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By:  Canales H.B. No. 2221

Substitute the following for H.B. No. 2221:

By:  Paddie C.S.H.B. No. 2221

A BILL TO BE ENTITLED

AN ACT

relating to mobile source emissions reductions and transportation electrification; authorizing a surcharge.

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

SECTION 1.  Subtitle F, Title 4, Government Code, is amended by adding Chapter 490I to read as follows:

CHAPTER 490I. TEXAS TRANSPORTATION ELECTRIFICATION COUNCIL

Sec. 490I.001.  DEFINITION. In this chapter, "council" means the Texas Transportation Electrification Council established by this chapter.

Sec. 490I.002.  ESTABLISHMENT; COMPOSITION. (a) The Texas Transportation Electrification Council is established.

(b)  The council is composed of the chair of, or if not applicable, the administrative head of or a senior-level designee from, each of the following entities:

(1)  the Public Utility Commission of Texas;

(2)  the Electric Reliability Council of Texas;

(3)  the Texas Commission on Environmental Quality;

(4)  the State Energy Conservation Office;

(5)  the Texas Department of Licensing and Regulation;

(6)  the Texas Department of Transportation;

(7)  the Texas Department of Motor Vehicles;

(8)  the Texas Department of Housing and Community Affairs;

(9)  the Texas State Affordable Housing Corporation;

(10)  the Texas Division of Emergency Management; and

(11)  the Texas Economic Development and Tourism Office.

Sec. 490I.003.  PRESIDING OFFICER; MEETINGS. (a) The council annually shall elect one member to serve as the presiding officer of the council.

(a-1)  The executive director of the Texas Department of Transportation shall serve as the initial presiding officer of the council. This subsection expires September 1, 2023.

(b)  The council shall hold at least four public meetings each year.

Sec. 490I.004.  ADMINISTRATIVE ATTACHMENT; FUNDING. (a) The council is administratively attached to the Texas Department of Transportation.

(b)  The council shall be funded using existing funds of the Texas Department of Transportation.

Sec. 490I.0045.  ELECTRIC VEHICLE CHARGING INFRASTRUCTURE ASSESSMENT. (a) Not later than March 1, 2022, the council shall prepare an assessment of existing and planned public electric vehicle charging infrastructure and associated technologies in this state using existing databases. The assessment must include the number and types of electric vehicle chargers at each location.

(b)  The council shall use the assessment in developing the plan required by Section 490I.005.

(c)  This section expires September 1, 2023.

Sec. 490I.005.  ELECTRIC VEHICLE CHARGING INFRASTRUCTURE PLAN. (a) The council shall:

(1)  develop a comprehensive plan for the development of public electric vehicle charging infrastructure and associated technologies in this state through the year 2040; and

(2)  update the plan biennially.

(b)  The plan must:

(1)  include a phased implementation of the plan, in biennial increments, through the year 2030;

(2)  identify areas in this state for which additional public electric vehicle charging infrastructure is needed to ensure that the vehicle choice of residents of this state is not constrained by a lack of access to adequate public electric vehicle charging infrastructure;

(3)  provide for sufficient public electric vehicle charging infrastructure to meet and enable future demand for electric vehicles in this state that:

(A)  ensures that adequate public electric vehicle charging infrastructure is available:

(i)  with sufficient frequency and capacity to enable users of electric vehicles of various classes to travel border to border and community to community on interstate highways and other major roadways in this state;

(ii)  along evacuation routes and at highway rest stops in this state; and

(iii)  in rural communities, multifamily and underserved communities, town centers, commercial and retail areas, parks and other publicly owned lands, and other areas that are in close proximity to where local electric vehicle users live or work;

(B)  is safe, dependable, serviceable, and operational;

(C)  maximizes the benefits associated with transportation electrification;

(D)  enhances commerce by ensuring an adequate distribution of public electric vehicle charging infrastructure is available throughout the state to stimulate lower cost and lower emissions from heavy duty trucking and delivery services;

(E)  ensures adequate public electric vehicle charging capacity to facilitate commerce:

(i)  at or near the borders of this state;

(ii)  in or near airports, rail yards, and seaports; and

(iii)  at warehouse complexes and truck stops;

(F)  enhances accessibility of tourist areas to electric vehicle users; and

(G)  covers any other areas identified by the council;

(4)  stimulate competition, innovation, consumer choices in public electric vehicle charging and related infrastructure and services, and encourage private capital investment;

(5)  specify the number and types of electric vehicle chargers per general location that are needed to meet the requirements prescribed by Subdivisions (2), (3), and (4);

(6)  examine vehicle and charging infrastructure changes necessary to provide demand response functions and two-way electricity flow capability in order to allow vehicle to grid integration for cost savings, grid reliability, and resiliency; and

(7)  provide for electric transportation corridors in and along Texas Department of Transportation rights-of-way that include the infrastructure needed for vehicle electrification, such as:

(A)  a greatly expanded global positioning system network for vehicle location accuracy;

(B)  advanced sensor networks for traffic;

(C)  intelligent transportation services;

(D)  connected vehicle applications; and

(E)  improvements to energy infrastructure needed to provide adequate vehicle charging.

