

BILL ANALYSIS

C.S.H.B 2481
By: Bonnen
Environmental Regulation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

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.

A long-term solution to the state's air quality problem lies in the development and deployment of new technology. Strengthening the existing new technology research and development program, will propel the search for new and efficient solutions. This bill provides more funding for technology and adjusts the state's research and development infrastructure.

In order to continue the existing TERP funding sources, this bill 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 TCEQ to do so.

This bill 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

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

The bill extends the entire chapter of the Health and Safety Code relating to the Texas Emissions Reduction Plan (TERP) to 2013.

Effective September 1, 2008, the bill changes the allocation of money in the TERP fund. The bill provides that 64 percent, rather than 87.5 percent, of the TERP fund goes to the diesel emissions reduction incentive program. The bill provides that 33 percent, rather than 9.5 percent, goes to the new technology research and development program. Of this 33 percent, \$350,000, rather than \$250,000 is allocated to the TCEQ for administration. Also of this 33 percent, not less than 25.5 percent goes to the Houston nonprofit organization to implement and administer the TERP new technology research and development program under a contract with the TCEQ for the purpose of identifying, testing, and evaluating new emissions-reducing technologies. The balance of the 33 percent goes to the TCEQ to fund promising new technologies identified through the new technology research and development program.

The bill adds to the TERP fund money deposited from certain certificate of title fees and the TERP vehicle inspection fee and removes the out-of-state vehicle inspection fee. The bill amends the Transportation Code to repeal the \$225 out-of-state vehicle inspection fee.

The bill amends the Tax Code and the Transportation Code to extend the TERP heavy-duty diesel equipment surcharges, the TERP registration fee for truck-tractor or commercial motor vehicle combination, and the TERP vehicle inspection fee to the year 2013. The bill provides that the difference in title fees between attainment areas and nonattainment areas does not expire in 2008. The bill provides that these fees and surcharges are to be deposited in the Texas Mobility Fund, rather than the TERP fund. The bill prohibits the Texas Department of Transportation from using these contributions for a toll road, toll bridge, or turnpike. The bill requires the TxDOT to remit from the state highway fund an amount equal to the amount of fees and surcharges received under these provisions to the TERP fund. TxDOT is required to use for remittance state highway funds that are not required to be used for public roadways as specified in Article VII of the Texas Constitution. TxDOT is prohibited from using for remittance funds received from the federal government for congestion mitigation and air quality improvement.

The bill amends the Health & Safety Code to provide that an owner or operator of a site located in the Houston-Galveston or Dallas-Fort Worth nonattainment area may use emissions reduction generated by a TERP program to offset the requirements of TCEQ rules relating to control of air pollution from oxides of nitrogen if that owner or operator contributes \$75,000 to the Texas Mobility Fund for each ton of emissions that is not used, rather contributing the money to the TERP fund as in current statute. The bill prohibits the Texas Department of Transportation from using these contributions for a toll road, toll bridge, or turnpike. The bill requires the TxDOT to remit from the state highway fund an amount equal to the amount of contributions received under these provisions to the TERP fund.

The bill requires the nonprofit organization based in Houston described in statute (Houston nonprofit organization), rather than the Texas Council on Environmental Technology, to establish and administer a new technology research and development program. On the TERP Advisory Board, the bill replaces the representative of the Texas Council on Environmental Technology with a representative of the Houston nonprofit organization. The bill provides that members of the board are appointed to serve four year terms, rather than two year terms, and adjusts the staggering of terms accordingly. The bill provides that \$350,000, rather than \$250,000, of the money allocated to the TERP new technology research and development fund goes to administration. After other specified allocations, the balance is allocated to the Houston nonprofit organization to implement and administer the TERP new technology research and development program under a contract with the TCEQ for the purpose of identifying, testing, and evaluating new emissions-reducing technologies. The bill removes advanced technologies that promote increased building and appliance energy performance from the mix of grants awarded under the new technology research and development program.

The bill requires the Texas A&M University Energy Systems Laboratory to quantify emissions reductions from the Texas building energy performance standards program. The bill requires the TCEQ to include renewable energy initiatives in computing emissions reductions obtained through energy efficiency initiatives and the credits associated with those reductions. The bill requires the Energy Systems Laboratory to assist the TCEQ and affected political subdivisions in quantifying credits for emissions reductions attributable to energy efficiency programs, including renewable energy programs.

The bill removes the weight limit for on-road diesel powered motor vehicles to be eligible for the diesel emissions reduction incentive program. The bill removes certain deadlines for TCEQ action on grants from the diesel emissions reduction incentive program. The bill places the diesel emissions reduction incentive program's small business incentives report into the TERP biennial report. The bill requires the TCEQ to adopt a process for awarding grants under the diesel emissions reduction incentive program in the form of rebates. The bill sets forth requirements for this process.

The bill requires the TCEQ to make draft guidelines and criteria under the TERP available to the public and the U.S. Environmental Protection Agency 30 days, rather than 45 days, prior to the final adoption of those guidelines and criteria. The bill repeals provisions requiring the TCEQ to request public comment and hold a public meeting on each draft biennial TERP report.

EFFECTIVE DATE

Section 12 of this Act is effective September 1, 2008. Otherwise the Act takes effect September 1, 2005.

COMPARISON OF SUBSTITUTE TO ORIGINAL

The substitute adds provisions relating to the public comment on the biennial TERP report and the TCEQ deadline for making draft guidelines and criteria available to the public.

The substitute adds provisions relating to contributions to the TERP fund to offset other TCEQ air pollution rules.

The substitute adds provisions relating to the diesel emissions reduction incentive program.

The substitute adds provisions relating to the new technology research and development program and the TERP advisory board.

The substitute adds provisions to move to the TERP fund money deposited from certain certificate of title fees and the TERP vehicle inspection fee and removes the out-of-state vehicle inspection fee.

The substitute makes the changes in allocation of the TERP fund effective in 2008 rather than effective immediately. The substitute amends the allocations of the TERP fund.

The substitute adds provisions relating to emissions reduction obtained through energy efficiency initiatives.

The substitute amends the Transportation Code and Tax Code to extend certain TERP fees from 2008 to 2013 and amends the uses and distribution of those fees. The substitute removes language in the original bill that provided that the portion of the certificate of title fee that is deposited in the Texas Mobility Fund is only allowed to be spent for a public transportation project in the county in which the applicant paying the fee resides.

The substitute amends the Transportation Code to repeal the \$225 out-of-state vehicle inspection fee.