

## **BILL ANALYSIS**

Senate Research Center  
82R23096 JAM-F

H.B. 3399  
By: Legler et al. (Williams)  
Natural Resources  
5/14/2011  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, certain requirements for several grant programs funded by the Texas emissions reduction plan, including the clean fleet program, can create an impediment for fleets to participate in these grant programs. Interested parties suggest that encouraging Texas-based fleets to use the grant programs funded by the plan would increase the competition for these funds and consequently result in lower-cost emissions reductions for Texas. H.B. 3399 seeks to address these concerns by amending provisions relating to the requirements for grant programs funded through the Texas emissions reductions plan.

H.B. 3399 amends current law relating to the requirements for grant programs funded through the Texas emissions reduction plan.

[**Note:** While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 386.104, Health and Safety Code, by adding Subsections (i), (j), (k), (l), and (m), as follows:

- (i) Requires the Texas Natural Resource Conservation Commission (TNRCC), if TNRCC determines that a heavy-duty motor vehicle or engine under this chapter must be decommissioned, to require the decommissioning to be carried out by crushing the vehicle, by making a hole in the engine block and permanently destroying the frame of the vehicle, or by another method approved by TNRCC that permanently removes the vehicle from operation in this state. Requires TNRCC to provide a means for an applicant to propose an alternative method for complying with the requirements of this subsection. Requires TNRCC to enforce the requirements of this subsection.
- (j) Requires the executive director of TNRCC to waive any eligibility requirements established under this section on a finding of good cause, which may include a waiver for short lapses in registration or operation attributable to economic conditions, seasonal work, or other circumstances.
- (k) Requires TNRCC to consider an application under this chapter for the replacement of a vehicle that has been owned, leased, or otherwise commercially financed by the applicant. Requires TNRCC, if TNRCC determines that a heavy-duty motor vehicle or engine that is leased or otherwise commercially financed must be decommissioned, to ensure that the applicant has a legal right to decommission the vehicle or engine before awarding a grant to the applicant.

(l) Requires TNRCC to consider an application for a vehicle replacement or a fleet expansion for a project with an activity life of five years or more, or 400,000 miles, whichever is earlier.

(m) Requires TNRCC to provide a form that minimizes, to the maximum extent possible, the amount of paperwork required.

SECTION 2. Amends Section 391.002, Health and Safety Code, as added by Chapter 1232 (S.B. 1759), Acts of the 81st Legislature, Regular Session, 2009, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Provides that an entity that places 20, rather than 25, or more qualifying vehicles in service for use entirely in this state during a calendar year is eligible to participate in the program.

(c) Provides that notwithstanding Subsection (b), an entity that submits a grant application for 20 or more qualifying vehicles is eligible to participate in the program even if the Texas Commission on Environmental Quality (TCEQ) denies approval for one or more of the vehicles during the application process.

SECTION 3. Amends Section 391.004, Health and Safety Code, as added by Chapter 1232 (S.B. 1759), Acts of the 81st Legislature, Regular Session, 2009, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Authorizes an entity operating in this state that operates a fleet of at least 75, rather than 100, vehicles to apply for and receive a grant under the program.

(d) Requires TCEQ to minimize, to the maximum extent possible, the amount of paperwork required for an application. Authorizes an applicant to be required to submit a photograph or other documentation of a vehicle identification number, registration information, inspection information, tire condition, or engine block identification only if the photograph or documentation is requested by TCEQ after TCEQ has decided to award a grant to the applicant under this chapter.

SECTION 4. Amends Section 391.005, Health and Safety Code, as added by Chapter 1232 (S.B. 1759), Acts of the 81st Legislature, Regular Session, 2009, by amending Subsections (b), (c), (d), and (f) and adding Subsection (i), as follows:

(b) Sets forth certain eligibility requirements for projects under the program, including that a project replace a vehicle that is an on-road vehicle that has been owned, leased, or otherwise commercially financed and registered and operated by the applicant in Texas for at least the two years immediately preceding the submission of a grant application.

(c) Requires that the qualifying vehicle, as a condition of receiving a grant, be continuously owned, registered, and operated in the state by the grant recipient until the earlier of the fifth anniversary of, rather than for at least five years from, the date of reimbursement of the grant-funded expenses or until the date the vehicle has been in operation for 400,000 miles after the date of reimbursement.

(d) Requires TCEQ monitor compliance with the contract requirements, rather than ownership and usage requirements, including submission of reports on at least an annual basis, or more frequently as determined by TCEQ.

(f) Requires that a vehicle or engine replaced under this program be rendered permanently inoperable by crushing the vehicle, by making a hole in the engine block and permanently destroying the frame of the vehicle, or by another method approved by TCEQ that permanently removes the vehicle from operation in this state. Requires TCEQ to provide a means for an applicant to propose an alternative method of complying with the requirements of this subsection. Requires TCEQ to enforce the requirements of this subsection, rather than requires TCEQ to monitor and enforce the destruction

requirements. Deletes existing text requiring TCEQ to establish criteria for ensuring the permanent destruction of the engine and vehicle.

(i) Requires the executive director of TCEQ to waive the requirements of Subsection (b)(2)(A) on a finding of good cause, which may include a waiver for short lapses in registration or operation attributable to economic conditions, seasonal work, or other circumstances.

SECTION 5. Makes application of Sections 386.104, 391.002, 391.004, and 391.005, Health and Safety Code, as amended by this Act, prospective.

SECTION 6. Effective date: September 1, 2011.