

1-1 By: Bonnen, et al. (Senate Sponsor - Harris) H.B. No. 2481
1-2 (In the Senate - Received from the House April 29, 2005;
1-3 May 2, 2005, read first time and referred to Committee on Natural
1-4 Resources; May 17, 2005, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 10, Nays 0;
1-6 May 17, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2481 By: Barrientos

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to air contaminant emissions reductions, including the
1-11 continuation and provisions of the Texas emissions reduction plan
1-12 and the use of money currently dedicated to the Texas emissions
1-13 reduction plan fund.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Section 386.002, Health and Safety Code, is
1-16 amended to read as follows:

1-17 Sec. 386.002. EXPIRATION. This chapter expires August 31,
1-18 2010 [~~2008~~].

1-19 SECTION 2. Section 386.053(c), Health and Safety Code, is
1-20 amended to read as follows:

1-21 (c) The commission shall make draft guidelines and criteria
1-22 available to the public and the United States Environmental
1-23 Protection Agency before the 30th [~~45th~~] day preceding the date of
1-24 final adoption and shall hold at least one public meeting to
1-25 consider public comments on the draft guidelines and criteria
1-26 before final adoption. The public meeting shall be held in the
1-27 affected state implementation plan area, and if the guidelines
1-28 affect more than one state implementation plan area, a public
1-29 meeting shall be held in each affected state implementation plan
1-30 area affected by the guidelines.

1-31 SECTION 3. Sections 386.058(b) and (e), Health and Safety
1-32 Code, are amended to read as follows:

1-33 (b) The governor shall appoint to the advisory board:

- 1-34 (1) a representative of the trucking industry;
1-35 (2) a representative of the air conditioning
1-36 manufacturing industry;
1-37 (3) a representative of the electric utility industry;
1-38 (4) a representative of regional transportation; and
1-39 (5) a representative of the nonprofit organization
1-40 described by Section 386.252(a)(2) [~~the Texas Council on~~
1-41 ~~Environmental Technology~~].

1-42 (e) Appointed members of the advisory board serve staggered
1-43 four-year [~~two-year~~] terms, with the [~~—~~The] terms of seven or
1-44 eight appointed members expiring [~~expire~~] February 1 of each
1-45 [~~even-numbered year. The terms of eight appointed members expire~~
1-46 ~~February 1 of each~~] odd-numbered year. An appointed member may be
1-47 reappointed to a subsequent term.

1-48 SECTION 4. Section 386.102, Health and Safety Code, is
1-49 amended by adding Subsection (d) to read as follows:

1-50 (d) The amount of a grant awarded under the program to an
1-51 owner or operator of a locomotive or marine vessel, or an affiliate
1-52 of the owner or operator, may not be disproportionate to the amount
1-53 the owner, operator, or affiliate contributes to the fund. The
1-54 ratio of the amount of a grant awarded under the program to an owner
1-55 or operator of a locomotive or marine vessel, or an affiliate of the
1-56 owner or operator, to the amount contributed to the fund by the
1-57 owner, operator, or affiliate may not deviate unreasonably from the
1-58 overall grant-to-contribution ratio of other grant recipients
1-59 under the program. In this subsection, "affiliate" has the meaning
1-60 assigned by Section 382.051866.

1-61 SECTION 5. Section 386.111(a), Health and Safety Code, is
1-62 amended to read as follows:

1-63 (a) The commission shall review an application for a grant

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

2-15 SECTION 6. Section 386.116(d), Health and Safety Code, is
 2-16 amended to read as follows:

2-17 (d) The [On or before December 1 of each even-numbered year,
 2-18 the] commission shall include in the biennial plan report required
 2-19 by Section 386.057(b) a report of commission actions and results
 2-20 under this section [to the governor, lieutenant governor, and
 2-21 speaker of the house of representatives].

2-22 SECTION 7. Subchapter C, Chapter 386, Health and Safety
 2-23 Code, is amended by adding Section 386.117 to read as follows:

2-24 Sec. 386.117. REBATE GRANTS. (a) The commission shall
 2-25 adopt a process for awarding grants under this subchapter in the
 2-26 form of rebates to streamline the grant application, contracting,
 2-27 reimbursement, and reporting processes for certain projects. The
 2-28 process adopted under this section must:

2-29 (1) designate certain types of projects, such as
 2-30 repowers, replacements, and retrofits, as eligible for rebates;

2-31 (2) project standardized oxides of nitrogen emissions
 2-32 reductions for each designated project type;

2-33 (3) assign a standardized rebate amount for each
 2-34 designated project type;

2-35 (4) allow for processing rebates on an ongoing
 2-36 first-come, first-served basis; and

2-37 (5) consolidate, simplify, and reduce the
 2-38 administrative work for applicants and the commission associated
 2-39 with grant application, contracting, reimbursement, and reporting
 2-40 processes for designated project types.

