

BILL ANALYSIS

C.S.H.B. 2499
By: Smith
Environmental Regulation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas emissions reduction plan provides financial incentives to eligible individuals, businesses, nonprofits, and local governments to upgrade or replace older heavy duty vehicles, nonroad equipment, locomotives, marine vessels, and stationary equipment to reduce emissions in eligible areas. The plan has a dedicated fund administered by the Texas Commission on Environmental Quality consisting of fees generated from several sources, such as fees on the purchase of on-road diesel vehicles and statewide vehicle title fees. Interested parties have identified drayage trucks as a possible contributing factor to emissions in port regions that lead to an area being designated as a nonattainment area. Reduction of drayage truck emissions through an incentive program to replace older model drayage trucks is not currently encompassed in the Texas emissions reduction plan. C.S.H.B. 2499 proposes to provide for additional emission reductions.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 2 of this bill.

ANALYSIS

C.S.H.B. 2499 amends the Health and Safety Code to require the Texas Commission on Environmental Quality (TCEQ) to develop a purchase incentive program to encourage an owner to replace drayage trucks, defined in the bill as a heavy-duty on-road vehicle or non-road terminal tractor that is used for drayage activities, with newer drayage trucks and to adopt rules necessary to implement the program. The bill defines "drayage activity" to include the use of a drayage truck in an urban area for the transport of goods within a seaport that is located in the urban area, the pickup and delivery of goods to the seaport to or from a separate location in the urban area, and any trips required to return the drayage truck to its normal base within the urban area.

C.S.H.B. 2499 authorizes TCEQ, under the program, to implement a replacement program to reduce emissions from the operation of drayage trucks used primarily for drayage activities at seaports in nonattainment areas of Texas; to require that a vehicle or equipment item acquired under the program be a vehicle or equipment item best suited for drayage activities; and to establish the minimum percentage of a year during which the vehicle or equipment item must be operated within a specified distance from the port facility, in order to promote emissions reductions to be achieved primarily in the immediate vicinity of the port facility. The bill authorizes TCEQ, to the extent applicable, to use rules, guidelines, criteria, and requirements adopted to implement the diesel emissions reduction incentive program to implement the drayage truck incentive program, but authorizes TCEQ to establish a maximum cost-effectiveness amount greater than the amount established for the diesel emissions reduction incentive program. The bill requires TCEQ to include information on the drayage truck incentive program in its required biennial Texas emissions reduction plan report.

C.S.H.B. 2499 expands the Texas emissions reduction plan by requiring TCEQ and the comptroller of public accounts to provide grants or other funding for the drayage truck incentive program, clean fleet program, alternative fueling facilities program, natural gas vehicle grants program, and clean transportation triangle program.

C.S.H.B. 2499 amends Section 386.252(a), Health and Safety Code, as amended by Chapters 28 (S.B. 527), 589 (S.B. 20), and 892 (S.B. 385), Acts of the 82nd Legislature, Regular Session, 2011, to revise the Texas emissions reduction plan fund allocation formula.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2499 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

No equivalent provision.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 386.051(b), Health and Safety Code, is amended to read as follows:

(b) Under the plan, the commission and the comptroller shall provide grants or other funding for:

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

(1-a) the drayage truck incentive program established under Subchapter C-1;

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

(3) the air quality research support program established under Chapter 387;

(4) the clean school bus program established under Chapter 390;

(5) the new technology implementation grant program established under Chapter 391;

(6) the regional air monitoring program established under Section 386.252(a) [~~386.252(a)(5)~~];

(7) a health effects study as provided by Section 386.252(a) [~~386.252(a)(7)~~];

(8) air quality planning activities as provided by Section 386.252(a) [~~386.252(a)(8)~~]; [and]

(9) a contract with the Energy Systems Laboratory at the Texas Engineering Experiment Station for computation of creditable statewide emissions reductions

as provided by Section 386.252(a);
(10) the clean fleet program established under Chapter 392;
(11) the alternative fueling facilities program; and
(12) the natural gas vehicle grants program and clean transportation triangle program [386.252(a)(9)].

