

By: Rodriguez

H.B. No. 2143

A BILL TO BE ENTITLED

AN ACT

relating to the Texas Global Warming Solutions Act; imposing a fee.

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

SECTION 1. Subtitle C, Title 5, Health and Safety Code, is amended by adding Chapter 391 to read as follows:

CHAPTER 391. TEXAS GLOBAL WARMING SOLUTIONS ACT

Sec. 391.001. DEFINITIONS. In this chapter:

(1) "Allowance" means an authorization to emit, during a specified year, up to one ton of carbon dioxide equivalent.

(2) "Alternative compliance mechanism" means an authorized action undertaken by a greenhouse gas emission source that achieves the equivalent reduction of greenhouse gas emissions over the same period as a direct emission reduction. The term includes:

(A) a flexible compliance schedule;

(B) an alternative control technology;

(C) a process change; or

(D) a product substitution.

(3) "Carbon dioxide equivalent" means the amount of carbon dioxide by weight that would produce the same global warming impact as a given weight of another greenhouse gas, based on the best available science.

(4) "Commission" means the Texas Commission on Environmental Quality.

1 (5) "Cost-effective" means maximizing the reduction
2 of greenhouse gas emissions at the lowest cost per unit.

3 (6) "Direct emission reduction" means a greenhouse gas
4 emission reduction action taken by a greenhouse gas emission source
5 at that source.

6 (7) "Emission reduction measure" means a program,
7 measure, standard, or alternative compliance mechanism authorized
8 under this chapter that is applicable to sources or categories of
9 sources and that is designed to reduce emissions of greenhouse
10 gases.

11 (8) "Greenhouse gas" includes:

12 (A) carbon dioxide;

13 (B) methane;

14 (C) nitrous oxide;

15 (D) hydrofluorocarbons;

16 (E) black carbon;

17 (F) perfluorocarbons; and

18 (G) sulfur hexafluoride.

19 (9) "Greenhouse gas emission limit" means an
20 authorization to a specific source or category of sources, during a
21 specified year, to emit up to a certain level of greenhouse gases
22 expressed in tons of carbon dioxide equivalents.

23 (10) "Greenhouse gas emission source" or "source"
24 means a person who:

25 (A) generates greenhouse gas emissions at a level
26 significant enough to impact statewide greenhouse gas emissions; or

27 (B) generates greenhouse gas that when combined

1 with other similar sources generates greenhouse gas emissions at a
2 level significant enough to impact statewide greenhouse gas
3 emissions.

4 (11) "Market-based compliance mechanism" means:

5 (A) a system of market-based declining annual
6 aggregate emission limits for sources or categories of sources that
7 emit greenhouse gases; or

8 (B) a greenhouse gas emission exchange, banking,
9 credit, and other transaction that results in the same greenhouse
10 gas emission reduction over the same period as direct compliance
11 with a greenhouse gas emission limit or emission reduction measure
12 adopted under Section 391.003.

13 (12) "Statewide greenhouse gas emissions" means the
14 total annual emissions of greenhouse gases in the state expressed
15 in tons of carbon dioxide equivalents, including all emissions of
16 greenhouse gases associated with the generation or consumption of
17 electricity.

18 (13) "Statewide greenhouse gas emission limit" means
19 the maximum allowable level of statewide greenhouse gas emissions
20 in 2020.

21 Sec. 391.002. GREENHOUSE GAS EMISSION REPORTING AND
22 STATEWIDE LIMIT. (a) Not later than June 30, 2008, the commission
23 by rule shall:

24 (1) identify greenhouse gas emission sources and
25 categories of sources and require the reporting and verification of
26 statewide greenhouse gas emissions in order to monitor and enforce
27 compliance with this chapter;

1 (2) require the monitoring and annual reporting of
2 greenhouse gas emissions from greenhouse gas emission sources
3 beginning with the sources or categories of sources that contribute
4 the most to statewide greenhouse gas emissions;

5 (3) ensure rigorous and consistent accounting of
6 greenhouse gas emissions and provide reporting tools and formats to
7 ensure collection of necessary information; and

8 (4) ensure that greenhouse gas emission sources
9 maintain comprehensive records of all reported greenhouse gas
10 emissions.

