

By: Deuell

S.B. No. 1727

A BILL TO BE ENTITLED

AN ACT

relating to the use of the Texas emissions reduction plan fund.

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

SECTION 1. Section 386.051, Health and Safety Code, is amended by amending Subsection (b) and adding Subsection (b-1) 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;

(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)(5);

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

(8) air quality planning activities as provided by

1 Section 386.252(a)(8); [~~and~~]

2 (9) a contract with the Energy Systems Laboratory at
3 the Texas Engineering Experiment Station for computation of
4 creditable statewide emissions reductions as provided by Section
5 386.252(a)(9);

6 (10) the clean fleet program established under Chapter
7 392;

8 (11) the alternative fueling facilities program
9 established under Chapter 393; and

10 (12) the natural gas vehicle grants program and clean
11 transportation triangle program established under Chapter 394.

12 (b-1) Under the plan, the commission may establish and
13 administer other programs, including other grants or funding
14 programs, as determined by the commission to be necessary or
15 effective in fulfilling its duties and achieving the objectives
16 described under Section 386.052. The commission may apply the
17 criteria and requirements applicable to the programs under
18 Subsection (b) to programs established under this subsection, or
19 the commission may establish separate criteria and requirements as
20 necessary to achieve the commission's objectives. The additional
21 programs shall be consistent with and comply with all applicable
22 laws, regulations, and guidelines pertaining to the use of state
23 funds, the awarding and administration of grants and contracts, and
24 achieving reductions in emissions of pollutants determined to be of
25 concern. Under this subsection, the commission shall place a
26 priority on programs that address the following goals:

27 (1) reduction of emissions of oxides of nitrogen or

1 particulate matter from heavy-duty on-road vehicles and non-road
2 equipment, including locomotives and marine vessels, at port
3 facilities in nonattainment areas;

4 (2) reduction of emissions from the operation of
5 drilling and related heavy-duty non-road equipment in oil and gas
6 production fields where the commission determines that the programs
7 can help prevent that area or an adjacent area from being in
8 violation of national ambient air quality standards; and

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

18 SECTION 2. Subsection (a), Section 386.053, Health and
19 Safety Code, is amended to read as follows:

20 (a) The commission shall adopt grant guidelines and
21 criteria consistent with the requirements of Subchapter C [~~this~~
22 ~~chapter~~].

23 SECTION 3. Subsection (a), Section 386.054, Health and
24 Safety Code, is amended to read as follows:

25 (a) The commission shall develop procedures for monitoring
26 whether the emissions reductions projected for projects awarded
27 grants under Subchapter C [~~this chapter~~] are actually achieved.

1 Monitoring procedures may include project reviews and contract
2 requirements that the grant recipient provide information
3 semiannually about the project. If the commission requires an
4 annual report, the report shall contain a minimum amount of
5 information required from a recipient and the report format shall
6 be simple and convenient.

7 SECTION 4. Subsection (a), Section 386.252, Health and
8 Safety Code, as amended by Chapter 28 (S.B. 527), Acts of the 82nd
9 Legislature, Regular Session, 2011, is amended to read as follows:

10 (a) Money in the fund may be used only to implement and
11 administer programs established under the plan. Money appropriated
12 to the commission to be used for the programs under Section
13 386.051(b) [and the total appropriation] shall be allocated as
14 follows:

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

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

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

23 (4) five percent shall be used for the clean fleet
24 program under Chapter 392;

25 (5) up to [not more than \$7 million shall be allocated
26 in 2012 and 2013 and not more than] \$3 million shall be used by the
27 commission [allocated in 2014 and in subsequent years] to fund a

1 regional air monitoring program in commission Regions 3 and 4 to be
2 implemented under the commission's oversight, including direction
3 regarding the type, number, location, and operation of, and data
4 validation practices for, monitors funded by the program through a
5 regional nonprofit entity located in North Texas having
6 representation from counties, municipalities, higher education
7 institutions, and private sector interests across the area;

8 (6) not less than 16 percent shall be used for the
9 Texas natural gas vehicle grant program under Chapter 394;

10 (7) not more than four percent may be used to provide
11 grants for natural gas fueling stations under the clean
12 transportation triangle program under Section 394.010;

13 (8) two percent may be used for the Texas alternative
14 fueling facilities program under Chapter 393;

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

18 (10) [~~(7)~~] up to \$200,000 may be used [~~is allocated~~]
19 for a health effects study;

20 (11) [~~(8)~~] up to \$500,000 is to be deposited in the
21 state treasury to the credit of the clean air account created under
22 Section 382.0622 to supplement funding for air quality planning
23 activities in affected counties;

24 (12) [~~(9)~~] not more than \$216,000 may be used by [~~is~~
25 ~~allocated to~~] the commission to contract with the Energy Systems
26 Laboratory at the Texas Engineering Experiment Station annually for
27 the development and annual computation of creditable statewide

1 emissions reductions obtained through wind and other renewable
2 energy resources for the state implementation plan; and

3 (13) [~~(10)~~ not more than \$3,400,000 is allocated to
4 ~~the commission for administrative costs incurred by the commission,~~

5 ~~(11) 1.5 percent of the money in the fund is allocated~~
6 ~~for administrative costs incurred by the laboratory; and~~

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

10 SECTION 5. Subsections (b), (c), (d), and (e), Section
11 386.252, Health and Safety Code, are amended to read as follows:

12 (b) The commission may allocate unexpended money designated
13 for the clean fleet program under Chapter 392 to other programs
14 described under Subsection (a) after the commission allocates money
15 to recipients under the clean fleet program.