SECTION 1. Chapter 386, Health and Safety Code, is amended by adding Subchapter D-1 to read as follows:
SUBCHAPTER D-1. DRAYAGE TRUCK INCENTIVE PROGRAM

Sec. 386.181. DEFINITION.

In this subchapter, "drayage truck" means a truck that transports a load in a port, distribution center, or rail yard.

Sec. 386.182. COMPTROLLER AND COMMISSION DUTIES. (a) The comptroller and the commission shall develop a purchase incentive program to encourage owners to replace pre-2007 model year drayage trucks with newer drayage trucks and shall adopt rules necessary to implement the program.

(b) The commission by rule shall establish criteria for the models of drayage trucks that are eligible for inclusion in an incentive program under this subchapter. The rules must provide that a drayage truck owner is not eligible for an incentive payment under this subchapter unless the truck being replaced is from a pre-2007 model year and the replacement truck is from model year 2007 or later.

SECTION 2. Chapter 386, Health and Safety Code, is amended by adding Subchapter C-1 to read as follows:
SUBCHAPTER C-1. DRAYAGE TRUCK INCENTIVE PROGRAM

Sec. 386.131. DEFINITIONS. In this subchapter:

(1) "Drayage activity" includes the use of a drayage truck in an urban area for:
(A) the transport of goods within a seaport that is located in the urban area;
(B) the pickup and delivery of goods to the seaport from a separate location in the urban area;
(C) the pickup and delivery of goods from the seaport to a separate location in the urban area; and
(D) any trips required to return the drayage truck to its normal base within the urban area.

(2) "Drayage truck" means a heavy-duty on-road vehicle or non-road terminal tractor that is used for drayage activities.

Sec. 386.132. COMMISSION DUTIES. (a) The commission shall develop a purchase incentive program to encourage owners to replace drayage trucks with newer drayage trucks and shall adopt rules necessary to implement the program.

No equivalent provision.

No equivalent provision.

(b) Under the program, the commission may:

(1) implement a replacement program to reduce emissions from the operation of drayage trucks used primarily for drayage activities at seaports in nonattainment areas of this state;

(2) require that a vehicle or equipment item acquired under the program be a vehicle or equipment item best suited for drayage activities, such as a daycab truck or vehicle or an equipment item specifically designed for use as a terminal tractor; and

(3) establish the minimum percentage of a year during which the vehicle or equipment item must be operated within a specified distance from the port facility, in order to promote emissions reductions to be achieved primarily in the immediate vicinity of the port facility.

No equivalent provision.

(c) To the extent applicable, the commission may use rules, guidelines, criteria, and requirements adopted to implement programs under Subchapter C to implement the program established under this subchapter.

No equivalent provision.

(d) The commission may establish a maximum cost-effectiveness amount greater than the amount established under Sections 386.106 and 386.107.

No equivalent provision.

(e) The commission shall include in the biennial plan report required by Section 386.057(b) information on the drayage truck incentive program.

Sec. 386.183. DRAYAGE TRUCK PURCHASE INCENTIVE.

(a) To be eligible for an incentive under this subchapter, a person must:

(1) purchase a replacement drayage truck that under the rules adopted by the commission under Section 386.182 is eligible for inclusion in the program for an incentive under this subchapter; and

(2) agree to:

(A) register the truck in this state;

(B) operate the truck in a port, distribution center, or rail yard in a nonattainment area or affected county of this state for not less than 75 percent of the vehicle's annual mileage; and

No equivalent provision.

(C) permanently remove a pre-2007 drayage truck owned by the person from operation in a nonattainment area or affected county of this state immediately after the purchase of the new truck.

(b) To receive money under an incentive program provided by this subchapter, the purchaser of a drayage truck eligible for inclusion in the program must apply for the incentive in the manner provided by law or by rule of the comptroller.

(c) Not more than one incentive may be provided for each drayage truck purchased.

(d) An incentive provided under this subchapter may be used to fund not more than 60 percent of the purchase price of the drayage truck.

