

By: Bonnen, Hamric, Branch

H.B. No. 2481

A BILL TO BE ENTITLED

AN ACT

1
2 relating to air contaminant emissions reductions, including the
3 continuation and provisions of the Texas emissions reduction plan
4 and the use of money currently dedicated to the Texas emissions
5 reduction plan fund, and to the making of accommodations in certain
6 highway rights-of-way for certain entities.

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

8 SECTION 1. Subchapter B, Chapter 382, Health and Safety
9 Code, is amended by adding Section 382.0173 to read as follows:

10 Sec. 382.0173. ADOPTION OF RULES REGARDING CERTAIN STATE
11 IMPLEMENTATION PLAN REQUIREMENTS AND STANDARDS OF PERFORMANCE FOR
12 CERTAIN SOURCES. (a) The commission shall adopt rules to comply
13 with Sections 110(a)(2)(D) and 111(d) of the federal Clean Air Act
14 (42 U.S.C. Sections 7410 and 7411). In adopting the rules, the
15 commission shall adopt and incorporate by reference 40 C.F.R.
16 Subparts AA through II and Subparts AAA through III of Part 96 and
17 40 C.F.R. Subpart HHHH of Part 60. The commission shall adopt a
18 state implementation plan in accordance with the rules and submit
19 the plan to the United States Environmental Protection Agency for
20 approval according to the schedules provided by 40 C.F.R. Sections
21 51.123(d)(1), 51.124(d)(1), and 60.24(h)(2).

22 (b) The commission may require emissions reductions in
23 conjunction with implementation of the rules adopted under
24 Subsection (a) only for electric utility steam generating units, as

1 defined by 40 C.F.R. Section 60.41a. The commission shall make a
2 permanent allocation without cost to electric generating units as
3 defined by 40 C.F.R. Section 51.123 using the United States
4 Environmental Protection Agency's allocation method as specified
5 by 40 C.F.R. Section 60.4142(a)(1)(i), as issued by that agency on
6 March 15, 2005, or 40 C.F.R. Section 96.142(a)(1)(i), as issued by
7 that agency on March 10, 2005, as applicable. The commission shall
8 make new unit allocations for electric generating units in
9 accordance with Section 416(b) of the federal Clean Air Act (42
10 U.S.C. Section 7651o).

11 (c) This section applies only while the federal rules cited
12 in this section are enforceable and does not limit the authority of
13 the commission to implement more stringent emissions control
14 requirements.

15 (d) In adopting rules under Subsection (a), the commission
16 shall incorporate any modifications to the federal rules cited in
17 this section that result from a request for rehearing regarding
18 those rules that is filed with the United States Environmental
19 Protection Agency or from a petition for review of those rules that
20 is filed with a court.

21 SECTION 2. Section 386.002, Health and Safety Code, is
22 amended to read as follows:

23 Sec. 386.002. EXPIRATION. This chapter expires August 31,
24 2013 [~~2008~~].

25 SECTION 3. Section 386.051(b), Health and Safety Code, is
26 amended to read as follows:

27 (b) Under the plan, the commission and the comptroller shall

1 provide grants or other funding for:

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

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

7 (3) the new technology research and development
8 program established under Chapter 387; and

9 (4) the clean school bus program established under
10 Chapter 390.

11 SECTION 4. Section 386.052(b), Health and Safety Code, is
12 amended to read as follows:

13 (b) Appropriate commission objectives include:

14 (1) achieving maximum reductions in oxides of nitrogen
15 to demonstrate compliance with the state implementation plan;

16 (2) preventing areas of the state from being in
17 violation of national ambient air quality standards; ~~and~~

18 (3) achieving cost-saving and multiple benefits by
19 reducing emissions of other pollutants; and

20 (4) achieving reductions of emissions of diesel
21 exhaust from school buses.