(c)  In developing and updating the plan, the council:

(1)  shall use, to the extent practicable, publicly available electric vehicle projections and models based on industry standards to determine, for each year, the percentage and number of electric vehicles by vehicle class that are expected on roadways in this state and the number of electric vehicle chargers that are needed to ensure that there is comprehensive and adequate access to public electric vehicle charging infrastructure in this state; and

(2)  may rely on scenarios provided by the Electric Reliability Council of Texas or other information from appropriate sources for the percentage and number of electric vehicles by vehicle class on roadways in this state by year.

Sec. 490I.006.  STATE AGENCY POLICY RECOMMENDATIONS. The council shall develop policy recommendations that state agencies may adopt to encourage the development of an adequate network of public electric vehicle charging infrastructure and associated technologies to meet the future electrified transportation needs in this state through the year 2030.

Sec. 490I.007.  STAKEHOLDER INPUT. In performing the council's duties under this chapter, the council shall seek advice and input from:

(1)  privately owned electric utilities;

(2)  municipally owned electric utilities;

(3)  electric cooperatives;

(4)  state and local transportation and transit agencies;

(5)  port authorities;

(6)  warehousing and logistics centers;

(7)  electric vehicle charging infrastructure companies;

(8)  environmental groups;

(9)  consumer advocates;

(10)  motor vehicle manufacturers;

(11)  nonprofit organizations developing electric vehicle policy;

(12)  nonprofit organizations representing food or motor fuel providers;

(13)  apartment associations;

(14)  low-income community development corporations;

(15)  nonprofit organizations that represent utilities, electric vehicle manufacturers, and charging companies; and

(16)  interested members of the public.

Sec. 490I.008.  AUTHORITY TO CONTRACT AND CONSULT WITH CERTAIN PERSONS. In performing the council's duties under this chapter, the council may:

(1)  contract with experts, academic scholars, and other appropriate professionals; and

(2)  consult with the Texas A&M Transportation Institute and institutions of higher education.

Sec. 490I.0085.  INITIAL REPORT. (a) Not later than December 1, 2022, the council shall prepare and submit to the governor, the lieutenant governor, each member of the legislature, and relevant state and federal agencies a written report of the council's findings that includes:

(1)  the assessment prepared under Section 490I.0045;

(2)  the plan developed under Section 490I.005, including the phased implementation of the plan required by Subsection (b)(1) of that section; and

(3)  the policy recommendations developed under Section 490I.006.

(b)  This section expires September 1, 2025.

Sec. 490I.009.  BIENNIAL REPORT. Not later than December 1 of each even-numbered year, the council shall prepare and submit to the governor, the lieutenant governor, each member of the legislature, and relevant state and federal agencies a written report that includes:

(1)  a summary of the progress made on the implementation of the plan developed under Section 490I.005;

(2)  the biennial update to the plan required under Section 490I.005(a)(2); and

(3)  any updates to the policy recommendations developed under Section 490I.006.

SECTION 2.  Section 386.001, Health and Safety Code, is amended by adding Subdivision (4) to read as follows:

(4)  "Federal funds" means all assistance provided to the commission from the federal government in the form of grants, contracts, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance, direct appropriations, or any other method of disbursement.

SECTION 3.  Section 386.154, Health and Safety Code, is amended by amending Subsection (d) and adding Subsections (f), (g), and (h) to read as follows:

(d)  A new light-duty motor vehicle powered by an electric 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)  has a maximum speed capability of at least 55 miles per hour;

(5)  is propelled to a significant extent by an electric motor that draws electricity from a hydrogen fuel cell or from a battery that:

(A)  has a capacity of not less than four kilowatt hours; and

(B)  is capable of being recharged from an external source of electricity; [~~and~~]

(6)  is not designed, used, or maintained primarily to transport property; and

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

(f)  A new light-duty motor vehicle powered by an electric drive is eligible for a $4,000 incentive if the vehicle:

(1)  satisfies the requirements of Subsections (d)(1)-(5);

(2)  is designed, used, or maintained primarily to transport property; and

(3)  was acquired on or after September 1, 2021, or a later date as established by the commission, by the person applying for the incentive under this subsection and for use by that person and not for resale.

(g)  The incentive under Subsection (f) is limited to 2,000 vehicles for each state fiscal biennium.

