

BILL ANALYSIS

Senate Research Center

H.B. 2481
By: Bonnen (Harris)
Natural Resources
5/12/2005
Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Under current statute, the Texas Emissions Reduction Plan (TERP) will expire in 2008. The TERP is the cornerstone of the state's efforts to achieve cleaner air. By continuing to fund TERP and strengthening its component programs, the state can continue to address its air quality.

In order to continue the existing TERP funding sources, H.B. 2481 extends certain fees. Under the current expiration of TERP, some of these fees were to go to the Texas Department of Transportation (TxDOT). This bill provides that certain fees will go to TxDOT, but that TxDOT will then pay the TERP fund a corresponding amount. This allows TxDOT to issue bonds backed by the receipt of these fees, while insuring that clean air projects will be supported.

Air quality improvements achieved through energy efficiency and renewable energy can be claimed under the State Implementation Plan only if the necessary calculations are made to quantify the attributable emissions reductions. This bill directs the Texas A&M Energy Systems Laboratory and the Texas Commission on Environmental Quality to do so.

H.B. 2481 also amends the diesel emissions reduction incentive program to broaden and streamline the program to help ensure that the most cost-effective projects receive funding.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 1 (Section 382.0173, Health and Safety Code) of this bill.

Rulemaking authority is expressly granted to the commission [definition not given in Chapter 390, Health and Safety Code,] in SECTION 20 (Section 390.004, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 382, Health and Safety Code, by adding Section 382.0173, as follows:

Sec. 382.0173. ADOPTION OF RULES REGARDING CERTAIN STATE IMPLEMENTATION PLAN REQUIREMENTS AND STANDARDS OF PERFORMANCE FOR CERTAIN SOURCES. (a) Requires the Texas Commission on Environmental Quality (TCEQ) to adopt rules to comply with certain sections of the federal Clean Air Act. Sets forth the specific requirements for the rules.

(b) Authorizes TCEQ to require emissions reductions in conjunction with the implementation of the rules adopted under Subsection (a) only for certain electric utility steam generating units. Requires TCEQ to make a permanent allocation without cost to certain electric generating units using a certain method. Sets forth the method by which TCEQ is required to make new unit allocations for electric generating units.

(c) Provides that this section applies only while certain federal rules are enforceable and does not limit the authority of TCEQ to implement more stringent emissions control requirements.

(d) Requires TCEQ, in adopting rules under Subsection (a), to incorporate any modifications to certain federal rules that result from a request for rehearing regarding those rules that is filed with the United States Environmental Protection Agency or from a petition for review of those rules that is filed with a court.

SECTION 2. Amends Section 386.002, Health and Safety Code, by providing that this chapter (Texas Emissions Reduction Plan) expires August 31, 2013, rather than 2008.

SECTION 3. Amends Section 386.051(b), Health and Safety Code, to require TCEQ and the comptroller of public accounts (comptroller) to provide grants or other funding for the clean school bus program established under Chapter 390. Makes a nonsubstantive change.

SECTION 4. Amends Section 386.052(b), Health and Safety Code, to include as a TCEQ objective achieving reductions of emissions of diesel exhaust from school buses. Makes a nonsubstantive change.

SECTION 5. Amends Section 386.053(c), Health and Safety Code, to require TCEQ to make draft guidelines and criteria available to the public and the United States Environmental Protection Agency before the 30th day, rather than the 45th day, preceding the date of final adoption.

SECTION 6. Amends Section 386.056, Health and Safety Code, by amending Subsections (a), (b), and (c), and adding Subsection (a-1), as follows:

(a) Authorizes an owner or operator of a site located in certain nonattainment areas to use emissions reductions generated by a program established under this chapter to offset the requirements of TCEQ rules relating to control of air pollution from oxides of nitrogen if the owner or operator of the site contributes a certain amount to the Texas Mobility Fund, rather than to the Texas emissions reduction plan fund.