22 SECTION 5. Section 386.053(c), Health and Safety Code, is
23 amended to read as follows:

24 (c) The commission shall make draft guidelines and criteria
25 available to the public and the United States Environmental
26 Protection Agency before the 30th ~~[45th]~~ day preceding the date of
27 final adoption and shall hold at least one public meeting to

1 consider public comments on the draft guidelines and criteria
2 before final adoption. The public meeting shall be held in the
3 affected state implementation plan area, and if the guidelines
4 affect more than one state implementation plan area, a public
5 meeting shall be held in each affected state implementation plan
6 area affected by the guidelines.

7 SECTION 6. Section 386.056, Health and Safety Code, is
8 amended by amending Subsections (a), (b), and (c) and adding
9 Subsection (a-1) to read as follows:

10 (a) An owner or operator of a site located in the
11 Houston-Galveston or Dallas-Fort Worth nonattainment area may use
12 emissions reductions generated by a program established under this
13 chapter to offset the requirements of commission rules relating to
14 control of air pollution from oxides of nitrogen if:

15 (1) the owner or operator of the site contributes to
16 the Texas Mobility Fund [~~fund~~] \$75,000 for each ton of emissions
17 that is used, not to exceed 25 tons annually and not to exceed
18 one-half ton per day;

19 (2) the owner or operator of the site demonstrates to
20 the commission's satisfaction that the site will be in full
21 compliance with the commission's emissions reduction rules not
22 later than the fifth anniversary of the date on which the emissions
23 reductions would otherwise be required;

24 (3) emissions from the site are reduced by at least 80
25 percent from the established baseline; and

26 (4) the commission approves a petition by the owner or
27 operator that demonstrates that it is technically infeasible to

1 comply with the commission's emissions reduction requirements
2 above 80 percent.

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

21 (b) Money deposited to the credit of the Texas emissions
22 reduction plan fund [~~Funds collected~~] under Subsection (a-1) [~~this~~
23 section] shall be used to generate emissions reductions needed to
24 meet the commission's attainment demonstration.

25 (c) The commission shall verify that emissions reductions
26 generated from the use of money deposited to the credit of the Texas
27 emissions reduction plan fund [~~funds collected~~] under Subsection

1 (a-1) [~~this section~~] occur in the same nonattainment area in which
2 the site that purchased the emissions reductions is located.

3 SECTION 7. Sections 386.058(b) and (e), Health and Safety
4 Code, are amended to read as follows:

5 (b) The governor shall appoint to the advisory board:

6 (1) a representative of the trucking industry;

7 (2) a representative of the air conditioning
8 manufacturing industry;

9 (3) a representative of the electric utility industry;

10 (4) a representative of regional transportation; and

11 (5) a representative of the nonprofit organization
12 described by Section 386.252(a)(2) [the Texas Council on
13 Environmental Technology].

14 (e) Appointed members of the advisory board serve staggered
15 four-year [~~two-year~~] terms, with the [~~The~~] terms of seven or
16 eight appointed members expiring [~~expire~~] February 1 of each
17 [~~even-numbered year. The terms of eight appointed members expire~~
18 ~~February 1 of each~~] odd-numbered year. An appointed member may be
19 reappointed to a subsequent term.

20 SECTION 8. Section 386.101(6), Health and Safety Code, is
21 amended to read as follows:

22 (6) "On-road diesel" means an on-road diesel-powered
23 motor vehicle [~~that has a gross vehicle weight rating of 8,500~~
24 ~~pounds or more~~].

25 SECTION 9. Section 386.111(a), Health and Safety Code, is
26 amended to read as follows:

27 (a) The commission shall review an application for a grant

1 for a project authorized under this subchapter, including an
2 application for a grant for an infrastructure project, immediately
3 on receipt of the application. If the commission determines that an
4 application is incomplete, the commission shall notify the
5 applicant [~~, not later than the 15th working day after the date on~~
6 ~~which the commission received the application,~~] with an explanation
7 of what is missing from the application. The commission shall
8 [~~record the date and time of receipt of each application the~~
9 ~~commission determines to be complete and shall~~] evaluate the
10 completed application according to the appropriate project
11 criteria. Subject to available funding, the commission shall make
12 a final determination on an application as soon as possible [~~and not~~
13 ~~later than the 60th working day after the date the application is~~
14 ~~determined to be complete~~].

