

## BILL ANALYSIS

Senate Research Center

C.S.S.B. 1727  
By: Deuell  
Natural Resources  
4/11/2013  
Committee Report (Substituted)

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

Regions of the state continue to have air quality that is out of compliance with current and prior federal ozone standards. The Texas Emissions Reduction Plan (TERP) program provides financial incentives to eligible individuals, businesses, nonprofits, and local governments to reduce emissions from polluting vehicles and equipment.

TERP has a dedicated fund administered by the Texas Commission on Environmental Quality with fees generated from several sources including fees on the purchase of new diesel trucks and machines, statewide vehicle title fees and additional title fees from vehicle registrations in the state's counties in non-attainment areas. When created in 2001 by the legislature, the TERP programs were envisioned to use voluntary incentives to help reduce mobile and stationary sources of pollution that could not be controlled or were difficult to control by state rules and regulations.

C.S.S.B. 1727 proposes to make changes to the TERP program that will provide for additional emission reductions and flexibility in implementing the plan.

C.S.S.B. 1727 amends current law relating to the use of the Texas emissions reduction plan fund.

[**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**

Rulemaking authority previously granted to the comptroller of public accounts of the State of Texas and the Texas Natural Resource Conservation Commission (TNRCC) is transferred to TNRCC in SECTION 3 (Section 386.152, Health and Safety Code) of this bill.

Rulemaking authority is expressly granted to TNRCC in SECTION 3 (Section 386.153, Health and Safety Code), SECTION 7 (Sections 386.182 and 386.183, Health and Safety Code), and SECTION 13 (Section 386.302, Health and Safety Code) of this bill.

Rulemaking authority previously granted to the Public Utility Commission is rescinded in SECTION 8 (Section 386.202, Health and Safety Code) and of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 386.051, Health and Safety Code, by amending Subsection (b) and adding Subsection (b-1), as follows:

(b) Requires the Texas Natural Resource Conservation Commission (TNRCC) and the comptroller of public accounts of the State of Texas (comptroller), under the Texas emissions reduction plan fund (fund), to provide grants or other funding for:

(1)-(5) Makes no change to these subdivisions;

- (6) the regional air monitoring program established under Section 386.252(a), rather than Section 386.252(a)(5);
- (7) a health effects study as provided by Section 386.252(a), rather than Section 386.252(a)(7);
- (8) air quality planning activities as provided by Section 386.252(a), rather than Section 386.252(a)(8);
- (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)(16), rather than Section 386.252(a)(9);
- (10) the clean fleet program established under Chapter 392 (Texas Clean Fleet Program);
- (11) the alternative fueling facilities program established under Chapter 393 (Texas Natural Gas Vehicle Grant Program);
- (12) the natural gas vehicle grant program and clean transportation triangle program established under Chapter 394 (Alternative Fueling Facilities Program).
- (13) other programs TNRCC may develop that lead to reduced emissions of nitrogen oxides, particulate matter, or volatile organic compounds in a nonattainment area or affected county;
- (14) other programs TNRCC may develop that support congestion mitigation to reduce mobile source ozone precursor emissions;
- (15) the emissions-free generation grant program established under Subchapter G;
- (16) the energy efficiency grant program established under Subchapter E (Energy Efficiency Grant Program); and
- (17) the drayage truck incentive program established under Subchapter D-1.

(b-1) Authorizes TNRCC, under the plan, to establish and administer other programs, including other grants or funding programs, as determined by TNRCC to be necessary or effective in fulfilling its duties and achieving the objectives described under Section 386.052 (Commission Duties). Authorizes TNRCC to apply the criteria and requirements applicable to the programs under Subsection (b) to programs established under this subsection, or authorizes TNRCC to establish separate criteria and requirements as necessary to achieve TNRCC's objectives. Requires that the additional programs be consistent with and comply with all applicable laws, regulations, and guidelines pertaining to the use of state funds, the awarding and administration of grants and contracts, and achieving reductions in ozone precursors or particulate matter. Authorizes TNRCC, under this subsection, to place a priority on programs that address the following goals:

- (1) reduction of emissions of oxides of nitrogen or particulate matter from heavy-duty on-road vehicles and non-road equipment, including drayage vehicles, locomotives, and marine vessels, at port facilities or servicing port facilities in nonattainment areas;
- (2) reduction of emissions from the operation of drilling and related heavy-duty on-road vehicles or non-road equipment in oil and gas production fields where TNRCC determines that the programs can help prevent that area or an adjacent area from being in violation of national ambient air quality standards; and

(3) replacement, repower, or retrofit of heavy-duty on-road vehicles, medium-duty passenger vehicles, and non-road equipment to change from using gasoline or diesel fuel to engines or conversion systems certified under the United States Environmental Protection Agency's heavy-duty on-road or non-road engine emission or light-duty vehicle engine emission certification programs to using cleaner alternative fuels, either dedicated or in conjunction with regular fuel, and, particularly, alternative fuels produced in Texas.

SECTION 2. Amends Section 386.106, Health and Safety Code, as follows:

Sec. 386.106. COST-EFFECTIVENESS CRITERIA; DETERMINATION OF GRANT AMOUNT. (a) Prohibits TNRCC, except as otherwise provided by statute, from awarding a grant that, net of taxes, provides an amount that exceeds the incremental cost of the proposed project. Deletes existing text prohibiting TNRCC, as provided by Section 386.107 (Adjustment to Maximum Cost-Effectiveness Amount and Award Amount) and except for infrastructure projects and infrastructure purchases that are part of a broader retrofit, repower, replacement, or add-on equipment project, from awarding a grant for a proposed project the cost-effectiveness of which, calculated in accordance with Section 386.105 (Calculation of Cost-Effectiveness) and criteria developed under that section, exceeds \$15,000 per ton of oxides of nitrogen emissions reduced in the nonattainment area or affected county for which the project is proposed. Deletes existing text providing that this subsection does not restrict TNRCC authority under other law to require emissions reductions with a cost-effectiveness that exceeds \$15,000 per ton.

(b) Redesignates existing Subsection (c) as Subsection (b). Makes no further change to this subsection.

(c) Redesignates existing Subsection (d) as Subsection (c). Makes no further change to this subsection.

(d) Requires TNRCC, in determining the amount of a grant under this subchapter, to award an incentive grant of at least 60 percent of the replacement cost of a non-road diesel, excluding locomotives and marine vessels. Requires TNRCC to award incentive grants of at least 75 percent of engine repower costs.

SECTION 3. Amends Sections 386.152 and 386.153, Health and Safety Code, as follows:

Sec. 386.152. New heading: COMMISSION DUTIES REGARDING LIGHT-DUTY MOTOR VEHICLE PURCHASE OR LEASE INCENTIVE PROGRAM. (a) Requires TNRCC, rather than the comptroller and TNRCC, to develop a purchase or lease incentive program for new light-duty motor vehicle and to adopt rules necessary to implement the program.

(b) Requires that the program authorize statewide incentives for the purchase or lease of new light-duty motor vehicles powered by compressed natural gas, liquefied petroleum gas, or electric drives for a purchaser or lessee who agrees to register and operate the vehicle in this state for a minimum period of time to be established by TNRCC. Deletes existing text requiring that the program authorize statewide incentives for the purchase or lease, according to the schedule provided by Section 386.153, of new light-duty motor vehicles that are certified by the United States Environmental Protection Agency to meet an emissions standard that is at least as stringent as those provided by Section 386.153 for a purchaser or lessee who agrees to register the vehicle in this state and to operate the vehicle in this state for not less than 75 percent of the vehicle's annual mileage.

(c) Makes no change to this subsection.

Sec. 386.153. New heading: LIGHT-DUTY MOTOR VEHICLE PURCHASE OR LEASE INCENTIVE REQUIREMENTS. (a) Provides that a new light-duty motor

vehicle powered by compressed natural gas or liquefied petroleum gas is eligible for a \$2,500 incentive if the vehicle:

- (1) has four wheels;
- (2) was originally manufactured to comply with and has been certified by an original equipment manufacturer or intermediate or final state vehicle manufacturer as complying with, or has been altered to comply with, federal motor vehicle safety standards, state emissions regulations, and any additional state regulations applicable to vehicles powered by compressed natural gas or liquefied petroleum gas;
- (3) was manufactured for use primarily on public streets, roads, and highways;
- (4) is rated at not more than 9,600 pounds unloaded gross vehicle weight;
- (5) has a dedicated or bi-fuel compressed natural gas or liquefied petroleum gas fuel system with a range of at least 125 miles as estimated, published, and updated by the United States Environmental Protection Agency;
- (6) has, as applicable, a:
  - (A) compressed natural gas fuel system that complies with the 2013 NFPA 52 Vehicular Gaseous Fuel Systems Code, and American National Standard for Basic Requirements for Compressed Natural Gas Vehicle (NGV) Fuel Containers, commonly cited as "ANSI/CSA NGV2"; or
  - (B) liquefied petroleum gas fuel system that complies with the 2011 NFPA 58 Liquefied Petroleum Gas Code, and Section VII of the 2013 ASME Boiler and Pressure Vessel Code; and
- (7) was acquired on or after September 1, 2013, by the person applying for the incentive under this subsection and for use or lease by that person and not for resale.

(b) Authorizes TNRCC by rule, if TNRCC determines that an updated version of a code or standard described by Subdivision (a)(6) is more stringent than the version of the code or standard described by Subdivision (a)(6), to provide that a vehicle for which a person applies for an incentive under Subsection (a) is eligible for the incentive only if the vehicle complies with the updated version of the code or standard.

(b-1) Provides that the incentive under Subsection (a) is limited to 2,000 vehicles for the state fiscal biennium beginning September 1, 2013.

(c) Provides that a new light-duty motor vehicle powered by electronic drive is eligible for a \$2,500 incentive if the vehicle:

- (1) has four wheels;
- (2) was manufactured for use primarily on public streets, roads, and highways;
- (3) has not been modified from the original manufacturer's specifications;
- (4) is rated at not more than 8,500 pounds unloaded gross vehicle weight;

(5) has a maximum speed capability of at least 55 miles per hour;

(6) is propelled to a significant extent by an electric motor that draws electricity from a battery that has a capacity of not less than four kilowatt hours, and is capable of being recharged from an external source of electricity; and

(7) was acquired on or after September 1, 2013, or a later date as established by TNRCC, by the person applying for the incentive under this subsection and for use or lease by that person and not for resale.

(d) Provides that the incentive under Subsection (c) is limited to 2,000 vehicles for the state fiscal biennium beginning September 1, 2013. Deletes existing text providing that a new light-duty motor vehicle is eligible for an incentive according to a certain schedule.

**SECTION 4.** Amends Section 386.156, Health and Safety Code, as follows:

Sec. 386.156. LIST OF ELIGIBLE MOTOR VEHICLES. (a) Requires TNRCC, on August 1 each year, to publish a list of new model motor vehicles eligible for inclusion in an incentive under this subchapter. Requires TNRCC to publish supplements to that list as necessary to include additional new vehicle models. Deletes existing text requiring TNRCC, on August 1 each year, to publish and provide to the comptroller a list of the new model motor vehicles as listed for TNRCC under Section 386.155 (Manufacturer's Report). Deletes existing text requiring TNRCC to publish and provide to the comptroller supplements to that list as necessary to include additional new vehicle models listed in a supplement to the original list provided by a manufacturer under Section 386.155.

(b) Requires TNRCC to publish the list of eligible motor vehicles on TNRCC's Internet website, rather than requires the comptroller to distribute the list of eligible motor vehicles to all new motor vehicle dealers and leasing agents in this state.

**SECTION 5.** Amends Section 386.158(a), Health and Safety Code, as follows:

(a) Provides that a person who purchases or leases a new light-duty motor vehicle described by Section 386.153 and listed under Section 386.156(a) is eligible to apply for an incentive under this subchapter, rather than providing that a person who purchases or leases a new light-duty motor vehicle that has been listed under Section 386.155 is eligible for an incentive under this subchapter.

**SECTION 6.** Amends Subchapter D, Chapter 386, Health and Safety Code, by adding Section 386.162, as follows:

Sec. 386.162. EXPIRATION. Provides that this subchapter expires August 31, 2015.