(h)  Notwithstanding Subsections (c), (e), and (g) and subject to Section 386.252(a)(11), at the beginning of the second state fiscal year of the biennium, the commission shall adjust the initial vehicle limitations provided under Subsections (c), (e), and (g) based on demand for incentives under this section during the preceding state fiscal year.

SECTION 4.  Section 386.181(b), Health and Safety Code, is amended to read as follows:

(b)  The commission may include more specific definitions in the rules or guidelines developed to implement the programs [~~program~~] established by this subchapter in order to reduce emissions in and around seaports in a nonattainment area.

SECTION 5.  Subchapter D-1, Chapter 386, Health and Safety Code, is amended by adding Section 386.184 to read as follows:

Sec. 386.184.  GRANT PROGRAM FOR ALTERNATIVELY FUELED DRAYAGE TRUCK OR CARGO HANDLING EQUIPMENT INFRASTRUCTURE PROJECTS. (a) The commission shall establish and administer a grant program to encourage the purchase, construction, and installation of infrastructure needed to support the use of drayage trucks or cargo handling equipment that are powered by an alternative fuel, as defined by Section 393.001.

(b)  A grant awarded under the program established by this section may not exceed more than 80 percent of the purchase, construction, and installation costs of the infrastructure project, provided that the commission may establish a reasonable maximum amount of a grant awarded per infrastructure project as needed.

SECTION 6.  Sections 386.250(b) and (c), Health and Safety Code, as effective September 1, 2021, are amended to read as follows:

(b)  The fund consists of:

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

(A)  Section 386.056;

(B)  Sections 151.0515 and 152.0215, Tax Code; and

(C)  Sections 501.138, 502.358, and 548.5055, Transportation Code; [~~and~~]

(2)  grant money recaptured under Section 386.111(d) and Chapter 391; and

(3)  federal funds deposited to the credit of the fund.

(c)  Not later than the 30th day after the last day of each state fiscal biennium, the commission shall 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. This subsection does not apply to federal funds deposited to the credit of the fund.

SECTION 7.  Section 386.252, Health and Safety Code, as effective September 1, 2021, is amended by amending Subsection (a) and adding Subsection (i) to read as follows:

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

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

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

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

(4)  not more than $3 million may be used by the commission to fund a regional air monitoring program in commission Regions 3 and 4 to be implemented under the commission'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)  10 percent may be used for the Texas natural gas vehicle grant program under Chapter 394;

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

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

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

(9)  at least $6 million but not more than $16 million may be used by the commission for administrative costs, including all direct and indirect costs for administering the plan, costs for conducting outreach and education activities, and costs attributable to the review or approval of applications for marketable emissions reduction credits;

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

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

(12)  not more than $216,000 may be used by the commission to contract with the Energy Systems Laboratory at the Texas A&M 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;

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

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

(i)  Notwithstanding any other law, federal funds deposited to the credit of the fund may be used only as provided by the terms of the applicable federal funds agreement.

SECTION 8.  Section 393.006(a), Health and Safety Code, is amended to read as follows:

(a)  Grants awarded under this chapter for a facility to provide alternative fuels other than natural gas may not exceed [~~the lesser of:~~

[~~(1)~~]  50 percent of the sum of the actual eligible costs incurred by the grant recipient within deadlines established by the commission[~~; or~~

[~~(2)  $600,000~~].

SECTION 9.  Subtitle A, Title 14, Occupations Code, is amended by adding Chapter 2311 to read as follows:

CHAPTER 2311. ELECTRIC VEHICLE METERING

Sec. 2311.001.  DEFINITIONS. In this chapter:

(1)  "Commission" means the Texas Commission of Licensing and Regulation.

(2)  "Metering device" means a commercial device used to measure electric energy transferred by electric vehicle charging stations and compute the charge for the energy.

Sec. 2311.002.  RULES. (a) The commission by rule shall establish:

(1)  specifications, tolerances, and other technical requirements for metering devices used in electric vehicle charging stations used in commercial transactions; and

(2)  standards for electric vehicle charging services that ensure the accuracy of measurements, enhance consumer protections, and promote fair competition.

(b)  In adopting rules under Subsection (a), the commission shall consider recommendations from relevant state and federal agencies and stakeholders.

SECTION 10.  Subchapter G, Chapter 502, Transportation Code, is amended by adding Section 502.360 to read as follows:

Sec. 502.360.  ELECTRIC VEHICLE SURCHARGE. (a) In this section, "electric vehicle" means a motor vehicle that uses electricity as its only source of motor power.

(b)  In addition to the applicable registration fee charged under Subchapter F, at the time of application for registration or renewal of registration of an electric vehicle, the applicant shall pay a surcharge in an amount of $100.