2-41 (b) The commission may limit or expand the designated
 2-42 project types as necessary to further the goals of the program.

2-43 (c) The commission may award rebate grants as a pilot
 2-44 project for a specific region or may award the grants statewide.

2-45 (d) The commission may administer the rebate grants or may
 2-46 designate another entity to administer the grants.

2-47 SECTION 8. Section 386.251(c), Health and Safety Code, is
 2-48 amended to read as follows:

2-49 (c) The fund consists of:

2-50 (1) the amount of money deposited to the credit of the
 2-51 fund [contributions, fees, and surcharges] under:

2-52 (A) Section 386.056;

2-53 (B) Sections 151.0515 and 152.0215, Tax Code; and

2-54 (C) Sections 501.138, 502.1675, and 548.5055
 2-55 [and 548.256(c)], Transportation Code; and

2-56 (2) grant money recaptured under Section 386.111(d).

2-57 SECTION 9. Section 386.252(a), Health and Safety Code, is
 2-58 amended to read as follows:

2-59 (a) Money in the fund may be used only to implement and
 2-60 administer programs established under the plan and shall be
 2-61 allocated as follows:

2-62 (1) for the diesel emissions reduction incentive
 2-63 program, 87.5 percent of the money in the fund, of which not more
 2-64 than 10 percent may be used for on-road diesel purchase or lease
 2-65 incentives;

2-66 (2) for the new technology research and development
 2-67 program, 9.5 percent of the money in the fund, of which up to
 2-68 \$250,000 is allocated for administration, up to \$200,000 is
 2-69 allocated for a health effects study, \$500,000 is to be deposited in

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

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

3-17 SECTION 10. Effective September 1, 2008, Section
 3-18 386.252(a), Health and Safety Code, is amended to read as follows:

3-19 (a) Money in the fund may be used only to implement and
 3-20 administer programs established under the plan and shall be
 3-21 allocated as follows:

3-22 (1) for the diesel emissions reduction incentive
 3-23 program, 64 ~~[87.5]~~ percent of the money in the fund, of which not
 3-24 more than 10 percent may be used for on-road diesel purchase or
 3-25 lease incentives;

3-26 (2) for the new technology research and development
 3-27 program, 33 ~~[9.5]~~ percent of the money in the fund, of which up to
 3-28 \$250,000 is allocated for administration, up to \$200,000 is
 3-29 allocated for a health effects study, \$500,000 is to be deposited in
 3-30 the state treasury to the credit of the clean air account created
 3-31 under Section 382.0622 to supplement funding for air quality
 3-32 planning activities in affected counties, ~~and~~ not less than 10
 3-33 ~~[20]~~ percent is to be allocated each year to support research
 3-34 related to air quality for the Houston-Galveston-Brazoria and
 3-35 Dallas-Fort Worth nonattainment areas by a nonprofit organization
 3-36 based in Houston, not less than 25.5 percent is to be allocated each
 3-37 year to that nonprofit organization based in Houston to be used to
 3-38 implement and administer the new technology research and
 3-39 development program under a contract with the commission for the
 3-40 purpose of identifying, testing, and evaluating new
 3-41 emissions-reducing technologies with potential for
 3-42 commercialization in this state and to facilitate their
 3-43 certification or verification, not more than \$12,500,000 is to be
 3-44 allocated each year from any excess funds to be administered by the
 3-45 commission to fund a study of regional ozone formation in this
 3-46 state, meteorological and chemical modeling, and issues related to
 3-47 ozone formation by ozone precursors and fine particulate matter
 3-48 formation in this state, and the balance is to be allocated each
 3-49 year to the commission to fund promising new technologies as
 3-50 identified through the new technology research and development
 3-51 program and recommended by that nonprofit organization based in
 3-52 Houston in order to permit obtaining the maximum credits for
 3-53 emissions reductions under the state's air quality state
 3-54 implementation plans; and

3-55 (3) for administrative costs incurred by the
 3-56 commission and the laboratory, three percent of the money in the
 3-57 fund.

3-58 SECTION 11. Section 387.003(a), Health and Safety Code, is
 3-59 amended to read as follows:

3-60 (a) The nonprofit organization described by Section
 3-61 386.252(a)(2), under a contract with the commission as described by
 3-62 that section~~[, in consultation with the Texas Council on~~
 3-63 ~~Environmental Technology]~~, shall establish and administer a new
 3-64 technology research and development program as provided by this
 3-65 chapter.

