

BILL ANALYSIS

Senate Research Center
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H.B. 3745
By: Bell, Cecil et al. (Birdwell)
Natural Resources & Economic Development
5/13/2019
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 3745 amends current law relating to the Texas emissions reduction plan fund and account.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1.01. Amends Section 386.001, Health and Safety Code, by adding Subdivision (1) to define "account" and amending Subdivision (5) to redefine "fund."

SECTION 1.02. Amends Section 386.057(c), Health and Safety Code, as follows:

(c) Requires the report for projects funded as part of the infrastructure program under Subchapter C (Diesel Emissions Reduction Incentive Program) to:

(1) makes no changes to this subdivision;

(2) make a finding regarding the need for additional appropriations from the Texas emissions fund reduction plan account (account), rather than the Texas emissions plan fund established under Section 386.250 to improve the ability of the program to achieve its goals.

SECTION 1.03. Amends the heading to Subchapter F, Chapter 386, Health and Safety Code, to read as follows:

SUBCHAPTER F. TEXAS EMISSIONS REDUCTION PLAN FUND AND ACCOUNT

SECTION 1.04. Amends Subchapter F, Chapter 386, Health and Safety Code, by adding Section 386.250, as follows:

Sec. 386.250. TEXAS EMISSIONS REDUCTION PLAN FUND. (a) Provides that the Texas emissions reduction plan fund is established as a trust fund outside the state treasury to be held by the comptroller of public accounts of the State of Texas (comptroller) and administered by the Texas Commission on Environmental Quality (TCEQ) as trustee. Authorizes money in the fund to be spent without legislative appropriation and to be used only as provided by this chapter (Texas Emissions Reduction Plan). Requires interest and other earnings on the balance of the fund to be credited to the fund.

(b) Provides that the fund consists of:

(1) the amount of money deposited to the credit of the fund under:

(A) Section 386.056 (Availability of Emissions Reductions in Certain Nonattainment Areas);

(B) Sections 151.0515 (Texas Emissions Reduction Plan Surcharge) and 152.0215, Tax Code; and

(C) Sections 501.138 (Collection and Disposition of Fees), 502.358 (Texas Emissions Reduction Plan Surcharge), and 548.5055 (Texas Emissions Reduction Plan Fee), Transportation Code; and

(2) grant money recaptured under Section 386.111(d) (relating to requiring TCEQ, subject to availability of funds, to award a certain grant in conjunction with the execution of a contract that meets certain criteria) and Chapter 391 (New Technology Implementation For Facilities and Stationary Sources).

(c) Requires TCEQ, not later than the 30th day after the last day of each state fiscal biennium, to transfer the unencumbered balance of the fund remaining on the last day of the state fiscal biennium to the credit of the Texas emissions reduction plan account.

SECTION 1.05. Amends Section 386.251, Health and Safety Code, as follows:

Sec. 386.251. New heading: TEXAS EMISSIONS REDUCTION PLAN ACCOUNT. (a) Provides that the Texas emissions reduction plan account, rather than reduction plan fund, is an account in the state treasury.

(b) Makes conforming changes to this subsection.

(c) Provides that the account, rather than fund, consists of its accumulated balance and the amount of money transferred to the account under Section 386.250(c). Deletes existing text providing that the fund consist of the amount of money deposited to the credit of the fund under certain sections.

SECTION 1.06. Amends the heading to Section 386.252, Health and Safety Code, as follows:

Sec. 386.252. USE OF FUND AND ACCOUNT.

SECTION 1.07. Amends Sections 386.252(a), (b), (e), (f), (g), and (h), Health and Safety Code, to read as follows:

(a) Authorizes money in the fund and account to be used only to implement and administer programs established under the plan. Requires money from the fund and account, rather than money appropriated to TCEQ to be used for the programs under Section 386.051(b) (relating to requiring TCEQ and the comptroller to provide grants or other funding for certain programs), subject to the reallocation of funds by TCEQ under Subsection (h), to initially be allocated as follows:

(1)–(8) makes no changes to these subdivisions;

(9) at least \$6 million but not more than \$8 million may be used by, rather than is allocated to, TCEQ for certain costs;

(10) and (11) makes no changes to these subdivisions;

(12) not more than \$216,000 may be used by, rather than is allocated to, TCEQ for a certain contract; and

(13) and (14) makes no changes to these subdivisions.