15 SECTION 10. Section 386.115, Health and Safety Code, is
16 amended to read as follows:

17 Sec. 386.115. MODIFICATION OF VEHICLE ELIGIBILITY. After
18 evaluating the availability of vehicles meeting the emissions
19 standards and after public notice and comment, the commission, in
20 consultation with the advisory board, may expand the program to
21 include other on-road vehicles, regardless of fuel type used, that
22 meet the emissions standards [~~, have a gross vehicle weight rating~~
23 ~~of greater than 8,500 pounds,~~] and are purchased or leased in lieu
24 of a new on-road diesel.

25 SECTION 11. Section 386.116(d), Health and Safety Code, is
26 amended to read as follows:

27 (d) The [~~On or before December 1 of each even-numbered year,~~

1 ~~the]~~ commission shall include in the biennial plan report required
2 by Section 386.057(b) a report of commission actions and results
3 under this section [~~to the governor, lieutenant governor, and~~
4 ~~speaker of the house of representatives]~~.

5 SECTION 12. Subchapter C, Chapter 386, Health and Safety
6 Code, is amended by adding Section 386.117 to read as follows:

7 Sec. 386.117. REBATE GRANTS. (a) The commission shall
8 adopt a process for awarding grants under this subchapter in the
9 form of rebates to streamline the grant application, contracting,
10 reimbursement, and reporting processes for certain projects. The
11 process adopted under this section must:

12 (1) designate certain types of projects, such as
13 repowers, replacements, and retrofits, as eligible for rebates;

14 (2) project standardized oxides of nitrogen emissions
15 reductions for each designated project type;

16 (3) assign a standardized rebate amount for each
17 designated project type;

18 (4) allow for processing rebates on an ongoing
19 first-come, first-served basis; and

20 (5) consolidate, simplify, and reduce the
21 administrative work for applicants and the commission associated
22 with grant application, contracting, reimbursement, and reporting
23 processes for designated project types.

24 (b) The commission may limit or expand the designated
25 project types as necessary to further the goals of the program.

26 (c) The commission may award rebate grants as a pilot
27 project for a specific region or may award the grants statewide.

1 (d) The commission may administer the rebate grants or may
2 designate another entity to administer the grants.

3 SECTION 13. Section 386.251(c), Health and Safety Code, is
4 amended to read as follows:

5 (c) The fund consists of:

6 (1) the amount of money deposited to the credit of the
7 fund [~~contributions, fees, and surcharges~~] under:

8 (A) Section 386.056;

9 (B) Sections 151.0515 and 152.0215, Tax Code; and

10 (C) Sections 501.138, 502.1675, and 548.5055
11 [~~and 548.256(c)~~], Transportation Code; and

12 (2) grant money recaptured under Section 386.111(d).

13 SECTION 14. Section 386.252, Health and Safety Code, is
14 amended by amending Subsection (a) and adding Subsection (c) to
15 read as follows:

16 (a) Money in the fund may be used only to implement and
17 administer programs established under the plan and shall be
18 allocated as follows:

19 (1) for the diesel emissions reduction incentive
20 program, 87.5 percent of the money in the fund, of which not more
21 than 1.5 percent may be used for the clean school bus program and
22 not more than 10 percent may be used for on-road diesel purchase or
23 lease incentives;

24 (2) for the new technology research and development
25 program, 9.5 percent of the money in the fund, of which up to
26 \$350,000 [~~\$250,000~~] is allocated for administration, up to \$200,000
27 is allocated for a health effects study, \$500,000 is to be deposited

1 in the state treasury to the credit of the clean air account created
2 under Section 382.0622 to supplement funding for air quality
3 planning activities in affected counties, [~~and~~] not less than 20
4 percent is to be allocated each year to support research related to
5 air quality for the Houston-Galveston-Brazoria and Dallas-Fort
6 Worth nonattainment areas by a nonprofit organization based in
7 Houston, and the balance is to be allocated each year to that
8 nonprofit organization based in Houston to be used to implement and
9 administer the new technology research and development program
10 under a contract with the commission for the purpose of
11 identifying, testing, and evaluating new emissions-reducing
12 technologies with potential for commercialization in this state and
13 to facilitate their certification or verification; and

14 (3) for administrative costs incurred by the
15 commission and the laboratory, three percent of the money in the
16 fund.