3-66 SECTION 12. Section 387.005(a), Health and Safety Code, is
 3-67 amended to read as follows:

3-68 (a) Grants awarded under this chapter shall be directed
 3-69 toward a balanced mix of:

4-1 (1) retrofit and add-on technologies to reduce
4-2 emissions from the existing stock of vehicles targeted by the Texas
4-3 emissions reduction plan;

4-4 (2) advanced technologies for new engines and vehicles
4-5 that produce very-low or zero emissions of oxides of nitrogen,
4-6 including stationary and mobile fuel cells;

4-7 (3) studies to improve air quality assessment and
4-8 modeling; and

4-9 ~~(4) [advanced technologies that promote increased
4-10 building and appliance energy performance; and~~

4-11 ~~[(5)]~~ advanced technologies that reduce emissions
4-12 from other significant sources.

4-13 SECTION 13. Section 388.003(e), Health and Safety Code, is
4-14 amended to read as follows:

4-15 (e) Local amendments may not result in less stringent energy
4-16 efficiency requirements in nonattainment areas and in affected
4-17 counties than the energy efficiency chapter of the International
4-18 Residential Code or International Energy Conservation Code. Local
4-19 amendments must comply with the National Appliance Energy
4-20 Conservation Act of 1987 (42 U.S.C. Sections 6291-6309), as
4-21 amended. The laboratory, at the request of a municipality or
4-22 county, shall determine the relative impact of proposed local
4-23 amendments to an energy code, including whether proposed amendments
4-24 are substantially equal to or less stringent than the unamended
4-25 code. For the purpose of establishing uniform requirements
4-26 throughout a region, and on request of a council of governments, a
4-27 county, or a municipality, the laboratory may recommend a
4-28 climatically appropriate modification or a climate zone
4-29 designation for a county or group of counties that is different from
4-30 the climate zone designation in the unamended code. The laboratory
4-31 shall:

4-32 (1) report its findings to the council, county, or
4-33 municipality, including an estimate of any energy savings potential
4-34 above the base code from local amendments; and

4-35 (2) annually submit a report to the commission:

4-36 (A) identifying the municipalities and counties
4-37 whose codes are more stringent than the unamended code, and whose
4-38 codes are equally stringent or less stringent than the unamended
4-39 code; and

4-40 (B) quantifying energy savings and emissions
4-41 reductions from this program.

4-42 SECTION 14. Section 389.003, Health and Safety Code, is
4-43 amended to read as follows:

4-44 Sec. 389.003. COMPUTING ENERGY EFFICIENCY EMISSIONS
4-45 REDUCTIONS AND ASSOCIATED CREDITS. (a) The commission shall
4-46 develop a method to use in computing emissions reductions obtained
4-47 through energy efficiency initiatives, including renewable energy
4-48 initiatives, and the credits associated with those reductions.

4-49 (b) The laboratory shall assist the commission and affected
4-50 political subdivisions in quantifying, as part of the state
4-51 implementation plan, credits for emissions reductions attributable
4-52 to energy efficiency programs, including renewable energy
4-53 programs.

4-54 SECTION 15. Section 151.0515(d), Tax Code, is amended to
4-55 read as follows:

4-56 (d) This section expires September 30, 2010 ~~[2008]~~.

4-57 SECTION 16. Section 152.0215(c), Tax Code, is amended to
4-58 read as follows:

4-59 (c) This section expires September 30, 2010 ~~[2008]~~.

4-60 SECTION 17. Section 501.138, Transportation Code, is
4-61 amended by amending Subsections (a) and (b) and adding Subsections
4-62 (b-1), (b-2), and (b-3) to read as follows:

4-63 (a) An applicant for a certificate of title, other than the
4-64 state or a political subdivision of the state, must pay the county
4-65 assessor-collector a fee of:

4-66 (1) \$33 if the applicant's residence is a county
4-67 located within a nonattainment area as defined under Section 107(d)
4-68 of the federal Clean Air Act (42 U.S.C. Section 7407), as amended,
4-69 or is an affected county, as defined by Section 386.001, Health and

5-1 Safety Code;

5-2 (2) \$28 if the applicant's residence is any other

5-3 county; or

5-4 (3) on or after September 1, 2010 [~~2008~~], \$28

5-5 regardless of the county in which the applicant resides.

