

AN ACT

relating to the Texas emissions reduction plan.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 386.051(b), Health and Safety Code, is amended to read as follows:

(b) Under the plan, the commission and the comptroller shall provide grants or other funding for:

(1) the diesel emissions reduction incentive program established under Subchapter C, including for infrastructure projects established under that subchapter;

(2) the motor vehicle purchase or lease incentive program established under Subchapter D;

(3) the air quality research support program established under Chapter 387;

(4) the clean school bus program established under Chapter 390;

(5) the new technology implementation grant program established under Chapter 391;

(6) the regional air monitoring program established under Section 386.252(a);

(7) a health effects study as provided by Section 386.252(a);

(8) air quality planning activities as provided by Section 386.252(d);

1 (9) a contract with the Energy Systems Laboratory at
2 the Texas A&M Engineering Experiment Station for computation of
3 creditable statewide emissions reductions as provided by Section
4 386.252(a);

5 (10) the Texas clean fleet program established under
6 Chapter 392;

7 (11) the Texas alternative fueling facilities program
8 established under Chapter 393;

9 (12) the Texas natural gas vehicle grant program
10 established under Chapter 394;

11 (13) other programs the commission may develop that
12 lead to reduced emissions of nitrogen oxides, particulate matter,
13 or volatile organic compounds in a nonattainment area or affected
14 county;

15 (14) other programs the commission may develop that
16 support congestion mitigation to reduce mobile source ozone
17 precursor emissions;

18 (15) the seaport and rail yard areas emissions
19 reduction program established under Subchapter D-1;

20 (16) conducting research and other activities
21 associated with making any necessary demonstrations to the United
22 States Environmental Protection Agency to account for the impact of
23 foreign emissions or an exceptional event;

24 (17) studies of or pilot programs for incentives for
25 port authorities located in nonattainment areas or affected
26 counties as provided by Section 386.252(a); ~~and~~

27 (18) the governmental alternative fuel fleet grant

1 program established under Chapter 395; and

2 (19) remittance of funds to the state highway fund for
3 use by the Texas Department of Transportation for congestion
4 mitigation and air quality improvement projects in nonattainment
5 areas and affected counties.

6 SECTION 2. Section 386.057, Health and Safety Code, is
7 amended by adding Subsection (e) to read as follows:

8 (e) Not later than October 1 of each year, the Texas
9 Department of Transportation shall report to the commission the
10 following information for all congestion mitigation and air quality
11 improvement projects in nonattainment areas and affected counties
12 that are planned to be funded, or received initial funding during
13 the preceding 10 years, from money received by the department under
14 this chapter:

15 (1) projects to mitigate congestion and improve air
16 quality that are currently planned;

17 (2) projects to mitigate congestion and improve air
18 quality that have been completed;

19 (3) estimated emissions reductions for all planned and
20 completed congestion mitigation projects; and

21 (4) estimated cost per ton analysis of reduced
22 emissions of nitrogen oxides, particulate matter, or volatile
23 organic compounds for each congestion mitigation project planned or
24 completed.

25 SECTION 3. Sections 386.104(c) and (c-1), Health and Safety
26 Code, are amended to read as follows:

27 (c) Except as otherwise provided by this subsection, for a

1 proposed project as described by Section 386.102(b), [~~other than a~~
2 ~~project involving a marine vessel or engine,~~] not less than 75
3 percent of vehicle miles traveled or hours of operation projected
4 for the five years immediately following the award of a grant must
5 be projected to take place in a nonattainment area or affected
6 county of this state. The commission may set the minimum percentage
7 of vehicle miles traveled or hours of operation required to take
8 place in a nonattainment area or affected county at a percentage and
9 for a period that is different from the percentage and period
10 specified by this subsection, provided that the commission may not
11 set the minimum percentage at a level that is less than 55 percent.
12 The commission may allow vehicle travel on highways and roadways,
13 or portions of a highway or roadway, designated by the commission
14 and located outside a nonattainment area or affected county to
15 count towards the percentage of use requirement in this subsection.

16 (c-1) For a proposed project involving a marine vessel or
17 engine, the vessel or engine must be operated in the intercoastal
18 waterways or bays adjacent to a nonattainment area or affected
19 county of this state for a sufficient percentage [~~amount~~] of time
20 over the lifetime of the project, as determined by the commission,
21 to meet the cost-effectiveness requirements of Section 386.105.
22 The percentage determined by the commission under this subsection
23 may not be less than 55 percent.