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

21 SECTION 15. Effective September 1, 2008, Section 386.252,
22 Health and Safety Code, is amended by amending Subsection (a) and
23 adding Subsection (c) to read as follows:

24 (a) Money in the fund may be used only to implement and
25 administer programs established under the plan and shall be
26 allocated as follows:

27 (1) for the diesel emissions reduction incentive

1 program, 64 [~~87.5~~] percent of the money in the fund, of which not
2 more than 1.5 percent may be used for the clean school bus program
3 and not more than 10 percent may be used for on-road diesel purchase
4 or lease incentives;

5 (2) for the new technology research and development
6 program, 33 [~~9.5~~] percent of the money in the fund, of which up to
7 \$350,000 [~~\$250,000~~] is allocated for administration, up to \$200,000
8 is allocated for a health effects study, \$500,000 is to be deposited
9 in the state treasury to the credit of the clean air account created
10 under Section 382.0622 to supplement funding for air quality
11 planning activities in affected counties, [~~and~~] not less than 10
12 [~~20~~] percent is to be allocated each year to support research
13 related to air quality for the Houston-Galveston-Brazoria and
14 Dallas-Fort Worth nonattainment areas by a nonprofit organization
15 based in Houston, not less than 25.5 percent is to be allocated each
16 year to that nonprofit organization based in Houston to be used to
17 implement and administer the new technology research and
18 development program under a contract with the commission for the
19 purpose of identifying, testing, and evaluating new
20 emissions-reducing technologies with potential for
21 commercialization in this state and to facilitate their
22 certification or verification, not more than \$12,500,000 is to be
23 allocated each year from any excess funds to be administered by the
24 commission to fund a study of regional ozone formation in this
25 state, meteorological and chemical modeling, and issues related to
26 ozone formation by ozone precursors and fine particulate matter
27 formation in this state, and the balance is to be allocated each

1 year to the commission to fund promising new technologies as
2 identified through the new technology research and development
3 program and recommended by that nonprofit organization based in
4 Houston in order to permit obtaining the maximum credits for
5 emissions reductions under the state's air quality state
6 implementation plans; and

7 (3) for administrative costs incurred by the
8 commission and the laboratory, three percent of the money in the
9 fund.

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

14 SECTION 16. Section 387.003(a), Health and Safety Code, is
15 amended to read as follows:

16 (a) The nonprofit organization described by Section
17 386.252(a)(2), under a contract with the commission as described by
18 that section~~[, in consultation with the Texas Council on~~
19 ~~Environmental Technology]~~, shall establish and administer a new
20 technology research and development program as provided by this
21 chapter.

22 SECTION 17. Section 387.005(a), Health and Safety Code, is
23 amended to read as follows:

24 (a) Grants awarded under this chapter shall be directed
25 toward a balanced mix of:

26 (1) retrofit and add-on technologies to reduce
27 emissions from the existing stock of vehicles targeted by the Texas

1 emissions reduction plan;

2 (2) advanced technologies for new engines and vehicles
3 that produce very-low or zero emissions of oxides of nitrogen,
4 including stationary and mobile fuel cells;

5 (3) studies to improve air quality assessment and
6 modeling; and

7 (4) [~~advanced technologies that promote increased~~
8 ~~building and appliance energy performance; and~~

9 [~~(5)~~] advanced technologies that reduce emissions
10 from other significant sources.