**SECTION 7.** Amends Chapter 386, Health and Safety Code, by adding Subchapter D-1, as follows:

**SUBCHAPTER D-1. DRAYAGE TRUCK INCENTIVE PROGRAM**

Sec. 386.181. DEFINITION. Defines "drayage truck" in this subchapter.

Sec. 386.182. COMMISSION DUTIES. (a) Requires TNRCC to develop a purchase incentive program to encourage owners to replace drayage trucks with pre-2007 model year engines with newer drayage trucks and is required to adopt guidelines necessary to implement the program.

(b) Requires TNRCC by rule to establish criteria for the models of drayage trucks that are eligible for inclusion in an incentive program under this subchapter.

Requires that the guidelines provide that a drayage truck owner is not eligible for an incentive payment under this subchapter unless the truck being replaced contains a pre-2007 model year engine and the replacement truck's engine is from model year 2010 or later and that the truck operates at a port, distribution center, or rail yard.

Sec. 386.183. DRAYAGE TRUCK PURCHASE INCENTIVE. (a) Requires a person, to be eligible for an incentive under this subchapter, to:

(1) purchase a replacement drayage truck that under the guidelines adopted by TNRCC 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 and within a maximum distance established by TNRCC of a port, distribution center, or rail yard in a nonattainment area or affected county of this state for not less than 50 percent of the vehicle's annual mileage or hours of operation, as determined by TNRCC; and

(C) permanently remove a pre-2007 drayage truck containing a pre-2007 engine owned by the person from operation in a nonattainment area or affected county of this state by destroying the engine and scrapping the truck after the purchase of the new truck in accordance with guidelines established by TNRCC.

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

(c) Authorizes that not more than one incentive be provided for each drayage truck purchased.

(d) Authorizes an incentive provided under this subchapter to be used to fund not more than 80 percent of the purchase price of the drayage truck.

(e) Requires TNRCC to establish procedures to verify that a person who receives an incentive:

(1) has operated in a port, distribution center, or rail yard and owned or leased the drayage truck to be replaced for at least two years prior to receiving the grant; and

(2) permanently destroys the engine and scraps the drayage truck that contained the pre-2007 engine owned or leased by the person, in accordance with guidelines established by TNRCC, after the purchase of the new truck.

(f) Authorizes TNRCC to modify this program to improve its effectiveness or further the goals of Subchapter B (Texas Emissions Reduction Plan).

SECTION 8. Amends Sections 386.201, 386.202, 386.203, and 386.205, Health and Safety Code, as follows:

Sec. 386.201. New heading: DEFINITION. Defines "governmental entity" in this subchapter. Deletes existing definitions of "electric cooperative," "electric utility," and "municipally owned utility."

Sec. 386.202. GRANT PROGRAM. (a) Requires TNRCC, in cooperation with the comptroller, to develop an energy efficiency grant program for energy efficiency projects in governmental entity buildings and facilities, rather than requiring the Public Utility Commission of Texas (PUC) to develop an energy efficiency grant program using program templates that are consistent with rules of PUC adopted under Section 39.905 (Goal for Energy Efficiency), Utilities Code.

(b) Requires energy efficiency projects awarded a grant under this subchapter to include energy conservation projects that improve the operational energy efficiency of buildings or facilities or that retire materials and appliances that contribute to energy consumption or peak energy demand to ensure the reduction of energy consumption, energy demand, or peak loads, and associated emissions of air contaminants, rather than requiring programs approved under this subchapter and other energy efficiency programs administered by PUC to include energy conservation programs for the retirement of materials and appliances that contribute to energy consumption or peak energy demand to ensure the reduction of energy consumption, energy demand, or peak loads, and associated emissions of air contaminants.

Sec. 386.203. ADMINISTRATION OF GRANTS. Requires money allocated by TNRCC under the grant program developed under this subchapter to be administered by TNRCC, in cooperation with the comptroller, rather than requiring money allocated by PUC under the grant program developed under this subchapter to be administered by electric utilities, electric cooperatives, and municipally owned utilities. Deletes existing text requiring a participating electric utility, electric cooperative, or municipally owned utility to be reimbursed from the fund for costs incurred by the utility in administering the energy efficiency grant program established under this subchapter. Deletes existing text prohibiting reimbursable administrative costs of a participating entity from exceeding 10 percent of the entity's total program budget before January 1, 2003, and from exceeding five percent of the entity's total program budget on or after that date.