11 (b) Not later than June 30, 2008, the commission shall:

12 (1) determine, using the best available scientific,
13 technological, and economic information, what the statewide
14 greenhouse gas emission level was in 1990; and

15 (2) by rule establish a statewide greenhouse gas
16 emission limit to be achieved by 2020 that is equivalent to the
17 level determined under Subdivision (1).

18 (c) Not later than June 30, 2014, the commission shall make
19 recommendations to the governor and the legislature on how to
20 continue reductions of statewide greenhouse gas emissions after
21 2020.

22 Sec. 391.003. GREENHOUSE GAS EMISSION REDUCTION PLAN. (a)
23 Not later than December 31, 2009, the commission shall prepare and
24 approve a plan for achieving the maximum technologically feasible
25 and cost-effective reductions in greenhouse gas emissions from
26 sources or categories of sources of greenhouse gases by 2020.

27 (b) The plan must identify and make recommendations on

1 emission reduction measures, alternative compliance mechanisms,
2 market-based compliance mechanisms, and potential monetary and
3 nonmonetary incentives for sources and categories of greenhouse gas
4 emission sources that the commission finds are necessary or
5 desirable to facilitate the achievement of the maximum feasible and
6 cost-effective reductions of greenhouse gas emissions by 2020.

7 (c) In developing the plan, the commission shall:

8 (1) evaluate the total potential costs and total
9 potential economic and noneconomic benefits of the plan for
10 reducing greenhouse gases to this state's economy, environment, and
11 public health using the best available economic models, emission
12 estimation techniques, and other scientific methods;

13 (2) take into account the relative contribution to
14 statewide greenhouse gas emissions of each source or category of
15 sources and the potential for adverse effects of those emissions on
16 small businesses;

17 (3) recommend a de minimis threshold of greenhouse gas
18 emissions below which emission reduction requirements will not
19 apply;

20 (4) identify opportunities for greenhouse gas
21 emission reduction measures from all verifiable voluntary actions,
22 including but not limited to carbon sequestration projects and best
23 management practices;

24 (5) ensure that the greenhouse gas emission reduction
25 activities to be adopted and implemented by the commission are
26 complementary and nonduplicative and can be implemented in an
27 efficient and cost-effective manner; and

1 (6) consult with state agencies with jurisdiction over
2 sources of greenhouse gas emissions, including the Public Utility
3 Commission of Texas, on all elements of the plan that pertain to
4 energy-related matters.

5 (d) The commission shall update the plan at least once every
6 five years.

7 Sec. 391.004. GREENHOUSE GAS LIMITS AND EMISSION REDUCTION.

8 (a) Not later than December 31, 2010, the commission by rule shall
9 adopt greenhouse gas emission limits and emission reduction
10 measures to achieve the maximum technologically feasible and
11 cost-effective reductions in greenhouse gas emissions in order to
12 achieve the statewide greenhouse gas emission limit established
13 under Section 391.002.

14 (b) In adopting the rules under Subsection (a) the
15 commission shall, to the extent feasible:

16 (1) ensure that the greenhouse gas emission reductions
17 to be achieved are permanent, quantifiable, verifiable, and
18 enforceable;

19 (2) include the equitable distribution of allowances
20 when appropriate and in a manner that minimizes costs and that
21 promotes the goals and purposes of this chapter;

22 (3) ensure that costs of the emission reduction
23 measures are minimized;

24 (4) maximize the total benefits to this state;

25 (5) encourage early action to reduce greenhouse gas
26 emissions;

27 (6) ensure that activities undertaken to comply with

1 the rules do not have a disproportionate negative impact on
2 low-income individuals;

3 (7) ensure that activities undertaken under the rules
4 complement and do not interfere with efforts to:

5 (A) achieve and maintain federal and state
6 ambient air quality standards; and