11 SECTION 18. Section 388.003(e), Health and Safety Code, is
12 amended to read as follows:

13 (e) Local amendments may not result in less stringent energy
14 efficiency requirements in nonattainment areas and in affected
15 counties than the energy efficiency chapter of the International
16 Residential Code or International Energy Conservation Code. Local
17 amendments must comply with the National Appliance Energy
18 Conservation Act of 1987 (42 U.S.C. Sections 6291-6309), as
19 amended. The laboratory, at the request of a municipality or
20 county, shall determine the relative impact of proposed local
21 amendments to an energy code, including whether proposed amendments
22 are substantially equal to or less stringent than the unamended
23 code. For the purpose of establishing uniform requirements
24 throughout a region, and on request of a council of governments, a
25 county, or a municipality, the laboratory may recommend a
26 climatically appropriate modification or a climate zone
27 designation for a county or group of counties that is different from

1 the climate zone designation in the unamended code. The laboratory
2 shall:

3 (1) report its findings to the council, county, or
4 municipality, including an estimate of any energy savings potential
5 above the base code from local amendments; and

6 (2) annually submit a report to the commission:

7 (A) identifying the municipalities and counties
8 whose codes are more stringent than the unamended code, and whose
9 codes are equally stringent or less stringent than the unamended
10 code; and

11 (B) quantifying energy savings and emissions
12 reductions from this program.

13 SECTION 19. Section 389.003, Health and Safety Code, is
14 amended to read as follows:

15 Sec. 389.003. COMPUTING ENERGY EFFICIENCY EMISSIONS
16 REDUCTIONS AND ASSOCIATED CREDITS. (a) The commission shall
17 develop a method to use in computing emissions reductions obtained
18 through energy efficiency initiatives, including renewable energy
19 initiatives, and the credits associated with those reductions.

20 (b) The laboratory shall assist the commission and affected
21 political subdivisions in quantifying, as part of the state
22 implementation plan, credits for emissions reductions attributable
23 to energy efficiency programs, including renewable energy
24 programs.

25 SECTION 20. Subtitle C, Title 5, Health and Safety Code, is
26 amended by adding Chapter 390 to read as follows:

27 CHAPTER 390. CLEAN SCHOOL BUS PROGRAM

1 Sec. 390.001. DEFINITIONS. In this chapter:

2 (1) "Diesel exhaust" means one or more of the air
3 pollutants emitted from an engine by the combustion of diesel fuel,
4 including particulate matter, nitrogen oxides, volatile organic
5 compounds, air toxics, and carbon monoxide.

6 (2) "Incremental cost" has the meaning assigned by
7 Section 386.001.

8 (3) "Program" means the clean school bus program
9 established under this chapter.

10 (4) "Qualifying fuel" includes any liquid or gaseous
11 fuel or additive registered or verified by the United States
12 Environmental Protection Agency, other than standard gasoline or
13 diesel, that is ultimately dispensed into a school bus that
14 provides reductions of emissions of particulate matter.

15 (5) "Retrofit" has the meaning assigned by Section
16 386.101.

17 Sec. 390.002. PROGRAM. (a) The commission shall establish
18 and administer a clean school bus program designed to reduce the
19 exposure of schoolchildren to diesel exhaust in and around
20 diesel-fueled school buses. Under the program, the commission
21 shall provide grants for eligible projects to offset the
22 incremental cost of projects that reduce emissions of diesel
23 exhaust.

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

26 (1) diesel oxidation catalysts for school buses built
27 before 1994;

1 (2) diesel particulate filters for school buses built
2 from 1994 to 1998;

3 (3) the purchase and use of emission-reducing add-on
4 equipment for school buses, including devices that reduce crankcase
5 emissions;

6 (4) the use of qualifying fuel; and

7 (5) other technologies that the commission finds will
8 bring about significant emissions reductions.

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

13 (b) The commission may adopt guidelines to allow a regional
14 planning commission, council of governments, or similar regional
15 planning agency created under Chapter 391, Local Government Code,
16 or a private nonprofit organization to also apply for and receive a
17 grant to improve the ability of the program to achieve its goals.