Sec. 386.205. EVALUATION OF STATE ENERGY EFFICIENCY PROGRAMS. Requires the comptroller's state energy conservation office, in coordination with PUC, in cooperation with the Energy Systems Laboratory at the Texas Engineering Experiment Station of The Texas A&M University System (laboratory), to provide an annual report to TNRCC that, by county, quantifies the reductions of energy demand, peak loads, and associated emissions of air contaminants achieved from the projects awarded a grant, rather than from the programs implemented, under this subchapter and from those implemented under Section 39.905, Utilities Code.

SECTION 9. Amends Section 386.252(a), Health and Safety Code, as amended by Chapter 28 (S.B. 527), Acts of the 82nd Legislature, Regular Session, 2011, as follows:

(a) Requires money appropriated to TNRCC to be used for the programs under Section 386.051(b) to be allocated, rather than authorizes money in the fund to be used only to implement and administer programs established under the plan and the total appropriation to be allocated, as follows:

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

(2) not more than three percent may be used for the new technology implementation grant program under Chapter 391 (New Technology Implementation for Facilities and Stationary Sources), from which at least \$1 million will be set aside for electricity storage projects related to renewable energy;

- (3) five percent shall be used for the clean fleet program under Chapter 392;
- (4) not more than \$3 million is authorized to be used by TNRCC to fund a regional air monitoring program in TNRCC Regions 3 and 4 to be implemented under TNRCC'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;
- (5) not less than 16 percent is required to be used for the Texas natural gas vehicle grant program under Chapter 394;
- (6) two percent is required to be used for the energy efficiency grant program under Subchapter E, including the performance contracting provisions;
- (7) not more than five percent may be used to provide grants for natural gas fueling stations under the clean transportation triangle program under Section 394.010 (Clean Transportation Triangle);
- (8) not more than five percent is authorized to be used for the Texas alternative fueling facilities program under Chapter 393;
- (9) a specified amount is authorized to be used each year to support research related to air quality as provided by Chapter 387 (Air Quality Research Support Program);
- (10) not more than \$200,000 may be used for a health effects study;
- (11) \$500,000 is to be deposited in the state treasury to the credit of the clean air account created under Section 382.0622 (Clean Air Act Fees) to supplement funding for air quality planning activities in affected counties;
- (12) at least \$4 million and up to four percent to a maximum of \$7 million, whichever is greater, is allocated to TNRCC for administrative costs;
- (13) at least two percent and up to four percent will be allocated to the emissions-free generation grant program established under Subchapter G;
- (14) at least two percent and up to five percent of the fund is to be used by TNRCC for the drayage truck incentive program established under Chapter D-1;
- (15) not more than 5 percent may be used for the light-duty motor vehicle purchase or lease incentive program established under Subchapter D (Motor Vehicle Purchase or Lease Incentive Program);
- (16) not more than \$216,000 is allocated to TNRCC 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;
- (17) 1.5 percent of the money in the fund is allocated for administrative cost incurred by the laboratory; and
- (18) the balance is to be used by TNRCC for the diesel emissions reduction incentive program under Subchapter C as determined by TNRCC.

Deletes existing text authorizing money in the fund to be used only to implement and administer programs established under the plan and requiring the total appropriation to be allocated as follows: not more than 10 percent is authorized to be used for on-road diesel purchase or lease incentives; a specified amount is authorized to be used for the new technology implementation grant program, from which a defined amount is authorized to be set aside for electricity storage projects related to renewable energy; not more than \$7 million is required to be allocated in 2012 and 2013 and not more than \$3 million is required to be allocated in 2014 and in subsequent years to fund a regional air monitoring program in TNRCC Regions 3 and 4 to be implemented under TNRCC'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; a specified amount is to be allocated each year to support research related to air quality as provided by Chapter 387; up to \$200,000 is allocated for a health effects study; 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; not more than \$3,400,000 is allocated to TNRCC for administrative costs incurred by TNRCC, the balance is allocated to TNRCC for the diesel emissions reduction incentive program.