24 SECTION 4. Section 386.250(c), Health and Safety Code, as
25 effective September 1, 2021, is amended to read as follows:

26 (c) Not later than the 30th day after the last day of each
27 state fiscal biennium, the commission shall transfer the

1 unencumbered balance of the fund remaining on the last day of the
2 state fiscal biennium to the credit of the state highway fund for
3 use by the Texas Department of Transportation for projects
4 described by Section 386.051(b)(19) [~~Texas emissions reduction~~
5 ~~plan account~~].

6 SECTION 5. Section 386.251(c), Health and Safety Code, as
7 effective September 1, 2021, is amended to read as follows:

8 (c) The account consists of its accumulated balance [~~and the~~
9 ~~amount of money transferred to the account under Section~~
10 ~~386.250(c)~~].

11 SECTION 6. Section 386.252, Health and Safety Code, as
12 effective September 1, 2021, is amended by amending Subsection (a)
13 and adding Subsection (a-1) to read as follows:

14 (a) Money in the fund and account may be used only to
15 implement and administer programs established under the
16 plan. Subject to the reallocation of funds by the commission under
17 Subsection (h) and after remittance to the state highway fund under
18 Subsection (a-1), money from the fund and account to be used for the
19 programs under Section 386.051(b) shall initially be allocated as
20 follows:

21 (1) four percent may be used for the clean school bus
22 program under Chapter 390;

23 (2) three percent may be used for the new technology
24 implementation grant program under Chapter 391, from which at least
25 \$1 million will be set aside for electricity storage projects
26 related to renewable energy;

27 (3) five percent may be used for the Texas clean fleet

1 program under Chapter 392;

2 (4) not more than \$3 million may be used by the
3 commission to fund a regional air monitoring program in commission
4 Regions 3 and 4 to be implemented under the commission's oversight,
5 including direction regarding the type, number, location, and
6 operation of, and data validation practices for, monitors funded by
7 the program through a regional nonprofit entity located in North
8 Texas having representation from counties, municipalities, higher
9 education institutions, and private sector interests across the
10 area;

11 (5) 10 percent may be used for the Texas natural gas
12 vehicle grant program under Chapter 394;

13 (6) not more than \$6 million may be used for the Texas
14 alternative fueling facilities program under Chapter 393, of which
15 a specified amount may be used for fueling stations to provide
16 natural gas fuel, except that money may not be allocated for the
17 Texas alternative fueling facilities program for the state fiscal
18 year ending August 31, 2019;

19 (7) not more than \$750,000 may be used each year to
20 support research related to air quality as provided by Chapter 387;

21 (8) not more than \$200,000 may be used for a health
22 effects study;

23 (9) at least \$6 million but not more than \$16 million
24 may be used by the commission for administrative costs, including
25 all direct and indirect costs for administering the plan, costs for
26 conducting outreach and education activities, and costs
27 attributable to the review or approval of applications for

1 marketable emissions reduction credits;

2 (10) six percent may be used by the commission for the
3 seaport and rail yard areas emissions reduction program established
4 under Subchapter D-1;

5 (11) five percent may be used for the light-duty motor
6 vehicle purchase or lease incentive program established under
7 Subchapter D;

8 (12) not more than \$216,000 may be used by the
9 commission to contract with the Energy Systems Laboratory at the
10 Texas A&M Engineering Experiment Station annually for the
11 development and annual computation of creditable statewide
12 emissions reductions obtained through wind and other renewable
13 energy resources for the state implementation plan;

14 (13) not more than \$500,000 may be used for studies of
15 or pilot programs for incentives for port authorities located in
16 nonattainment areas or affected counties to encourage cargo
17 movement that reduces emissions of nitrogen oxides and particulate
18 matter; and

19 (14) the balance is to be used by the commission for
20 the diesel emissions reduction incentive program under Subchapter C
21 as determined by the commission.

22 (a-1) The commission shall remit not less than 35 percent of
23 the amount deposited to the credit of the fund to the state highway
24 fund for use by the Texas Department of Transportation for projects
25 described by Section 386.051(b)(19).

26 SECTION 7. Section 391.002(b), Health and Safety Code, is
27 amended to read as follows:

1 (b) Projects that may be considered for a grant under the
2 program include:

3 (1) advanced clean energy projects, as defined by
4 Section 382.003;

5 (2) new technology projects that reduce emissions of
6 regulated pollutants from stationary sources;

7 (3) new technology projects that reduce emissions from
8 upstream and midstream oil and gas production, completions,
9 gathering, storage, processing, and transmission activities
10 through:

11 (A) the replacement, repower, or retrofit of
12 stationary compressor engines;

13 (B) the installation of systems to reduce or
14 eliminate the loss of gas, flaring of gas, or burning of gas using
15 other combustion control devices; or

16 (C) the installation of systems that reduce
17 flaring emissions and other site emissions [~~by capturing waste heat
18 to generate electricity solely for on-site service~~]; and

19 (4) electricity storage projects related to renewable
20 energy, including projects to store electricity produced from wind
21 and solar generation that provide efficient means of making the
22 stored energy available during periods of peak energy use.