18 (c) An application for a grant under this chapter must be
19 made on a form provided by the commission and must contain the
20 information required by the commission.

21 Sec. 390.004. ELIGIBILITY OF PROJECTS FOR GRANTS. (a) The
22 commission by rule shall establish criteria for setting priorities
23 for projects eligible to receive grants under this chapter. The
24 commission shall review and may modify the criteria and priorities
25 as appropriate.

26 (b) A school bus proposed for retrofit must be used on a
27 regular, daily route to and from a school and have at least five

1 years of useful life remaining unless the applicant agrees to
2 remove the retrofit device at the end of the life of the bus and
3 reinstall the device on another bus.

4 Sec. 390.005. RESTRICTION ON USE OF GRANT. A recipient of a
5 grant under this chapter shall use the grant to pay the incremental
6 costs of the project for which the grant is made, which may include
7 the reasonable and necessary expenses incurred for the labor needed
8 to install emissions-reducing equipment. The recipient may not use
9 the grant to pay the recipient's administrative expenses.

10 Sec. 390.006. EXPIRATION. This chapter expires August 31,
11 2013.

12 SECTION 21. Section 151.0515, Tax Code, is amended by
13 amending Subsections (c) and (d) and adding Subsection (c-1) to
14 read as follows:

15 (c) The surcharge shall be collected at the same time and in
16 the same manner and shall be administered and enforced in the same
17 manner as the tax imposed under this chapter. The comptroller shall
18 adopt any additional procedures needed for the collection,
19 administration, and enforcement of the surcharge authorized by this
20 section and shall deposit all remitted surcharges to the credit of
21 the Texas Mobility Fund [~~emissions reduction plan fund~~].

22 (c-1) The comptroller shall establish a record of the amount
23 of the surcharges deposited to the credit of the Texas Mobility Fund
24 under Subsection (c). The Texas Department of Transportation may
25 not use surcharges deposited to the credit of the Texas Mobility
26 Fund under Subsection (c) to construct, maintain, or operate a toll
27 road, toll bridge, or turnpike. On or before the fifth workday of

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

13 (d) This section expires September 30, 2013 [~~2008~~].

14 SECTION 22. Section 152.0215, Tax Code, is amended by
15 amending Subsections (b) and (c) and adding Subsection (b-1) to
16 read as follows:

17 (b) The surcharge shall be collected at the same time and in
18 the same manner and shall be administered and enforced in the same
19 manner as the tax imposed under this chapter. The comptroller by
20 rule shall adopt any additional procedures needed for the
21 collection, administration, and enforcement of the surcharge
22 authorized by this section and shall deposit all remitted
23 surcharges to the credit of the Texas Mobility Fund [~~emissions~~
24 ~~reduction plan fund~~].

25 (b-1) The comptroller shall establish a record of the amount
26 of the surcharges deposited to the credit of the Texas Mobility Fund
27 under Subsection (b). The Texas Department of Transportation may

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

16 (c) This section expires September 30, 2013 [~~2008~~].

17 SECTION 23. Section 203.031, Transportation Code, is
18 amended by adding Subsection (c) to read as follows:

19 (c) In establishing the boundaries of a controlled access
20 highway, the commission shall make reasonable accommodations in the
21 highway right-of-way for public utilities and common carriers.

22 SECTION 24. Section 501.138, Transportation Code, is
23 amended by amending Subsections (a) and (b) and adding Subsections
24 (b-1), (b-2), and (b-3) to read as follows:

25 (a) An applicant for a certificate of title, other than the
26 state or a political subdivision of the state, must pay the county
27 assessor-collector a fee of:

1 (1) \$33 if the applicant's residence is a county
2 located within a nonattainment area as defined under Section 107(d)
3 of the federal Clean Air Act (42 U.S.C. Section 7407), as amended,
4 or is an affected county, as defined by Section 386.001, Health and
5 Safety Code; or

6 (2) \$28 if the applicant's residence is any other
7 county[~~;~~ ~~or~~

8 ~~[(3) on or after September 1, 2008, \$28 regardless of~~
9 ~~the county in which the applicant resides].~~