SECTION 10. Amends Sections 386.252, Health and Safety Code, by amending Subsections (b), (c), (d), and (e) and adding Subsection (e-1), as follows:

(b) Authorizes TNRCC to allocate unexpended money designated for the clean fleet program under Chapter 392 to other programs described under Subsection (a) (relating to authorizing money in the fund to be used only to implement and administer programs established under the plan and requiring the total appropriation to be allocated, as per certain guidelines) after TNRCC allocates money to recipients under the clean fleet program.

(c) Authorizes TNRCC to allocate unexpended money designated for the Texas alternative fueling facilities program under Chapter 393 to other programs described under Subsection (a) after TNRCC allocates money to recipients under the alternative fueling facilities program.

(d) Authorizes TNRCC to reallocate money designated for the Texas natural gas vehicle grant program under Chapter 394 to other programs described under Subsection (a) if TNRCC, in consultation with the governor and the Texas Emissions Reduction Plan Advisory Board, determines that the use of the money in the fund for that program will cause the state to be in noncompliance with the state implementation plan to the extent that federal action is likely; and TNRCC finds that the reallocation of some or all of the funding for the program would resolve the noncompliance.

(e) Prohibits TNRCC, under Subsection (d), from reallocating more than the minimum amount of money necessary to resolve the noncompliance.

(e-1) Makes nonsubstantive changes.

Deletes existing Subsection (c) authorizing money in the fund to be allocated to the clean school bus program only if the money is available for that purpose after money is allocated for the other purposes of the fund as required by the state implementation plan, or the amount of money deposited to the credit of the fund in a state fiscal year exceeds the amount the comptroller's biennial revenue estimate shows as the comptroller's estimated amount to be deposited to the credit of the fund in that year.

Deletes existing Subsection (d) authorizing TNRCC to allocate unexpended money designated for the clean fleet program to other programs described under Subsection (a) after TNRCC allocates money to recipients under the clean fleet program.

Deletes existing Subsection (e) authorizing TNRCC to allocate unexpended money designated for the Texas alternative fueling facilities program to other programs described under Subsection (a) after TNRCC allocates money to recipients under the alternative fueling facilities program.

SECTION 11. Amends Section 386.252(f), Health and Safety Code, as added by Chapter 892 (S.B. 385), Acts of the 82nd Legislature, Regular Session, 2011, as follows:

(f) Authorizes money in the fund to be used by TNRCC for programs under Section 386.051(b)(13), (b)(14), and (b-1) as may be appropriated for those programs. Deletes existing text authorizing TNRCC, notwithstanding Subsection (a), to reallocate money in the fund if TNRCC, in consultation with the governor and the advisory board, determines that the use of the money in the fund for the program established under Chapter 394 will cause the state to be in noncompliance with the state implementation plan to the extent that federal action is likely; and TNRCC finds that the reallocation of some or all of the funding for the program established under Chapter 394 would resolve the noncompliance.

SECTION 12. Amends Section 386.252, Health and Safety Code, by amending Subsection (g) and adding Subsection (h), as follows:

(g) Requires TNRCC, if the legislature does not specify amounts or percentages from the total appropriation to TNRCC to be allocated under Subsection (a) or (f) (relating to authorizing TNRCC to reallocated money in the fund, as per certain guidelines), to determine the amounts of the total appropriation to be allocated under each of those subsections, such that the total appropriation is expended while maximizing emissions reductions. Deletes existing text prohibiting TNRCC, under Subsection (f), from reallocating more than the minimum amount of money necessary to resolve the noncompliance.

(h) Authorizes money allocated under this section to a particular program, subject to the limitations outlined in this section and any additional limitations placed on the use of the appropriated funds, to be used for another program under the plan as determined by TNRCC.

SECTION 13. Amends Chapter 386, Health and Safety Code, by adding Subchapter G, as follows:

#### SUBCHAPTER G. EMISSIONS-FREE GENERATION GRANT PROGRAM

Sec. 386.301. DEFINITION. Defines "emissions-free generation" in this subchapter.

