

By: Thompson of Brazoria

H.B. No. 2094

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the administration of and funding for the Texas  
3 emissions reduction plan.

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

5 SECTION 1. Section 386.104, Health and Safety Code, is  
6 amended by amending Subsection (c) and adding Subsections (c-1) and  
7 (c-2) to read as follows:

8 (c) Except as otherwise provided by this subsection, for  
9 ~~[For]~~ a proposed project as described by Section 386.102(b), other  
10 than a project involving a marine vessel or engine, not less than 75  
11 percent of vehicle miles traveled or hours of operation projected  
12 for the five years immediately following the award of a grant must  
13 be projected to take place in a nonattainment area or affected  
14 county of this state. The commission may set the minimum percentage  
15 of vehicle miles traveled or hours of operation required to take  
16 place in a nonattainment area or affected county at a percentage and  
17 for a period that is different from the percentage and period  
18 specified by this subsection. The commission may ~~[also]~~ allow  
19 vehicle travel on highways and roadways, or portions of a highway or  
20 roadway, designated by the commission and located outside a  
21 nonattainment area or affected county to count towards the  
22 percentage of use requirement in this subsection.

23 (c-1) For a proposed project involving a marine vessel or  
24 engine, the vessel or engine must be operated in the intercoastal

1 waterways or bays adjacent to a nonattainment area or affected  
2 county of this state for a sufficient amount of time over the  
3 lifetime of the project, as determined by the commission, to meet  
4 the cost-effectiveness requirements of Section 386.105.

5 (c-2) For a proposed project involving non-road equipment  
6 used for natural gas recovery purposes, the equipment must be  
7 operated in a nonattainment area or affected county for a  
8 sufficient amount of use over the lifetime of the project, as  
9 determined by the commission, to meet the cost-effectiveness  
10 requirements of Section 386.105.

11 SECTION 2. Section 386.116(a), Health and Safety Code, is  
12 amended to read as follows:

13 (a) In this section, "small business" means a business owned  
14 by a person who:

15 (1) owns and operates not more than six [~~five~~]  
16 vehicles, one of which is:

17 (A) an on-road diesel; or

18 (B) a non-road diesel; and

19 (2) has owned the vehicle described by Subdivision  
20 (1)(A) or (B) for more than two years.

21 SECTION 3. Section 386.251(c), Health and Safety Code, is  
22 amended to read as follows:

23 (c) The fund consists of:

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

26 (A) Section 386.056;

27 (B) Section [~~Sections 151.0515 and~~] 152.0215,

1 Tax Code; and

2 (C) Sections 501.138, 502.358, and 548.5055,  
3 Transportation Code; and

4 (2) grant money recaptured under Section 386.111(d)  
5 and Chapter 391.

6 SECTION 4. Section 386.252, Health and Safety Code, is  
7 amended by amending Subsection (a) and adding Subsection (i) to  
8 read as follows:

9 (a) Money in the fund may be used only to implement and  
10 administer programs established under the plan. Subject to the  
11 reallocation of funds by the commission under Subsection (h), money  
12 appropriated to the commission to be used for the programs under  
13 Section 386.051(b) shall initially be allocated as follows:

14 (1) four percent may be used for the clean school bus  
15 program under Chapter 390;

16 (2) one [~~three~~] percent may be used for the new  
17 technology implementation grant program under Chapter 391, from  
18 which at least \$1 million will be set aside for electricity storage  
19 projects related to renewable energy;

20 (3) five percent may be used for the Texas clean fleet  
21 program under Chapter 392;

22 (4) not more than \$3 million may be used by the  
23 commission to fund a regional air monitoring program in commission  
24 Regions 3 and 4 to be implemented under the commission's oversight,  
25 including direction regarding the type, number, location, and  
26 operation of, and data validation practices for, monitors funded by  
27 the program through a regional nonprofit entity located in North

1 Texas having representation from counties, municipalities, higher  
2 education institutions, and private sector interests across the  
3 area;

4 (5) 10 percent may be used for the Texas natural gas  
5 vehicle grant program under Chapter 394;

6 (6) not more than \$6 million may be used for the Texas  
7 alternative fueling facilities program under Chapter 393, of which  
8 a specified amount may be used for fueling stations to provide  
9 natural gas fuel, except that money may not be allocated for the  
10 Texas alternative fueling facilities program for the state fiscal  
11 year ending August 31, 2019;

12 (7) not more than \$750,000 may be used each year to  
13 support research related to air quality as provided by Chapter 387;

14 (8) not more than \$200,000 may be used for a health  
15 effects study;

16 (9) at least \$6 million but not more than \$8 million is  
17 allocated to the commission for administrative costs, including all  
18 direct and indirect costs for administering the plan, costs for  
19 conducting outreach and education activities, and costs  
20 attributable to the review or approval of applications for  
21 marketable emissions reduction credits;

22 (10) six percent may be used by the commission for the  
23 seaport and rail yard areas emissions reduction program established  
24 under Subchapter D-1;

25 (11) five percent may be used for the light-duty motor  
26 vehicle purchase or lease incentive program established under  
27 Subchapter D;

1           (12) not more than \$216,000 is allocated to the  
2 commission to contract with the Energy Systems Laboratory at the  
3 Texas A&M Engineering Experiment Station annually for the  
4 development and annual computation of creditable statewide  
5 emissions reductions obtained through wind and other renewable  
6 energy resources for the state implementation plan;

7           (13) not more than \$500,000 may be used for studies of  
8 or pilot programs for incentives for port authorities located in  
9 nonattainment areas or affected counties to encourage cargo  
10 movement that reduces emissions of nitrogen oxides and particulate  
11 matter; and

12           (14) the balance is to be used by the commission for  
13 the diesel emissions reduction incentive program under Subchapter C  
14 as determined by the commission.

15           (i) Notwithstanding any other provision of this section,  
16 money in the fund, other than money in the non-road diesel  
17 subaccount established under Section 386.253, may not be used for a  
18 purpose described by Section 386.253(c).

19           SECTION 5. Subchapter F, Chapter 386, Health and Safety  
20 Code, is amended by adding Section 386.253 to read as follows:

21           Sec. 386.253. NON-ROAD DIESEL SUBACCOUNT; USE OF  
22 SUBACCOUNT. (a) The non-road diesel subaccount is established in  
23 the fund.

24           (b) The subaccount consists of the amount of money deposited  
25 to the credit of the subaccount under Section 151.0515, Tax Code.  
26 Interest earned on the subaccount shall be credited to the  
27 subaccount.

1        (c) Money in the subaccount may be used only to:

2            (1) provide grants for non-road diesels, as that term  
3 is described by Section 386.101, under a program established under  
4 the plan; and

5            (2) implement and administer a program described by  
6 Subdivision (1), but only to the extent that the program relates to  
7 the issuance of grants for non-road diesels.

8        SECTION 6. Sections 151.0515(c) and (d), Tax Code, are  
9 amended to read as follows:

10        (c) The surcharge shall be collected at the same time and in  
11 the same manner and shall be administered and enforced in the same  
12 manner as the tax imposed under this chapter. The comptroller shall  
13 adopt any additional procedures needed for the collection,  
14 administration, and enforcement of the surcharge authorized by this  
15 section and shall deposit all remitted surcharges to the credit of  
16 the non-road diesel subaccount in the Texas emissions reduction  
17 plan fund.

18        (d) This section expires on the last day of the state fiscal  
19 biennium during which the Texas Commission on Environmental Quality  
20 publishes in the Texas Register the notice required by Section  
21 382.037, Health and Safety Code [~~August 31, 2019~~].

22        SECTION 7. Section 152.0215(c), Tax Code, is amended to  
23 read as follows:

24        (c) This section expires on the last day of the state fiscal  
25 biennium during which the Texas Commission on Environmental Quality  
26 publishes in the Texas Register the notice required by Section  
27 382.037, Health and Safety Code [~~August 31, 2019~~].

1 SECTION 8. Section 501.138(b-3), Transportation Code, is  
2 amended to read as follows:

3 (b-3) This subsection and Subsection (b-2) expire on the  
4 last day of the state fiscal biennium during which the Texas  
5 Commission on Environmental Quality publishes in the Texas Register  
6 the notice required by Section 382.037, Health and Safety Code  
7 [August 31, 2019].

8 SECTION 9. Section 502.358(c), Transportation Code, is  
9 amended to read as follows:

10 (c) This section expires on the last day of the state fiscal  
11 biennium during which the Texas Commission on Environmental Quality  
12 publishes in the Texas Register the notice required by Section  
13 382.037, Health and Safety Code [August 31, 2019].

14 SECTION 10. The heading to Section 548.5055, Transportation  
15 Code, is amended to read as follows:

16 Sec. 548.5055. TEXAS EMISSIONS [~~EMISSION~~] REDUCTION PLAN  
17 FEE.

18 SECTION 11. Sections 548.5055(b) and (c), Transportation  
19 Code, are amended to read as follows:

20 (b) The department shall remit fees collected under this  
21 section to the comptroller at the time and in the manner prescribed  
22 by the comptroller for deposit in the Texas emissions [~~emission~~]  
23 reduction plan fund.

24 (c) This section expires on the last day of the state fiscal  
25 biennium during which the conservation commission publishes in the  
26 Texas Register the notice required by Section 382.037, Health and  
27 Safety Code [August 31, 2019].

1           SECTION 12. Sections 8(a-2) and (b), Chapter 755 (S.B.  
2 1731), Acts of the 85th Legislature, Regular Session, 2017, are  
3 repealed.

4           SECTION 13. The changes in law made by this Act apply only  
5 to a Texas emissions reduction plan grant awarded on or after the  
6 effective date of this Act. A grant awarded before the effective  
7 date of this Act is governed by the law in effect on the date the  
8 award was made, and the former law is continued in effect for that  
9 purpose.

10          SECTION 14. The change in law made by this Act to Section  
11 [151.0515](#), Tax Code, applies only to a surcharge collected on or  
12 after the effective date of this Act. A surcharge collected before  
13 the effective date of this Act is governed by the law in effect  
14 immediately before that date, and the former law is continued in  
15 effect for that purpose.

16          SECTION 15. This Act takes effect August 30, 2019.