(a-1) Requires the comptroller to establish a record of the amount of the contributions deposited to the credit of the Texas Mobility Fund under Subsection (a). Prohibits the Texas Department of Transportation (TxDOT) from using contributions deposited to the credit of the Texas Mobility Fund under Subsection (a) to construct, maintain, or operate a toll road, toll bridge, or turnpike. Requires TxDOT, on or before the fifth workday of each month, to remit to the comptroller for deposit to the credit of the Texas emissions reduction plan fund an amount of money equal to the amount of the contributions deposited by the comptroller to the credit of the Texas Mobility Fund under Subsection (a) in the preceding month. Requires TxDOT to use for remittance to the comptroller as required by this subsection certain money in the state highway fund. Prohibits TxDOT to use for that remittance money received by this state under the congestion mitigation and air quality improvement program.

(b) Makes conforming changes.

(c) Makes conforming changes.

SECTION 7. Amends Sections 386.058(b) and (e), Health and Safety Code, as follows:

(b) Requires the governor to appoint to the Texas Emissions Reduction Plan Advisory Board a representative of a certain nonprofit organization, rather than the Texas Council on Environmental Technology.

(e) Provides that appointed members of the advisory board serve staggered four-year, rather than two-year, terms, with the terms of seven or eight appointed members expiring February 1 of each even-numbered year. Deletes existing text providing that the terms of seven members expire February 1 of each even-numbered year, and the terms of eight appointed members expire February 1 of each odd-numbered year.

SECTION 8. Amends Section 386.101(6), Health and Safety Code, to redefine "on-road diesel."

SECTION 9. Amends Section 386.111(a), Health and Safety Code, to delete existing text creating deadlines for TCEQ action on applications for grants.

SECTION 10. Amends Section 386.115, Health and Safety Code, to delete existing text relating to the gross vehicle weight of vehicles that are authorized to be included in the diesel emissions reduction incentive program.

SECTION 11. Amends Section 386.116(d), Health and Safety Code, to require TCEQ to include in the biennial plan report a report of TCEQ actions and results under this section (Small Business Incentives), rather than to report TCEQ actions and results under this section to certain public officials by a certain deadline.

SECTION 12. Amends Subchapter C, Chapter 386, Health and Safety Code, by adding Section 386.117, as follows:

Sec. 386.117. REBATE GRANTS. (a) Requires TCEQ to adopt a process for awarding grants under this subchapter (Diesel Emissions Reduction Incentive Program) in the form of rebates to streamline the grant application, contracting, reimbursement, and reporting processes for certain projects. Sets forth the requirements for the process adopted under this section.

(b) Authorizes TCEQ to limit or expand the designated project types as necessary to further the goals of the program.

(c) Authorizes TCEQ to award rebate grants as a pilot project for a specific region or to award the grants statewide.

(d) Authorizes TCEQ to administer the rebate grants or to designate another entity to administer the grants.

SECTION 13. Amends Section 386.251(c), Health and Safety Code, to provide that the Texas emissions reduction plan fund (fund) consists of the amount of money deposited to the credit of the fund, rather than contributions, fees, and surcharges, under certain sections of the Health and Safety Code, Tax Code, and Transportation Code.

SECTION 14. Amends Section 386.252, Health and Safety Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Authorizes a certain percentage of the money in the fund to be used for the clean school bus program. Increases the allocation for the administration of the new technology research and development program. Requires the balance of the allocation for the new technology research and development program to be allocated each year to a certain nonprofit organization under a contract with TCEQ to implement and administer the new technology research and development program. Authorizes three percent of the money in the fund to be used for administrative costs incurred by TCEQ and the Energy Systems Laboratory at the Texas Engineering Experiment Station of The Texas A&M University System (laboratory).

(c) Authorizes the money in the fund to be allocated to the clean school bus program only if the money is available for that purpose after money is allocated as needed to achieve the emissions reduction objectives in the state implementation plan.