16 (c) The commission may allocate unexpended money designated
17 for the Texas alternative fueling facilities program under Chapter
18 393 to other programs described under Subsection (a) after the
19 commission allocates money to recipients under the alternative
20 fueling facilities program.

21 (d) The commission may reallocate money designated for the
22 Texas natural gas vehicle grant program under Chapter 394 to other
23 programs described under Subsection (a) if:

24 (1) the commission, in consultation with the governor
25 and the advisory board, determines that the use of the money in the
26 fund for that program will cause the state to be in noncompliance
27 with the state implementation plan to the extent that federal

1 action is likely; and

2 (2) the commission finds that the reallocation of some
3 or all of the funding for the program would resolve the
4 noncompliance.

5 (e) Under Subsection (d), the commission may not reallocate
6 more than the minimum amount of money necessary to resolve the
7 noncompliance. [money allocated under Subsection (a) to a
8 particular program may be used for another program under the plan as
9 determined by the commission.

10 ~~[(c) Money in the fund may be allocated to the clean school~~
11 ~~bus program only if:~~

12 ~~[(1) the money is available for that purpose after~~
13 ~~money is allocated for the other purposes of the fund as required by~~
14 ~~the state implementation plan; or~~

15 ~~[(2) the amount of money deposited to the credit of the~~
16 ~~fund in a state fiscal year exceeds the amount the comptroller's~~
17 ~~biennial revenue estimate shows as the comptroller's estimated~~
18 ~~amount to be deposited to the credit of the fund in that year.~~

19 ~~[(d) The commission may allocate unexpended money~~
20 ~~designated for the clean fleet program to other programs described~~
21 ~~under Subsection (a) after the commission allocates money to~~
22 ~~recipients under the clean fleet program.~~

23 ~~[(e) The commission may allocate unexpended money~~
24 ~~designated for the Texas alternative fueling facilities program to~~
25 ~~other programs described under Subsection (a) after the commission~~
26 ~~allocates money to recipients under the alternative fueling~~
27 ~~facilities program.]~~

1 SECTION 6. Subsection (f), Section 386.252, Health and
2 Safety Code, as added by Chapter 892 (S.B. 385), Acts of the 82nd
3 Legislature, Regular Session, 2011, is amended to read as follows:

4 (f) Money appropriated to the commission for programs under
5 Section 386.051(c) shall be allocated to those programs as
6 determined by the commission [~~Notwithstanding Subsection (a), the~~
7 ~~commission may reallocate money in the fund if:~~

8 [~~(1) the commission, in consultation with the governor~~
9 ~~and the advisory board, determines that the use of the money in the~~
10 ~~fund for the program established under Chapter 394 will cause the~~
11 ~~state to be in noncompliance with the state implementation plan to~~
12 ~~the extent that federal action is likely; and~~

13 [~~(2) the commission finds that the reallocation of~~
14 ~~some or all of the funding for the program established under Chapter~~
15 ~~394 would resolve the noncompliance].~~

16 SECTION 7. Subsection (g), Section 386.252, Health and
17 Safety Code, is amended to read as follows:

18 (g) If the legislature does not specify amounts or
19 percentages from the total appropriation to be allocated under
20 Subsection (a) or (f), the commission shall determine the amounts
21 of the total appropriation to be allocated under each of those
22 subsections [~~Under Subsection (f), the commission may not~~
23 ~~reallocate more than the minimum amount of money necessary to~~
24 ~~resolve the noncompliance].~~

25 SECTION 8. Section 386.252, Health and Safety Code, is
26 amended by adding Subsections (h), (i), (j), and (k) to read as
27 follows:

1 (h) Unless a specified amount is appropriated for
2 administrative costs, of the total appropriation to the commission
3 from the fund, up to four percent or \$4 million, whichever is
4 greater, may be used by the commission for administrative costs.

5 (i) Subject to the limitations outlined in this section and
6 any additional limitations placed on the use of the appropriated
7 funds, money allocated under this section to a particular program
8 may be used for another program under the plan as determined by the
9 commission.

10 (j) Up to 1.5 percent of the money in the fund may be used
11 for administrative costs incurred by the laboratory for work
12 required under this chapter.

13 (k) If a specified percentage or amount from the fund is
14 appropriated for a particular program or purpose that differs from
15 the allocation percentage or amount established in this section,
16 the specified appropriation percentage or amount shall apply.

17 SECTION 9. Subsection (a), Section 386.252, Health and
18 Safety Code, as amended by Chapters 589 (Senate Bill No. 20) and 892
19 (Senate Bill No. 385), Acts of the 82nd Legislature, Regular
20 Session, 2011, is repealed.

21 SECTION 10. Subsection (f), Section 386.252, Health and
22 Safety Code, as added by Chapter 589 (Senate Bill No. 20), Acts of
23 the 82nd Legislature, Regular Session, 2011, is repealed.

24 SECTION 11. This Act takes effect September 1, 2013.