5-6 (b) The county assessor-collector shall send:

5-7 (1) \$5 of the fee to the county treasurer for deposit

5-8 in the officers' salary fund;

5-9 (2) \$8 of the fee to the department:

5-10 (A) together with the application within the time

5-11 prescribed by Section 501.023; or

5-12 (B) if the fee is deposited in an

5-13 interest-bearing account or certificate in the county depository or

5-14 invested in an investment authorized by Subchapter A, Chapter 2256,

5-15 Government Code, not later than the 35th day after the date on which

5-16 the fee is received; and

5-17 (3) the following amount to the comptroller at the

5-18 time and in the manner prescribed by the comptroller:

5-19 (A) \$20 of the fee if the applicant's residence

5-20 is a county located within a nonattainment area as defined under

5-21 Section 107(d) of the federal Clean Air Act (42 U.S.C. Section

5-22 7407), as amended, or is an affected county, as defined by Section

5-23 386.001, Health and Safety Code;

5-24 (B) \$15 of the fee if the applicant's residence

5-25 is any other county; or

5-26 (C) on or after September 1, 2010, \$15 regardless

5-27 of the county in which the applicant resides.

5-28 (b-1) Fees collected under Subsection (b) [~~this subsection~~]

5-29 to be sent to the comptroller shall be deposited as follows:

5-30 (1) [~~(i)~~] before September 1, 2008, to the credit of

5-31 the Texas emissions reduction plan fund; and

5-32 (2) on or [~~(ii)~~] after September 1, 2008, to the credit

5-33 of the Texas Mobility Fund, except that \$5 of each fee imposed under

5-34 Subsection (a)(1) and deposited on or after September 1, 2008, and

5-35 before September 1, 2010, shall be deposited to the credit of the

5-36 Texas emissions reduction plan fund.

5-37 (b-2) The comptroller shall establish a record of the amount

5-38 of the fees deposited to the credit of the Texas Mobility Fund under

5-39 Subsection (b-1). On or before the fifth workday of each month, the

5-40 department shall remit to the comptroller for deposit to the credit

5-41 of the Texas emissions reduction plan fund an amount of money equal

5-42 to the amount of the fees deposited by the comptroller to the credit

5-43 of the Texas Mobility Fund under Subsection (b-1) in the preceding

5-44 month. The department shall use for remittance to the comptroller

5-45 as required by this subsection money in the state highway fund that

5-46 is not required to be used for a purpose specified by Section 7-a,

5-47 Article VIII, Texas Constitution, and may not use for that

5-48 remittance money received by this state under the congestion

5-49 mitigation and air quality improvement program established under 23

5-50 U.S.C. Section 149.

5-51 (b-3) This subsection and Subsection (b-2) expire September

5-52 1, 2010.

5-53 SECTION 18. Section 502.1675(c), Transportation Code, is

5-54 amended to read as follows:

5-55 (c) This section expires August 31, 2010 [~~2008~~].

5-56 SECTION 19. Section 548.5055(c), Transportation Code, is

5-57 amended to read as follows:

5-58 (c) This section expires August 31, 2010 [~~2008~~].

5-59 SECTION 20. Sections 386.001(4), 386.057(e), 387.002, and

5-60 387.010, Health and Safety Code, and Sections 548.256(c) and (d),

5-61 Transportation Code, are repealed.

5-62 SECTION 21. The Texas Commission on Environmental Quality

5-63 shall prepare guidance documents for the rebate grants required by

5-64 Section 386.117, Health and Safety Code, as added by this Act, not

5-65 later than January 1, 2006.

5-66 SECTION 22. (a) As soon as practicable on or after the

5-67 effective date of this Act, the governor shall appoint to the Texas

5-68 Emissions Reduction Plan Advisory Board a representative of the

5-69 nonprofit organization described by Section 386.252(a)(2), Health

6-1 and Safety Code, as required by Section 386.058(b), Health and
6-2 Safety Code, as amended by this Act, to replace the representative
6-3 of the Texas Council on Environmental Technology serving on that
6-4 board on the effective date of this Act.

6-5 (b) As soon as practicable on or after the effective date of
6-6 this Act, the governor, lieutenant governor, and speaker of the
6-7 house of representatives, by mutual agreement, shall designate the
6-8 terms of the appointed members of the Texas Emissions Reduction
6-9 Plan Advisory Board so that the terms of seven appointed members
6-10 expire on February 1, 2007, and the terms of eight appointed members
6-11 expire on February 1, 2009, as provided by Section 386.058(e),
6-12 Health and Safety Code, as amended by this Act.

6-13 SECTION 23. Except as otherwise provided by this Act, this
6-14 Act takes effect September 1, 2005.

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