SECTION 15. Amends Section 386.252, Health and Safety Code, effective September 1, 2008, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Reduces from 87.5 percent to 64 percent the amount of money in the fund required to be allocated to the diesel emissions reduction incentive program. Increases from 9.3 percent to 33 percent the amount of money in the fund required to be allocated to the new technology research and development program. Specifies that of the money allocated to the new technology research and development program, not less than 10 percent, rather than 20 percent, is to be allocated to support research related to air quality in certain

areas, not less than 25.5 percent allocated each year to a certain nonprofit organization under a contract with TCEQ to implement and administer the new technology research and development program, not more than \$12,500,000 to be allocated each year from any excess funds to be administered by TCEQ to fund a study of certain ozone-related issues, and the balance is to be allocated to TCEQ to fund promising new technologies. Makes conforming changes.

(c) Authorizes the money in the fund to be allocated to the clean school bus program only if the money is available for that purpose after money is allocated as needed to achieve the emissions reduction objectives in the state implementation plan.

SECTION 16. Amends Section 387.003(a), Health and Safety Code, to require a certain nonprofit organization under contract with TCEQ, rather than TCEQ in consultation with the Texas Council on Environmental Technology, to establish and administer a new technology research and development program as provided by this chapter (New Technology Research and Development Program)

SECTION 17. Amends Section 387.005(a), Health and Safety Code, to delete existing text authorizing grants to be awarded under this chapter for advanced technologies that promote increased building and appliance energy performance. Makes nonsubstantive changes.

SECTION 18. Amends Section 388.003(e), Health and Safety Code, to require the laboratory to annually submit a report to TCEQ quantifying energy savings and emissions reductions from this program.

SECTION 19. Amends Section 389.003, Health and Safety Code, as follows:

Sec. 389.003. New heading: COMPUTING ENERGY EFFICIENCY EMISSIONS REDUCTIONS AND ASSOCIATED CREDITS. (a) Requires TCEQ to develop a method to use in computing emissions reductions obtained through energy efficiency initiatives, including renewable energy initiatives, and the credits associated with those reductions. Creates this subsection from existing text.

(b) Requires the laboratory [no definition for laboratory given in this chapter] to assist TCEQ and affected political subdivisions in quantifying, as part of the state implementation plan, credits for emissions reductions attributable to energy efficiency programs, including renewable energy programs.

SECTION 20. Amends Subtitle C, Title 5, Health and Safety Code, by adding Chapter 390, as follows:

CHAPTER 390. CLEAN SCHOOL BUS PROGRAM

Sec. 390.001. DEFINITIONS. Defines "diesel exhaust," "incremental cost," "program," "qualifying fuel," and "retrofit."

Sec. 390.002. PROGRAM. (a) Requires the commission [no definition for "commission" given in bill] to establish and administer a clean school bus program designed to reduce the exposure of schoolchildren to diesel exhaust in and around diesel-fueled school buses. Requires the commission to provide grants for eligible projects to offset the incremental cost of projects that reduce emissions of diesel exhaust under the program.

(b) Sets forth projects that may be considered for a grant under the program.

Sec. 390.003. APPLICATION FOR GRANT. (a) Authorizes a school district in this state that operates one or more diesel-fueled school buses or a transportation system provided by a countywide school district to apply for and receive a grant under the program.

(b) Authorizes the commission to adopt guidelines to allow a regional planning commission, council of governments, or similar regional planning agency, or a private nonprofit organization to also apply for and receive a grant to improve the ability of the program to achieve its goals.

(c) Requires an application for a grant under this chapter to be made on a form provided by the commission and to contain the information required by the commission.

Sec. 390.004. ELIGIBILITY OF PROJECTS FOR GRANTS. (a) Requires the commission by rule to establish criteria for setting priorities for projects eligible to receive grants under this chapter. Requires the commission to review and authorizes the commission to modify the criteria and priorities as appropriate.

(b) Requires a school bus proposed for retrofit to be used on a regular, daily route to and from a school and have at least five years of useful life remaining unless the applicant agrees to remove the retrofit device at the end of the life of the bus and reinstall the device on another bus.

