

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1070
By: Watson
Natural Resources & Economic Development
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The original purpose of the Low Income Vehicle Repair Assistance Program (LIRAP) was to provide financial assistance to low-income vehicle owners who fail emissions testing, as well as to help counties remove high-emitting vehicles from the road and uncover fraudulent vehicle inspections. Counties with emissions and maintenance inspections could voluntarily opt-in to the program, which was funded in part by fees collected for vehicle registration. However, LIRAP funding was not fully appropriated after the 82nd and 83rd Legislatures, and participation in the program has ceased.

Before its end, however, portions of LIRAP-generated revenue had gone to the Local Initiatives Program (LIP), which gave counties the flexibility and control to address air quality on the local level through mobility and transportation projects.

This bill would expand LIP and eliminate LIRAP, with the goal of improving air quality through local transportation and mobility projects for eligible counties that choose to opt-in. Fees would continue to be collected by participating counties, but revenue would now remain with the counties in a separate account (expected loss of state revenue is between \$75 and \$100 million for the biennium). All previously-eligible LIP projects would remain eligible for the new, modernized program, which includes projects that focus on regional data collection efforts, alternative fuel refueling infrastructure, and freeway incident management. Additionally, a new, voluntary, local vehicle repair and replacement incentive program—without an income component—would become an eligible project through the LIP program for counties that choose to opt-in. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1070 amends current law relating to local initiatives programs under the Texas Clean Air Act and the repeal of the low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement program; and authorizes a fee.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality (TCEQ) and the Public Safety Commission jointly in SECTION 4 (Section 382.2085, Health and Safety Code) of this bill.

Rulemaking authority previously granted to TCEQ and the Public Safety Commission jointly is rescinded in SECTION 6 (Section 382.209, Health and Safety Code) of this bill.

Rulemaking authority previously granted to TCEQ is rescinded in SECTION 6 (Sections 382.210, 382.212, and 382.213, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 382.201(4), Health and Safety Code, as follows:

- (4) Redefines "participating county" as an affected county in which the commissioners court by resolution has chosen to implement a local initiatives program authorized by Section 382.2085, rather than implement a low-income vehicle repair assistance, retrofit,

and accelerated vehicle retirement program authorized by Section 382.209 (Low-Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program).

SECTION 2. Amends Section 382.202, Health and Safety Code, by adding Subsection (g-1), as follows:

(g-1) Authorizes the commissioners court of a participating county by order to impose an additional fee, not to exceed \$6, for a vehicle inspected in the county. Authorizes a fee imposed under this subsection to take effect and be removed in accordance with the requirements of Section 382.220. Requires the additional fee to be collected for a vehicle at the same time other fees imposed under this chapter (Clean Air Act) are collected. Requires the fee revenue collected to be retained by the county in a separate account to be used only for the purposes specified by Section 382.220.

SECTION 3. Amends Section 382.216, Health and Safety Code, as follows:

Sec. 382.216. INCENTIVES FOR VOLUNTARY PARTICIPATION IN VEHICLE EMISSIONS INSPECTION AND MAINTENANCE PROGRAM. Makes nonsubstantive changes. Authorizes the Texas Commission on Environmental Quality (TCEQ), the Texas Department of Transportation, and the Public Safety Commission to, subject to federal limitations:

(1) encourage counties likely to exceed federal clean air standards to implement voluntary motor vehicle emissions inspection and maintenance programs, rather than motor vehicle emissions inspection and maintenance programs and low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement programs;

(2) establish incentives for counties to voluntarily implement motor vehicle emissions inspection and maintenance programs, rather than establish incentives for counties to voluntarily implement motor vehicle emissions inspection and maintenance programs and low income vehicle repair assistance, retrofit, and accelerated vehicle retirement programs; and

(3) designate a county that voluntarily implements a motor vehicle emission inspection and maintenance program, rather than designate a county that voluntarily implements a motor vehicle emission inspection and maintenance program or a low income vehicle repair assistance, retrofit, and accelerated vehicle retirement program, as a "Clean Air County" and give preference to a county designated as a Clean Air County in any federal or state clean air grant program.

SECTION 4. Amends Section 382.220, Health and Safety Code, as follows:

Sec. 382.220. New heading: LOCAL INITIATIVES PROGRAM. (a) Requires TCEQ and the Public Safety Commission by joint rule to establish and authorize the commissioners court of an affected county to implement a local initiatives program subject to agency oversight that is authorized to include reasonable periodic TCEQ audits.

(b) Requires the local initiatives program to be funded with available money collected under Section 382.202 (Vehicle Emissions Inspection and Maintenance Programs) or 382.302 (Inspection and Maintenance Program) or other designated and available money. Requires the program to be administered in accordance with Chapter 783 (Uniform Grant and Contract Management), Government Code. Deletes existing text authorizing money that is made available to participating counties under Section 382.202(g) (relating to requiring TCEQ to use part of the inspection fee to fund low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement programs and distribute available funding to participating counties in reasonable proportion to the amount of fees collected in those counties or in the regions in which those counties are located) or 382.302 to

be appropriated only for programs administered in accordance with Chapter 783, Government Code, to improve air quality.

(c) Creates this subsection from existing text and authorizes a participating county to agree to contract with any appropriate entity, including a metropolitan planning organization or a council of governments, to implement a program under Section 382.202, rather than Section 382.202 and 382.209, or this section.

(d) Redesignates existing Subsection (b) as Subsection (d). Requires a program under this section to be approved by the commissioners court of the county in which the program is located, rather than be implemented in consultation with TCEQ, and authorizes the program to include a program to:

(1) develop and implement projects supporting freeway incident management and associated first responders, rather than expand and enhance the AirCheck Texas Repair and Replacement Assistance Program;

(2)–(3) makes no changes to these subdivisions;

(4) develop and implement projects in consultation with the director of the Department of Public Safety of the State of Texas (DPS) for coordinating with local law enforcement officials to reduce the use of counterfeit registration insignia, temporary registration plates, and vehicle inspection reports, rather than reduce the use of counterfeit registration insignia and vehicle inspection reports, by providing local law enforcement officials with funds to identify vehicles with counterfeit registration insignia, temporary registration plates, and vehicle inspection reports, rather than counterfeit registration insignia and vehicle inspection reports, and to carry out appropriate actions;

(5)–(6) makes nonsubstantive changes to these subdivisions;

(7) develop and implement regional data collection efforts for air quality and multimodal transportation data to improve efficiency of transportation systems; or

(8) establish publicly accessible refueling infrastructure for alternative fuel vehicles.

(e) Deletes text of existing Subsection (c) prohibiting money that is made available for the implementation of a program under Subsection (b) from being expended for local government fleet or vehicle acquisition or replacement, call center management, application oversight, invoice analysis, education, outreach, or advertising purposes. Redesignates existing Subsection (d) as Subsection (e). Authorizes fees collected under Sections 382.202 and 382.302 to be used by participating counties only for projects described by Subsection (d), rather than to be used in an amount not to exceed \$7 million per fiscal year for projects described by Subsection (b), of which \$2 million is authorized to be used only for projects described by Subsection (b)(4).

(f) Authorizes the commissioners court of a participating county to adopt a resolution to end fee collection for the local initiatives program in the county. Requires the commissioners court to submit the resolution to TCEQ and to the county tax assessor-collector. Requires the resolution to include a date after which a fee is prohibited from being imposed under Section 382.202 or 382.302 for the purposes of the county's local initiatives program on vehicles being inspected or registered in the country. Requires the date to be:

(1) the first day of a month; and

(2) at least 90 days after the date the resolution is submitted to TCEQ.

(g) Requires TCEQ, on receipt of a resolution under Subsection (f), to notify in writing the Texas Department of Motor Vehicles (TxDMV), DPS, and the Legislative Budget Board (LBB) that a fee is prohibited from being imposed under Section 382.202 or 382.302 for the purposes of the county's local initiatives program on vehicles being inspected or registered in the county after the date established under Subsection (f)

(h) Requires TCEQ to distribute available money collected under Section 382.202(e) (relating to authorizing TCEQ to assess certain fees) that was designated for the former low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement program to counties that participated in that program. Requires TCEQ to distribute the money in reasonable proportion to the amount of fees collected under Section 382.202(e) in those counties or in the regions in which those counties are located. Authorizes a county that receives money under this subsection to use the money only to fund a program authorized by this subsection. Provides that this subsection expires September 1, 2023.

Deletes existing text authorizing the remaining \$5 million to be used for any project described by Subsection (b). Deletes existing text requiring the fees to be made available only to counties participating in the low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement programs created under Section 382.209 and only on a matching basis, whereby TCEQ provides money to a county in the same amount that the county dedicates to a project authorized by Subsection (b). Deletes text authorizing TCEQ to reduce the match requirement for a county that proposes to develop and implement independent test facility fraud detection programs, including the use of remote sensing technology for coordinating with law enforcement officials to detect, prevent, and prosecute the use of counterfeit registration insignias and vehicle inspection reports.

SECTION 5. Amends Section 382.302(e), Health and Safety Code, to authorize a participating county to participate in a local initiatives program established under Section 382.220, rather than authorizing a county to participate in the program established under Section 382.209.

SECTION 6. Repealer: Section 382.003(10-a) (relating to the definition of "qualifying motor vehicle"), Health and Safety Code;

Repealer: Section 382.201(5) (relating to the definition of "retrofit"), Health and Safety Code.

Repealer: Section 382.201(6) (relating to the definition of "retrofit equipment"), Health and Safety Code.

Repealer: Section 382.202(g) (relating to requiring TCEQ to take certain actions with the fee assessed for vehicle emissions-related inspections), Health and Safety Code.

Repealer: Section 382.205(f) (relating to requiring TCEQ to ensure certain repair facilities have access to adequate testing equipment), Health and Safety Code.

Repealer: Section 382.209 (Low-Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program), Health and Safety Code.

Repealer: Section 382.210 (Implementation Guidelines and Requirements), Health and Safety Code.

Repealer: Section 382.211 (Local Advisory Panel), Health and Safety Code.

Repealer: Section 382.212 (Emissions Reduction Credit), Health and Safety Code.

Repealer: Section 382.213 (Disposition of Retired Vehicle), Health and Safety Code.

Repealer: Section 382.214 (Sale of Vehicle With Intent to Defraud), Health and Safety Code.

Repealer: Section 382.219 (Purchase of Replacement Vehicle; Automobile Dealerships), Health and Safety Code.

SECTION 7. Requires TCEQ to implement Section 382.220(h), Health and Safety Code, as added by this Act, only if the legislature appropriates money specifically for that purpose. Authorizes, but does not require, TCEQ, if the legislature does not appropriate money specifically for that purpose, to implement Section 382.220(h), Health and Safety Code, as added by this Act, using other appropriations available for that purpose.

SECTION 8. Effective date: September 1, 2019.