Sec. 386.302. GRANT PROGRAM. (a) Requires TNRCC to establish and administer an emissions-free generation grant program using money allocated under Section 386.252 (Use of Fund) to promote projects for the acquisition and installation of emissions-free generation systems on land, in a building, or in a parking structure.

(b) Authorizes a grant received under this section to be used to fund not more than 30 percent of the total cost of acquiring and installing the emissions-free generation system exclusive of any federal incentives.

(c) Requires that an application for a grant be submitted by the entity that owns the emissions-free generation system and, if applicable, by a co-applicant who may own the land, building, or parking structure.

(d) Requires TNRCC by rule to establish criteria for projects eligible to receive a grant under this section and procedures for grant applicants that prioritize qualified projects based on:

- (1) the lowest possible air emissions during the production of electricity;
- (2) the lowest amount of water used during the production of electricity; and
- (3) the capability to provide energy production to the electric market during times of peak electric consumption.

(e) Requires TNRCC to establish as the initial grant amounts:

- (1) 60 cents per rated direct current watt for installed emissions-free generation for the first 5 megawatts of capacity; and
- (2) 30 cents per rated direct current watt for installed emissions-free generation for the capacity exceeding 5 megawatts.

(f) Authorizes TNRCC to limit the number of grants, change the grant amounts, or modify the grant program criteria in this section and Section 386.303 based on rules or guidelines established by TNRCC.

Sec. 386.303. **ELIGIBILITY.** Provides that a person is eligible to receive a grant under a program established under this subchapter only for a project to acquire and install an emissions-free generation system on land, in a building, or in a parking structure that is located at a school, university, publicly owned facility, or facility owned or leased by a nonprofit entity in a nonattainment area or affected county, as defined by Section 386.001 (Definitions).

SECTION 14. Amends Section 391.002, Health and Safety Code, as follows:

Sec. 391.002. **GRANT PROGRAM.** (a) Authorizes TNRCC to establish a minimum capital expenditure threshold for projects under Subsection (b)(2).

(b) Provides that projects that are authorized to be considered for a grant under the program include:

- (1) Makes no change to this subdivision;
- (2) new technology projects that reduce emissions of regulated pollutants from point sources, rather than new technology projects that reduce emissions of regulated pollutants from point sources and involve capital expenditures that exceed \$500 million; and
- (3) Makes no change to this subdivision.

SECTION 15. Amends Section 392.007(a), Health and Safety Code, as follows:

(a) Provides that the amount TNRCC is required to award for each vehicle being replaced is up to 80 percent, as determined by TNRCC, of the total cost for replacement of a heavy-duty or light-duty diesel engine.

Deletes existing text providing that the amount TNRCC awards for each vehicle being replace is 80 percent of the incremental cost for replacement of a heavy-duty diesel engine manufactured prior to implementation of federal or California emission standards, and not certified to meet a specific emission level by either the United States Environmental Protection Agency or the California Air Resources Board; 70 percent of the incremental cost for replacement of a heavy-duty diesel engine certified to meet the

federal emission standards applicable to engines manufactured in 1990 through 1997; 60 percent of the incremental cost for replacement of a heavy-duty diesel engine certified to meet the federal emission standards applicable to engines manufactured in 1998 through 2003; 50 percent of the incremental cost for replacement of a heavy-duty diesel engine certified to meet the federal emission standards applicable to engines manufactured in 2004 and later; 80 percent of the incremental cost for replacement of a light-duty diesel vehicle manufactured prior to the implementation of certification requirements, and not certified to meet either mandatory or voluntary emission certification standards; 70 percent of the incremental cost for replacement of a light-duty diesel vehicle certified to meet federal Tier 1 emission standards phased in between 1994 and 1997; and 60 percent of the incremental cost for replacement of a light-duty diesel vehicle certified to meet federal Tier 2 emission standards phased in between 2004 and 2009.

SECTION 16. Amends Section 394.007(a), Health and Safety Code, as amended by Chapter 892 (S.B. 385), Acts of the 82nd Legislature, Regular Session, 2011, as follows:

(a) Requires TNRCC to develop a grant schedule that:

(1) assigns a standardized grant in an amount up to 90 percent of the incremental cost, rather than in an amount between 60 and 90 percent of the incremental cost, of a natural gas vehicle purchase, lease, other commercial finance, or repowering; and

(2)-(3) Makes no change to these subdivisions.