Sec. 390.005. RESTRICTION ON USE OF GRANT. Requires a recipient of a grant under this chapter to use the grant to pay the incremental costs of the project for which the grant is made, which may include the reasonable and necessary expenses incurred for the labor needed to install emissions-reducing equipment. Prohibits the recipient from using the grant to pay the recipient's administrative expenses.

Sec. 390.006. EXPIRATION. Provides that this chapter expires August 31, 2013.

SECTION 21. Amends Section 151.0515, Tax Code, by amending Subsections (c) and (d) and adding Subsection (c-1), as follows:

(c) Requires the comptroller to deposit all remitted Texas emissions reduction plan surcharges to the Texas Mobility Fund rather than the Texas emissions reduction plan fund.

(c-1) Requires the comptroller to establish a record of the amount of surcharges deposited to the credit of the Texas Mobility Fund under Subsection (c). Prohibits TxDOT from using contributions deposited to the credit of the Texas Mobility Fund under Subsection (c) to construct, maintain, or operate a toll road, toll bridge, or turnpike. Requires TxDOT, on or before the fifth workday of each month, to remit to the comptroller for deposit to the credit of the Texas emissions reduction plan fund an amount of money equal to the amount of the surcharges deposited by the comptroller to the credit of the Texas Mobility Fund under Subsection (c) in the preceding month. Requires TxDOT to use for remittance to the comptroller as required by this subsection certain money in the state highway fund. Prohibits TxDOT to use for that remittance money received by this state under the congestion mitigation and air quality improvement program.

(d) Provides that this section expires September 30, 2013, rather than 2008.

SECTION 22. Amends Section 152.0215, Tax Code, by amending Subsections (b) and (c) and adding Subsection (b-1), as follows:

(b) Requires the comptroller to deposit all remitted Texas emissions reduction plan surcharges to the Texas Mobility Fund rather than the Texas emissions reduction plan fund.

(b-1) Requires the comptroller to establish a record of the amount of surcharges deposited to the credit of the Texas Mobility Fund under Subsection (b). Prohibits TxDOT from using contributions deposited to the credit of the Texas Mobility Fund under Subsection (b) to construct, maintain, or operate a toll road, toll bridge, or turnpike. Requires TxDOT, on or before the fifth workday of each month, to remit to the comptroller for deposit to the credit of the Texas emissions reduction plan fund an amount of money

equal to the amount of the surcharges deposited by the comptroller to the credit of the Texas Mobility Fund under Subsection (b) in the preceding month. Requires TxDOT to use for remittance to the comptroller as required by this subsection certain money in the state highway fund. Prohibits TxDOT to use for that remittance money received by this state under the congestion mitigation and air quality improvement program.

(c) Provides that this section expires September 30, 2013, rather than 2008.

SECTION 23. Amends Section 203.031, Transportation Code, by adding Subsection (c) to require the Texas Transportation Commission (TTC), in establishing the boundaries of a controlled access highway, to make reasonable accommodations in the highway right-of-way for public utilities and common carriers.

SECTION 24. Amends Section 501.138, Transportation Code, by amending Subsections (a) and (b) and adding Subsections (b-1), (b-2), and (b-3), as follows:

(a) Deletes existing text relating to fees for an applicant for a certificate of title on or after September 1, 2008.

(b) Makes nonsubstantive changes.

(b-1) Creates this subsection from existing text. Provides that fees collected under Subsection (b) are required to be sent to the comptroller to be deposited to the credit of the Texas Mobility Fund, rather than to the credit of the Texas emissions reduction fund before September 1, 2008, and to the credit of the Texas Mobility Fund only after September 1, 2008.

(b-2) Requires the comptroller to establish a record of the amount of fees deposited to the credit of the Texas Mobility Fund under Subsection (b-1). Requires TxDOT, on or before the fifth workday of each month, to remit to the comptroller for deposit to the credit of the Texas emissions reduction plan fund an amount of money equal to the amount of the fees deposited by the comptroller to the credit of the Texas Mobility Fund under Subsection (b-1) in the preceding month. Requires TxDOT to use for remittance to the comptroller as required by this subsection certain money in the state highway fund. Prohibits TxDOT to use for that remittance money received by this state under the congestion mitigation and air quality improvement program.