(b) Authorizes money in the fund and account to be used by TCEQ for programs under Sections 386.051(b)(13) (relating to programs developed by TCEQ that lead to reductions in certain emissions in certain locations), (b)(14) (relating to programs developed by TCEQ that lead to reductions in other certain emissions), and (b-1) (relating to authorizing TCEQ to establish and administer certain other programs as determined by TCEQ to be necessary or effective for certain goals), rather than the fund to be used by TCEQ for programs under Sections 386.051(b)(13), (b)(14), and (b-1), as may be appropriated for those programs.

(e) Authorizes money in the fund and account to be used for administrative costs incurred by the Energy Systems Laboratory at the Texas A&M Engineering Experiment Station, rather than authorizes money in the fund to be allocated for administrative costs incurred by the Energy Systems Laboratory at the Texas A&M Engineering Experiment Station as may be appropriated by the legislature.

(f) Authorizes not more than \$2.5 million from the fund and account, rather than authorizing not more than \$2.5 million, to the extent that money is appropriated from the fund for that purpose, to be used by TCEQ to conduct research and other activities associated with making any necessary demonstrations to the United States Environmental Protection Agency to account for the impact of foreign emissions or an exceptional event.

(g) Makes conforming changes to this subsection.

(h) Authorizes money allocated under this section to a certain program, subject to the limitations outlined in this section, rather than 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 TCEQ, based on demand for grants for eligible projects under particular programs after the commission solicits projects to which to award grants according to the initial allocation provisions of this section.

SECTION 1.08. Amends Section 395.011, Health and Safety Code, to make a conforming change.

SECTION 1.09. Provides that the amendments to Section 386.251, Health and Safety Code, made by this article do not affect the balance of the Texas Emissions Reduction Plan Account No. 5071 remaining on September 1, 2019.

ARTICLE 2. FUNDING SOURCES

SECTION 2.01. Amends Section 151.0515(d), Tax Code, as follows:

(d) Provides that this section expires on the last day of the state fiscal biennium during which TCEQ publishes in the Texas Register the notice required by Section 382.037, Health and Safety Code, rather than August 31, 2019.

SECTION 2.02. Amends Section 152.0215(c), Tax Code, as follows:

(c) Provides that this section expires on the last day of the state fiscal biennium during which TCEQ publishes in the Texas Register the notice required by Section 382.037 (Notice in Texas Register Regarding National Ambient Air Quality Standards For Ozone), Health and Safety Code, rather than August 31, 2019.

SECTION 2.03. Amends Section 501.138(b-3), Transportation Code, as follows:

(b-3) Provides that this subsection and Subsection (b-2) (relating to requiring the comptroller to establish a record of certain fees deposited to the credit of the Texas Mobility Fund) expire on the last day of the state fiscal biennium during which TCEQ publishes in the Texas Register the notice required by Section 382.037 (Notice in Texas

Register Regarding National Ambient Air Quality Standards for Ozone), Health and Safety Code, rather than expire August 31, 2019.

SECTION 2.04. Amends Section 502.358(c), Transportation Code, to make conforming changes.

SECTION 2.05. Amends the heading to Section 548.5055, Transportation Code, to read as follows:

Sec. 548.5055. TEXAS EMISSIONS REDUCTION PLAN FEE.

SECTION 2.06. Amends Sections 548.5055(b) and (c), Transportation Code, as follows:

(b) Requires the Department of Public Safety of the State of Texas to remit fees collected under this section (Texas Emission Reduction Plan Fee) to the comptroller at the time and in the manner prescribed by the comptroller for deposit in the Texas emissions reduction plan fund, rather than in the Texas emission reduction plan fund.

(c) Provides that this section expires on the last day of the state fiscal biennium during which TCEQ publishes in the Texas Register the notice required by Section 382.037, Health and Safety Code, rather than expires August 31, 2019.

SECTION 2.07. Repealer: Sections 8(a-2) (relating to the continuity of the programs described by Section 386.252(a), Health and Safety Code, and the funding of those programs), Chapter 755, Acts of the 85th Legislature, Regular Session, 2017.

Repealer: Section 8(b) (relating to providing that to the extent of a conflict between Subsection (a-2) of this section and any change in law made by another provision of this section, the change in law made by the other provision of this section controls), Chapter 755, Acts of the 85th Legislature, Regular Session, 2017.

SECTION 2.08. Effective date, this article: August 30, 2019.

ARTICLE 3. EFFECTIVE DATE

SECTION 3.01. Effective date: September 1, 2019.