7 (B) reduce toxic air contaminant emissions;

8 (8) consider cost-effectiveness;

9 (9) consider overall societal benefits, including:

10 (A) reductions in other air pollutants;

11 (B) diversification of energy sources; and

12 (C) other benefits to the economy, environment,
13 and public health;

14 (10) minimize the administrative burden of
15 implementing and complying with proposed rules;

16 (11) consider the significance of the contribution of
17 each source or category of sources to statewide greenhouse gas
18 emissions;

19 (12) ensure that the reduction is in addition to any
20 emission reduction measure otherwise required by law or any other
21 emission reduction measure that otherwise would occur;

22 (13) if using an alternative compliance mechanism,
23 ensure that the greenhouse gas emission reductions occur over the
24 same period and are equivalent in amount to any direct emission
25 reduction required under this chapter;

26 (14) rely upon the best available:

27 (A) economic and scientific information; and

1 (B) assessment of existing and projected
2 technological capabilities;

3 (15) consult with the Public Utility Commission of
4 Texas in the development of rules affecting electric and natural
5 gas utilities in order to minimize any duplicative or inconsistent
6 regulatory requirements; and

7 (16) ensure, when applicable and to the extent
8 feasible, that public and private investment in greenhouse gas
9 emission reduction efforts be directed toward the most
10 disadvantaged communities in this state and provide an opportunity
11 for small businesses, schools, affordable housing associations,
12 and other community institutions to participate in and benefit from
13 statewide efforts to reduce greenhouse gas emissions.

14 (c) The commission shall develop methodologies to quantify
15 and verify voluntary greenhouse gas emission reductions while
16 ensuring that sources that have voluntarily reduced their
17 greenhouse gas emissions before the implementation of Subsection
18 (a) receive appropriate credit for those voluntary reductions.

19 Sec. 391.005. MARKET-BASED EMISSION LIMITS AND COMPLIANCE.

20 (a) Not later than December 31, 2010, the commission may adopt
21 rules that establish a system of market-based compliance mechanisms
22 that the commission determines will achieve the maximum
23 technologically feasible and cost-effective reductions in
24 greenhouse gas emissions, in the aggregate, from sources or
25 categories of sources.

26 (b) In adopting rules under Subsection (a), the commission
27 shall:

1 (1) consider the potential for direct, indirect, and
2 cumulative adverse impacts from these mechanisms, including
3 localized impacts in communities that are already adversely
4 impacted by air pollution;

5 (2) design any market-based compliance mechanism to
6 prevent an increase in the emissions of toxic air contaminants or
7 other air pollutants;

8 (3) provide procedures for governing the use of
9 market-based compliance mechanisms to achieve compliance with the
10 statewide greenhouse gas emission limit by a source that is subject
11 to greenhouse gas emission limits and mandatory emission reporting
12 requirements; and

13 (4) maximize additional environmental and economic
14 benefits for this state, as appropriate.

15 (c) Rules adopted under this section may not allow a
16 localized adverse impact in a community that is already adversely
17 impacted by air pollution.

18 Sec. 391.006. FEES. The commission by rule may establish a
19 schedule of fees to be paid by greenhouse gas emission sources
20 regulated under this chapter. The fees must:

21 (1) be based on the relative contribution of
22 greenhouse gas emissions from the source or category of sources;
23 and

24 (2) be commensurate with the source's fair share of the
25 commission's costs of regulating greenhouse gas emission sources
26 under this chapter.

27 Sec. 391.007. GREENHOUSE GAS EMISSION CONTROL ACCOUNT. (a)

1 The greenhouse gas emission control account is an account in the
2 general revenue fund.

3 (b) The commission shall deposit fees collected under
4 Section 391.006 to the credit of the account.

5 (c) Money in the account may be appropriated only to the
6 commission and only for the purposes of administering this chapter.

7 (d) Interest earned on money in the account is credited to
8 the account.

9 (e) Section 403.095, Government Code, does not apply to the
10 account.

11 SECTION 2. This Act takes effect September 1, 2007.