(b-3) Provides that this subsection and Subsection (b-2) expire September 1, 2010.

SECTION 25. Amends Section 502.1675, Transportation Code, by amending Subsections (b) and (c) and adding Subsection (b-1), as follows:

(b) Requires the county tax assessor-collector to remit the surcharge collected under this section (Texas Emissions Reduction Plan Surcharge) to the comptroller to be deposited in the Texas Mobility Fund, rather than the Texas emissions reduction plan fund.

(b-1) Requires the comptroller to establish a record of the amount of surcharges deposited to the credit of the Texas Mobility Fund under Subsection (b). Prohibits TxDOT from using surcharges deposited to the credit of the Texas Mobility Fund under Subsection (b) to construct, maintain, or operate a toll road, toll bridge, or turnpike. Requires TxDOT, on or before the fifth workday of each month, to remit to the comptroller for deposit to the credit of the Texas emissions reduction plan fund an amount of money equal to the amount of the surcharges deposited by the comptroller to the credit of the Texas Mobility Fund under Subsection (b) in the preceding month. Requires TxDOT to use for remittance to the comptroller as required by this subsection certain money in the state highway fund. Prohibits TxDOT to use for that remittance money received by this state under the congestion mitigation and air quality improvement program.

(c) Provides that this section expires August 31, 2013, rather than 2008.

SECTION 26. Amends Section 548.5055, Transportation Code, by amending Subsections (b) and (c) and adding Subsection (b-1), as follows:

(b) Requires the Department of Public Safety to remit fees collected under this section (Texas Emission Reduction Plan Fee) to the comptroller for deposit in the Texas Mobility fund, rather than the Texas emission reduction plan fund.

(b-1) Requires the comptroller to establish a record of the amount of fees deposited to the credit of the Texas Mobility Fund under Subsection (b). Prohibits TxDOT from using fees deposited to the credit of the Texas Mobility Fund under Subsection (b) to construct, maintain, or operate a toll road, toll bridge, or turnpike. Requires TxDOT, on or before the fifth workday of each month, to remit to the comptroller for deposit to the credit of the Texas emissions reduction plan fund an amount of money equal to the amount of the fees deposited by the comptroller to the credit of the Texas Mobility Fund under Subsection (b) in the preceding month. Requires TxDOT to use for remittance to the comptroller as required by this subsection certain money in the state highway fund. Prohibits TxDOT to use for that remittance money received by this state under the congestion mitigation and air quality improvement program.

(c) Provides that this section expires August 31, 2013, rather than 2008.

SECTION 27. Repealer: Sections 386.001(4) (defining "council"), 386.057(e) (Review and Reporting Requirements), 387.002 (Texas Council on Environmental Technology), and 387.010 (Reports), Health and Safety Code, and Sections 548.256(c) and (d) (Verification Form Required to Register Vehicle), Transportation Code.

SECTION 28. Requires TCEQ to prepare guidance documents for the rebate grants required by Section 386.117, Health and Safety Code, as added by this Act, not later than January 1, 2006.

SECTION 29. (a) Requires the governor, as soon as practicable on or after the effective date of this Act, to appoint to the Texas Emissions Reduction Plan Advisory Board a representative of the nonprofit organization described by Section 386.252(a)(2), Health and Safety Code, as required by Section 386.058(b), Health and Safety Code, as amended by this Act, to replace the representative of the Texas Council on Environmental Technology serving on that board on the effective date of this Act.

(b) Requires the governor, lieutenant governor, and speaker of the house of representatives, as soon as practicable on or after the effective date of this Act, by mutual agreement, to designate the terms of the appointed members of the Texas Emissions Reduction Plan Advisory Board so that the terms of seven appointed members expire on February 1, 2007, and the terms of eight appointed members expire on February 1, 2009, as provided by Section 386.058(e), Health and Safety Code, as amended by this Act.

SECTION 30. Effective date: September 1, 2005, except as otherwise provided by this Act.