(e) The commission by rule shall establish procedures to verify that a person who receives an incentive has permanently removed a pre-2007 drayage truck owned by the person from operation in a nonattainment area or affected county of this state immediately after the purchase of the new truck.

Sec. 386.184. COMPTROLLER TO ACCOUNT FOR PURCHASE INCENTIVES. (a) The comptroller by rule shall develop a method to administer and account for the drayage truck purchase incentives authorized by this subchapter and to pay incentive money to the purchaser of a replacement drayage truck who submits an application and qualifies for the incentive under this subchapter.

(b) The comptroller shall develop and publish forms and instructions for the purchaser of a replacement drayage truck to use in applying to the comptroller for an incentive payment under this subchapter. The comptroller shall make the forms available to drayage truck dealers. Dealers shall make the forms available to their prospective purchasers.

(c) In addition to other forms developed and published under this section, the comptroller shall develop and publish a verification form by which, with information provided by a drayage truck dealer, the comptroller can verify the sale of a truck covered by this subchapter. The verification form must include at least the name of the purchaser, the vehicle identification number of the truck involved, the date of the purchase, and the

No equivalent provision.

name of a drayage truck dealer involved in the transaction.

(d) At the time of sale of a replacement drayage truck included in the incentive program under this subchapter, a drayage truck dealer shall complete the verification form supplied to the dealer by the comptroller. The purchaser shall include the completed verification form as part of the purchaser's application for an incentive.

(e) A drayage truck dealer shall maintain a copy of the completed verification form for at least two years from the date of the purchase.

Sec. 386.185. REPORT TO COMMISSION; SUSPENSION OF PURCHASE OR LEASE INCENTIVES.

(a) The comptroller shall report to the commission annually regarding drayage truck purchase incentives.

(b) If the balance available for drayage truck purchase incentives falls below 15 percent of the total allocated for the incentives during that fiscal year, the comptroller by order shall suspend the incentives until the date the comptroller can certify that the balance available in the fund for incentives is an amount adequate to resume the incentives or the beginning of the next fiscal year, whichever is earlier. If the comptroller suspends the incentives, the comptroller immediately shall notify the commission and all drayage truck dealers that the incentives have been suspended.

(c) The comptroller shall establish a toll-free telephone number available to drayage truck dealers to use to verify whether incentives are available. The comptroller may provide for issuing verification numbers over the telephone line.

(d) Reliance by a drayage truck dealer on information provided by the comptroller or commission is a complete defense to an action involving or based on the eligibility of a drayage truck for inclusion in an incentive program or on the availability of drayage trucks eligible for inclusion in an incentive program.

SECTION 2. Section 386.252(a), Health and Safety Code, as amended by Chapters 589 (S.B. 20) and 892 (S.B. 385), Acts of the 82nd Legislature, Regular Session, 2011, is

No equivalent provision.

SECTION 3. Section 386.252(a), Health and Safety Code, as amended by Chapters 28 (S.B. 527), 589 (S.B. 20), and 892 (S.B. 385), Acts of the 82nd Legislature, Regular

reenacted and amended to read as follows:

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

(1) for the diesel emissions reduction incentive program, 87.5 percent of the money in the fund, of which:

(A) not more than four percent may be used for the clean school bus program;

(B) not more than 10 percent may be used for on-road diesel purchase or lease incentives;

(C) a specified amount may be used for the new technology implementation grant program, from which a defined amount may be set aside for electricity storage projects related to renewable energy;

(D) five percent shall be used for the clean fleet program;

(E) two percent may be used for the Texas alternative fueling facilities program;

(F) not less than 16 percent shall be used for the natural gas vehicle grant program; ~~and~~

(G) not more than four percent may be used to provide grants for natural gas fueling stations under Section 394.010; and

Session, 2011, is reenacted and amended to read as follows:

(a) Money in the fund may be used only to implement and administer programs established under the plan. Money appropriated from the fund to the commission to be used for the programs described by Section 386.051(b) [and the total appropriation] shall be allocated as follows:

~~[(12)]~~ the balance may be used by [is allocated to] the commission only for the diesel emissions reduction incentive program under Subchapter C.