SECTION 17. Amends Sections 394.010(a), (b), (c), and (d), Health and Safety Code, as amended by Chapter 892 (S.B. 385), Acts of the 82nd Legislature, Regular Session, 2011, as follows:

(a) Requires TNRCC, to ensure that natural gas vehicles purchased, leased, or otherwise commercially financed or repowered under the program have access to fuel, and to build the foundation for a self-sustaining market for natural gas vehicles in Texas, to award grants to support the development of a network of natural gas vehicle fueling stations along the interstate highways connecting Houston, San Antonio, Dallas, and Fort Worth, and in nonattainment areas and affected counties of the state. Requires TNRCC, in awarding the grants, to provide for:

(1) strategically placed natural gas vehicle fueling stations in and between the Houston, San Antonio, and Dallas-Fort Worth areas, and in nonattainment areas and affected counties of the state, to enable a natural gas vehicle to travel in those areas, rather than to enable a natural gas vehicle to travel along that triangular area, relying solely on natural gas fuel;

(2) grants to be dispersed through a competitive bidding process to offset a portion of the cost of installation of the natural gas dispensing equipment;

(3) contracts that require the recipient stations to meet operational, maintenance, and reporting requirements as specified by TNRCC; and

(4) a listing, to be maintained by TNRCC and made available to the public online, of all natural gas vehicle fueling stations that have received grant funding, including location and hours of operation.

(b) Prohibits TNRCC from awarding more than one grant for each station, rather than prohibits TNRCC from awarding more than three station grants to any entity, or one grant for each station.

(c) Prohibits grants awarded under this section from exceeding:

(1) \$400,000, rather than \$100,000, for a compressed natural gas station;

(2) \$400,000, rather than \$250,000, for a liquefied natural gas station; or

(3) \$600,000, rather than \$400,000, for a station providing both liquefied and compressed natural gas.

(d) Requires stations funded by grants under this section to be publicly accessible, rather than requires stations funded by grants under this section to be publicly accessible and located not more than three miles from an interstate highway system. Requires TNRCC to give preference to stations providing both liquefied natural gas and compressed natural gas at a single location, rather than requires TNRCC to give preference to stations providing both liquefied natural gas and compressed natural gas at a single location and stations located not more than one mile from an interstate highway system.

SECTION 18. Amends Section 393.006, Health and Safety Code, as amended by Chapter 892 (S.B. 385), Acts of the 82nd Legislature, Regular Session, 2011, as follows:

Sec. 393.006. AMOUNT OF GRANT. Requires TNRCC, for each eligible facility for which a recipient is awarded a grant under the program, to award the grant in an amount equal to the lesser of:

(1) Makes no change to this subdivision; or

(2) \$600,000, rather than \$500,000.

SECTION 19. Repealer: Section 386.151(1) (defining "bin" or "emissions bin"), Health and Safety Code;

Repealer: Section 386.154 (Modification of Incentive Emissions Standards), Health and Safety Code;

Repealer: Section 386.155 (Manufacturer's Report), Health and Safety Code;

Repealer: Section 386.204 (Limitation on Duty of Participating Utility), Health and Safety Code;

Repealer: Section 386.252(a) (relating to authorizing money in the fund to be used only to implement and administer programs established under the plan and the total appropriation being required to be allocated, as per certain guidelines), Health and Safety Code, as amended by Chapters 589 (Senate Bill No. 20) and 892 (Senate Bill No. 385), Acts of the 82nd Legislature, Regular Session, 2011;

Repealer: Section 386.252(f) (relating to authorizing TNRCC to reallocate money in the fund if certain conditions are met), Health and Safety Code, as added by Chapter 589 (Senate Bill No. 20), Acts of the 82nd Legislature, Regular Session, 2011; and

Repealers: Chapters 393 (Texas Natural Gas Vehicle Grant Program) and 394 (Alternative Fueling Facilities Program), Health and Safety Code, as amended by Chapter 589 (Senate Bill No. 20), Acts of the 82nd Legislature, Regular Session, 2011.

SECTION 20. Effective date: upon passage or September 1, 2013.