10 (b) The county assessor-collector shall send:

11 (1) \$5 of the fee to the county treasurer for deposit
12 in the officers' salary fund;

13 (2) \$8 of the fee to the department:

14 (A) together with the application within the time
15 prescribed by Section 501.023; or

16 (B) if the fee is deposited in an
17 interest-bearing account or certificate in the county depository or
18 invested in an investment authorized by Subchapter A, Chapter 2256,
19 Government Code, not later than the 35th day after the date on which
20 the fee is received; and

21 (3) the following amount to the comptroller at the
22 time and in the manner prescribed by the comptroller:

23 (A) \$20 of the fee if the applicant's residence
24 is a county located within a nonattainment area as defined under
25 Section 107(d) of the federal Clean Air Act (42 U.S.C. Section
26 7407), as amended, or is an affected county, as defined by Section
27 386.001, Health and Safety Code; or

1 (B) \$15 of the fee if the applicant's residence
2 is any other county. [~~or~~]

3 (b-1) [~~(C)~~] Fees collected under Subsection (b) [~~this~~
4 ~~subsection~~] to be sent to the comptroller shall be deposited [~~as~~
5 ~~follows~~]:

6 [~~(i) before September 1, 2008, to the~~
7 ~~credit of the Texas emissions reduction fund; and~~

8 [~~(ii) after September 1, 2008,~~] to the
9 credit of the Texas Mobility Fund.

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

24 (b-3) This subsection and Subsection (b-2) expire September
25 1, 2010.

26 SECTION 25. Section 502.1675, Transportation Code, is
27 amended by amending Subsections (b) and (c) and adding Subsection

1 (b-1) to read as follows:

2 (b) The county tax assessor-collector shall remit the
3 surcharge collected under this section to the comptroller at the
4 time and in the manner prescribed by the comptroller for deposit in
5 the Texas Mobility Fund [~~emissions reduction plan fund~~].

6 (b-1) The comptroller shall establish a record of the amount
7 of the surcharges deposited to the credit of the Texas Mobility Fund
8 under Subsection (b). The department may not use surcharges
9 deposited to the credit of the Texas Mobility Fund under Subsection
10 (b) to construct, maintain, or operate a toll road, toll bridge, or
11 turnpike. On or before the fifth workday of each month, the
12 department shall remit to the comptroller for deposit to the credit
13 of the Texas emissions reduction plan fund an amount of money equal
14 to the amount of the surcharges deposited by the comptroller to the
15 credit of the Texas Mobility Fund under Subsection (b) in the
16 preceding month. The department shall use for remittance to the
17 comptroller as required by this subsection money in the state
18 highway fund that is not required to be used for a purpose specified
19 by Section 7-a, Article VIII, Texas Constitution, and may not use
20 for that remittance money received by this state under the
21 congestion mitigation and air quality improvement program
22 established under 23 U.S.C. Section 149.

23 (c) This section expires August 31, 2013 [~~2008~~].

24 SECTION 26. Section 548.5055, Transportation Code, is
25 amended by amending Subsections (b) and (c) and adding Subsection
26 (b-1) to read as follows:

27 (b) The department shall remit fees collected under this

1 section to the comptroller at the time and in the manner prescribed
2 by the comptroller for deposit in the Texas Mobility Fund [~~emission~~
3 ~~reduction plan fund~~].

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

22 (c) This section expires August 31, 2013 [~~2008~~].

23 SECTION 27. Sections 386.001(4), 386.057(e), 387.002, and
24 387.010, Health and Safety Code, and Sections 548.256(c) and (d),
25 Transportation Code, are repealed.

26 SECTION 28. The Texas Commission on Environmental Quality
27 shall prepare guidance documents for the rebate grants required by

1 Section 386.117, Health and Safety Code, as added by this Act, not
2 later than January 1, 2006.

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

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

19 SECTION 30. Except as otherwise provided by this Act, this
20 Act takes effect September 1, 2005.