(1) not more than four percent may be used for the clean school bus program under Chapter 390;

(2) not more than 10 percent may be used for on-road diesel purchase or lease incentives under Section 386.112;

(3) a specified amount may be used for the new technology implementation grant program under Chapter 391, from which a defined amount may be set aside for electricity storage projects related to renewable energy;

(4) five percent may ~~shall~~ be used only for the clean fleet program under Chapter 392;

~~(5) [not more than \$7 million shall be allocated in 2012 and 2013 and] not more than \$3 million may shall be used by the commission [allocated in 2014 and in subsequent years] to fund a regional air monitoring program in commission Regions 3 and 4 to be implemented under the commission's oversight, including direction regarding the type, number, location, and operation of, and data validation practices for, monitors funded by the program through a regional nonprofit entity located in North Texas having representation from counties, municipalities, higher education institutions, and private sector interests across the area;~~

(8) not more than two percent may be used for the Texas alternative fueling facilities program;

(6) 16 percent may be used only for the Texas natural gas vehicle grant program;

(7) not more than four percent may be used to provide grants for natural gas fueling stations under the clean transportation triangle program;

(H) not less than 20 percent shall be used for the drayage truck incentive program;

(2) for the new technology research and development program, nine percent of the money in the fund, of which:

(A) up to \$200,000 is allocated for a health effects study;

(B) \$500,000 is to be deposited in the state treasury to the credit of the clean air account created under Section 382.0622 to supplement funding for air quality planning activities in affected counties;

(C) not less than 20 percent is to be allocated each year to support research related to air quality as provided by Section 387.002 [387.010]; and

(D) the balance is allocated each year to the commission to be used to:

(i) implement and administer the new technology research and development program for the purpose of identifying, testing, and evaluating new emissions-reducing technologies with potential for commercialization in this state and to facilitate their certification or verification; and

(ii) contract with the Energy Systems Laboratory at the Texas Engineering Experiment Station for \$216,000 annually for the development and annual computation of creditable statewide emissions reductions obtained through wind and other renewable energy resources for the state implementation plan; and

(3) two percent is allocated to the commission and 1.5 percent is allocated to the laboratory for administrative costs incurred by the commission and the laboratory.

(13) not more than \$5,000,000 may be used for the drayage truck incentive program under Subchapter C-1; and

(10) not more than [(7) ~~up to~~] \$200,000 may be used [is allocated] for a health effects study;

(11) not more than [(8) ~~up to~~] \$500,000 is to be deposited in the state treasury to the credit of the clean air account created under Section 382.0622 to supplement funding for air quality planning activities in affected counties;

(9) a specified amount may be used [is to be allocated] each year to support research related to air quality as provided by Chapter 387;

(12) [(9)] not more than \$216,000 may be used by [is allocated to] the commission to contract with the Energy Systems Laboratory at the Texas Engineering Experiment Station annually for the development and annual computation of creditable statewide emissions reductions obtained through wind and other renewable energy resources for the state implementation plan;

(14) [(10) ~~not more than \$3,400,000 is allocated to the commission for administrative costs incurred by the commission;~~

[(11) ~~1.5 percent of the money in the fund is allocated for administrative costs incurred by the laboratory;~~ and

SECTION 4. Section 386.252, Health and Safety Code, is amended by adding Subsections (h) and (i) to read as follows:

(i) Unless a specified amount is appropriated for administrative costs, of the total appropriation to the commission from the fund, not more than the greater of two percent or \$3,400,000 may be used by the

commission for administrative costs.

(h) ~~Not more than~~ 1.5 percent of the money in the fund may be used for administrative costs incurred by the laboratory for work required under this chapter.

SECTION 3. To the extent of any conflict, this Act prevails over another Act of the 83rd Legislature, Regular Session, 2013, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 5. Same as introduced version.

SECTION 4. This Act takes effect September 1, 2013.

SECTION 6. Same as introduced version.