

BILL ANALYSIS

C.S.H.B. 3399
By: Legler
Environmental Regulation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

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. C.S.H.B. 3399 seeks to address these concerns by amending provisions relating to the requirements for grant programs funded through the Texas emissions reduction plan.

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

C.S.H.B. 3399 amends the Health and Safety Code to require the Texas Commission on Environmental Quality (TCEQ), if TCEQ determines that a heavy-duty motor vehicle or engine 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 TCEQ that permanently removes the vehicle from operation in Texas. The bill requires TCEQ to provide a means for an applicant to propose an alternative method for complying with these requirements and requires TCEQ to enforce the requirements. The bill requires the executive director of TCEQ to waive any eligibility requirements established in provisions relating to the diesel emissions reduction incentive program 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.

C.S.H.B. 3399 requires TCEQ to consider an application under provisions of the Texas emissions reduction plan for the replacement of a vehicle that has been owned, leased, or otherwise commercially financed by the applicant. The bill requires TCEQ, if TCEQ 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. The bill requires TCEQ 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. The bill requires TCEQ to provide a form that minimizes, to the maximum extent possible, the amount of paperwork required to apply for grants under the diesel emissions reduction incentive program.

C.S.H.B. 3399 amends Section 391.002 and 391.004, Health and Safety Code, as added by Chapter 1232 (S.B. 1759), Acts of the 81st Legislature, Regular Session, 2009, to decrease from 25 to 20 the number of qualifying vehicles in service for use entirely in Texas during a calendar year that an entity must place in service to be eligible to participate in the Texas clean fleet program. The bill establishes that an entity that submits a grant application for 20 or more

qualifying vehicles is eligible to participate in the program even if TCEQ denies approval for one or more of the vehicles during the application process. The bill decreases from 100 to 75 the number of vehicles in a fleet that an entity must operate to be eligible to apply for and receive a grant under the Texas clean fleet program. The bill requires TCEQ to minimize, to the maximum extent possible, the amount of paperwork required for an application. The bill 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.

C.S.H.B. 3399 amends Section 391.005, Health and Safety Code, as added by Chapter 1232 (S.B. 1759), Acts of the 81st Legislature, Regular Session, 2009, to expand the criteria making a project eligible for a grant under the Texas clean fleet program to include the replacement of a vehicle that is an on-road vehicle that has been leased or otherwise commercially financed and that meets other specified conditions. The bill requires, as a condition of receiving a Texas clean fleet program grant, the qualifying vehicle to be continuously owned, registered, and operated in the state by the grant recipient until the earlier of the fifth anniversary of 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, rather than for at least five years from the date of reimbursement of the grant-funded expenses.

C.S.H.B. 3399 authorizes a vehicle or engine replaced under the Texas clean fleet program to be rendered permanently inoperable by any method approved by TCEQ that permanently removes the vehicle from operation in Texas and requires TCEQ to provide a means for an applicant to propose an alternative method of complying with the requirements. The bill removes a provision requiring TCEQ to establish criteria for ensuring the permanent destruction of the engine and vehicle. The bill requires the executive director of TCEQ to waive the requirement that a vehicle replaced under the program be 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 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.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3399 contains provisions not included in the original relating to methods of heavy-duty motor vehicle or engine decommission and an application for a vehicle replacement or fleet expansion.

C.S.H.B. 3399 contains provisions not included in the original decreasing the number of qualifying vehicles in service for use entirely in Texas during a calendar year that an entity must place in service to be eligible to participate in the Texas clean fleet program and establishing that an entity that submits a grant application for a certain number of qualifying vehicles is eligible to participate in the program.

C.S.H.B. 3399 contains provisions not included in the original decreasing the number of vehicles in a fleet that an entity must operate to be eligible to apply for and receive a grant under the Texas clean fleet program. The substitute contains a provision not included in the original authorizing 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 the Texas Commission on Environmental Quality (TCEQ) after TCEQ has decided to award a grant to the

applicant.

C.S.H.B. 3399 contains provisions not included in the original relating to certain eligibility requirements of a project receiving a grant under the Texas clean fleet program. The substitute contains a provision not included in the original authorizing a vehicle or engine replaced under the program to be rendered permanently inoperable by any method approved by TCEQ that permanently removes the vehicle from operation in this state and requiring TCEQ to provide a means for an applicant to propose an alternative method of complying with the requirements. The substitute contains a provision not included in the original requiring the executive director of TCEQ to waive the requirement that a vehicle replaced under the program be 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 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.

C.S.H.B. 3399 differs from the original by establishing that the bill takes effect September 1, 2011, whereas the original establishes that the bill takes effect on passage or, if the bill does not receive the necessary vote, September 1, 2011. The substitute contains a saving provision not included in the original.