23 SECTION 8. Section 391.205(a), Health and Safety Code, is
24 amended to read as follows:

25 (a) Except as provided by Subsection (c), in awarding grants
26 under this chapter the commission shall give preference to projects
27 that:

1 (1) involve the transport, use, recovery for use, or
2 prevention of the loss of natural resources originating or produced
3 in this state;

4 (2) contain an energy efficiency component;

5 (3) include the use of solar, wind, or other renewable
6 energy sources; ~~or~~

7 (4) recover waste heat from the combustion of natural
8 resources and use the heat to generate electricity; or

9 (5) reduce flaring emissions and other site emissions.

10 SECTION 9. Section 391.301, Health and Safety Code, is
11 amended to read as follows:

12 Sec. 391.301. RESTRICTION ON USE OF GRANT. A recipient of a
13 grant under this chapter must use the grant to pay the incremental
14 costs of the purchase, lease, or ~~and~~ installation of the project
15 for which the grant is made, which may include reasonable and
16 necessary expenses for the labor needed to install
17 emissions-reducing equipment. The recipient may ~~not~~ use the
18 grant for the costs of operating and maintaining the
19 emissions-reducing equipment.

20 SECTION 10. Section 501.138, Transportation Code, is
21 amended by amending Subsections (b-1), (b-2), and (b-3) and adding
22 Subsection (b-4) to read as follows:

23 (b-1) Except as provided by Subsection (b-4), fees ~~Fees~~
24 collected under Subsection (b) to be sent to the comptroller shall
25 be deposited to the credit of the Texas ~~Mobility Fund, except that~~
26 ~~\$5 of each fee imposed under Subsection (a)(1) and deposited on or~~
27 ~~after September 1, 2008, and before September 1, 2015, shall be~~

1 ~~deposited to the credit of the Texas]~~ emissions reduction plan
2 fund.

3 (b-2) The comptroller shall establish a record of the amount
4 of the fees deposited to the credit of the Texas emissions reduction
5 plan fund [~~Mobility Fund~~] under Subsection (b-1). On or before the
6 fifth workday of each month, the Texas Department of Transportation
7 shall remit to the comptroller for deposit to the credit of the
8 Texas Mobility Fund [~~emissions reduction plan fund~~] an amount of
9 money equal to the amount of the fees deposited by the comptroller
10 to the credit of the Texas emissions reduction plan fund [~~Mobility~~
11 ~~Fund~~] under Subsection (b-1) in the preceding month. The Texas
12 Department of Transportation shall use for remittance to the
13 comptroller as required by this subsection money in the state
14 highway fund that is not required to be used for a purpose specified
15 by Section 7-a, Article VIII, Texas Constitution, and may not use
16 for that remittance money received by this state under the
17 congestion mitigation and air quality improvement program
18 established under 23 U.S.C. Section 149.

19 (b-3) This subsection and Subsections (b-1) and
20 [~~Subsection~~] (b-2) expire on the last day of the state fiscal
21 biennium during which the Texas Commission on Environmental Quality
22 publishes in the Texas Register the notice required by Section
23 [382.037](#), Health and Safety Code.

24 (b-4) Fees collected under Subsection (b) to be sent to the
25 comptroller shall be deposited to the credit of the Texas Mobility
26 Fund if the fees are collected on or after the last day of the state
27 fiscal biennium during which the Texas Commission on Environmental

1 Quality publishes in the Texas Register the notice required by
2 Section 382.037, Health and Safety Code.

3 SECTION 11. The changes in law made by this Act apply only
4 to a Texas emissions reduction plan grant awarded on or after the
5 effective date of this Act. A grant awarded before the effective
6 date of this Act is governed by the law in effect on the date the
7 award was made, and the former law is continued in effect for that
8 purpose.

9 SECTION 12. The change in law made by this Act to Section
10 501.138, Transportation Code, applies only to a fee collected on or
11 after the effective date of this Act. A fee collected before the
12 effective date of this Act is governed by the law in effect when the
13 fee was collected, and the former law is continued in effect for
14 that purpose.

15 SECTION 13. This Act takes effect September 1, 2021.

President of the Senate

Speaker of the House

I certify that H.B. No. 4472 was passed by the House on May 14, 2021, by the following vote: Yeas 117, Nays 27, 3 present, not voting; and that the House concurred in Senate amendments to H.B. No. 4472 on May 28, 2021, by the following vote: Yeas 103, Nays 32, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 4472 was passed by the Senate, with amendments, on May 25, 2021, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor