continue operation of the existing rebate and education programs and establish new infrastructure and research programs without any identified funding source. House Bill 2 does provide the authority for agencies to accept funds from outside sources for these programs. However, the legislation restricts the distribution of these private contributions, with no consideration for the delegation of funds desired by the funding source. Finally, House Bill 2 establishes an essential advisory board to accommodate private sector involvement, but provides this "advisory" board with excessive levels of authority, allowing the independent board members to determine distribution of state funds with no oversight by state agencies or the General Assembly.

I urge the General Assembly to continue the State's efforts to support and expand the alternative fuel industry in Illinois. However, any time we create new programs and mandate the continuation of existing programs, it is essential that the State be fiscally responsible and, when

possible, provide sufficient funding sources for the programs we stand behind.

For these reasons, I hereby return House Bill 2 with the following recommendations for change:

on page 1, line 13, by replacing "electricity.", with "electricity, excluding on-board electric generation."; and

on page 3, line 1, by replacing "Act; (2) determine" with "Act and (2) recommend"; and

on page 3, line 2, by replacing "grants and review" with "grants."; and

on page 3, by deleting lines 3 through 6; and

on page 3, by replacing line 19 with "research program shall remain in effect, subject to appropriation after calendar year until-December-31"; and

on page 3, line 24, after "1997,", by inserting "and as long as funds are available,"; and

on page 3, by replacing lines 27 through 32 with the following:

"issued under the provisions of this Act. ~~The--Alternate fuels--Advisory-Board-shall-develop-and-recommend-to-the Agency-rules-that-provide-incentives-or--other--measures to---ensure---that--small--fleet--operators--and--owners participate-in,--and-benefit-from,--the--rebate--program. Such---rules--shall--define--and--identify--small--fleet operators-and-owners-in-the-covered~~"; and

on page 4, by replacing lines 1 through 8 with the following:

~~"area--and--make--provisions--for--the--establishment--of criteria--to--ensure-that-funds-from-the-Alternate-Fuels Fund-specified-in-this-Act-are-made-readily-available-to these--entities.--The--Advisory--Board--shall,--in--the development--of--its-rebate-application-review-criteria, make--provisions--for--preference---to---be---given---to application--proposing--a--partnership-between-the-fleet operator-or-owner-and-a-fueling-service-station-to--make alternate--fuels--available-to-the-public. An owner may; and~~

on page 4, by replacing lines 26 and 27 with the following:

"conversion cost rebates applied for during or after calendar year years 1997, 1998, 1999, 2000, 2001, and 2002 shall"; and

on page 4, line 30, by replacing "2004," with "2002,"; and

on page 5, by replacing lines 13 and 14 with the following:

"or after calendar year years 1997, 1998, 1999, 2000, 2001, and 2002 shall be 80% of all approved cost differential"; and

on page 5, line 16, by replacing "2004," with "2002,"; and

on page 5, by replacing lines 31 and 32 with the following:

"applied for during or after calendar year years 1997, 1998, 1999, 2000, and 2001 and approved rebates shall be 80% of the cost"; and

on page 6, by replacing lines 1 through 32 with the

following:

~~"year 2002 if funds are still available. Twenty-five percent-of-the-amount-appropriated-under-Section--40--to be--used-to-fund-the-programs-authorized-by-this-Section during-calendar-year-1998-shall-be--designated--to--fund fuel--cost--differential--rebates.--If--the-total-dollar amount--of--approved--fuel--cost--differential--rebate applications--as--of--October--17--1998-is-less-than-the amount-designated-for-that-calendar-year, the-balance-of designated-funds-shall-be-immediately-available-to--fund any--rebate--authorized--by-this-Section-and-approved-in the-calendar--year.--An--applicant--may--include--on--an application--submitted--in-1997-all-amounts-spent-within that-calendar-year-on-fuel-cost--differential,--even--if the--expenditure-occurred-before-the-promulgation-of-the Agency--rules.--Twenty-five--percent---of---the---amount appropriated--under--Section--40--to-be-used-to-fund-the programs-authorized-by-this-Section-during-calendar-year 1999-shall-be-designated-to-fund-fuel-cost--differential rebates.--If--the--total-dollar-amount-of-approved-fuel cost-differential-rebate-applications-as-of-July-17-1999 is-less-than-the-amount--designated--for--that--calendar year,---the---balance---of--designated--funds--shall--be immediately-available-to-fund-any-rebate--authorized--by this---Section---and--approved--in--the--calendar--year. Twenty-five-percent-of--the--amount--appropriated--under Section--40--to--be--used-to-fund-programs-authorized-by this--Section--during--calendar--year--2000---shall---be designated--to--fund--fuel-cost-differential-rebates.--If the--total--dollar--amount---of---approved---fuel---cost differential--rebate--applications-as-of-July-17-2000-is less-than-the-amount-designated-for-that-calendar--year, the--balance--of--designated--funds-shall-be-immediately available-to-fund-any-rebate-authorized-by-this--Section and-approved-in-the-calendar-year.";~~ and

on page 7, line 24 by replacing "The" with "Subject to appropriation, the"; and

on page 7, line 32, by deleting "Under the grant program,"; and

on page 7, by deleting line 33; and

on page 8, by deleting line 1 and 2; and

on page 8, line 4, by replacing "The" with "Subject to appropriate, the"; and

on page 8, by replacing line 13, with the following:

"(a) During fiscal years 1999, 2000, 2001, and 2002"; and

on page 9, lines 9, 12, 18, and 21 by replacing "and 2001" with "2001, and 2002" each time it appears; and

on page 9, line 32 by replacing "2001," with "2002,"; and

on page 10, lines 11, 16, and 20, by replacing "2002, 2003," with "2003" each time it appears; and

on page 11, by deleting lines 2 through 15; and

on page 11, line 16, by deleting "(d) Blank.".

With these changes, House Bill 2 will have my approval. I respectfully request your concurrence.