(c)  Surcharges collected under this section shall be deposited to the credit of the state highway fund.

(c-1)  Notwithstanding Subsection (c), $40 of each surcharge collected under this section shall be deposited to the credit of the general revenue fund and may be used only for the operations of the Texas Transportation Electrification Council under Chapter 490I, Government Code. This subsection expires September 1, 2025.

(d)  The board shall adopt rules necessary to administer registration for an electric vehicle under this section.

SECTION 11.  Section 31.002, Utilities Code, is amended by adding Subdivision (3-a) and amending Subdivisions (6) and (17) to read as follows:

(3-a)  "Alternatively fueled vehicle" has the meaning assigned by Section 502.004, Transportation Code.

(6)  "Electric utility" means a person or river authority that owns or operates for compensation in this state equipment or facilities to produce, generate, transmit, distribute, sell, or furnish electricity in this state. The term includes a lessee, trustee, or receiver of an electric utility and a recreational vehicle park owner who does not comply with Subchapter C, Chapter 184, with regard to the metered sale of electricity at the recreational vehicle park. The term does not include:

(A)  a municipal corporation;

(B)  a qualifying facility;

(C)  a power generation company;

(D)  an exempt wholesale generator;

(E)  a power marketer;

(F)  a corporation described by Section 32.053 to the extent the corporation sells electricity exclusively at wholesale and not to the ultimate consumer;

(G)  an electric cooperative;

(H)  a retail electric provider;

(I)  this state or an agency of this state; or

(J)  a person not otherwise an electric utility who:

(i)  furnishes an electric service or commodity only to itself, its employees, or its tenants as an incident of employment or tenancy, if that service or commodity is not resold to or used by others;

(ii)  owns or operates in this state equipment or facilities to produce, generate, transmit, distribute, sell, or furnish electric energy to an electric utility, if the equipment or facilities are used primarily to produce and generate electric energy for consumption by that person; [~~or~~]

(iii)  owns or operates in this state a recreational vehicle park that provides metered electric service in accordance with Subchapter C, Chapter 184; or

(iv)  owns or operates equipment used solely to provide electricity charging service for consumption by alternatively fueled vehicles.

(17)  "Retail electric provider" means a person that sells electric energy to retail customers in this state. A retail electric provider may not own or operate generation assets. The term does not include a person not otherwise a retail electric provider who owns or operates equipment used solely to provide electricity charging service for consumption by alternatively fueled vehicles.

SECTION 12.  Subchapter A, Chapter 31, Utilities Code, is amended by adding Section 31.0021 to read as follows:

Sec. 31.0021.  CHARGING SERVICE. The commission by rule may exempt from the definition of "electric utility" or "retail electric provider" under Section 31.002 a provider who owns or operates equipment used solely to provide electricity charging service for a mode of transportation.

SECTION 13.  Section 37.001(3), Utilities Code, is amended to read as follows:

(3)  "Retail electric utility" means a person, political subdivision, electric cooperative, or agency that operates, maintains, or controls in this state a facility to provide retail electric utility service. The term does not include a corporation described by Section 32.053 to the extent that the corporation sells electricity exclusively at wholesale and not to the ultimate consumer. A qualifying cogenerator that sells electric energy at retail to the sole purchaser of the cogenerator's thermal output under Sections 35.061 and 36.007 is not for that reason considered to be a retail electric utility. The owner or operator of a qualifying cogeneration facility who was issued the necessary environmental permits from the Texas Natural Resource Conservation Commission after January 1, 1998, and who commenced construction of such qualifying facility before July 1, 1998, may provide electricity to the purchasers of the thermal output of that qualifying facility and shall not for that reason be considered an electric utility or a retail electric utility, provided that the purchasers of the thermal output are owners of manufacturing or process operation facilities that are located on a site entirely owned before September, 1987, by one owner who retained ownership after September, 1987, of some portion of the facilities and that those facilities now share some integrated operations, such as the provision of services and raw materials. A person who owns or operates equipment used solely to provide electricity charging service for consumption by alternatively fueled vehicles is not for that reason considered to be a retail electric utility.

SECTION 14.  Subchapter A, Chapter 37, Utilities Code, is amended by adding Section 37.002 to read as follows:

Sec. 37.002.  CHARGING SERVICE. The commission may by rule exempt from the definition of "retail electric utility" under Section 37.001 a provider who owns or operates equipment used solely to provide electricity charging service for a mode of transportation.

SECTION 15.  (a) In this section:

(1)  "Commission" means the Texas Commission on Environmental Quality.

(2)  "Vehicle" has the meaning assigned by Section 541.201, Transportation Code.

(3)  "Vehicle recycler" means a person engaged in the business of acquiring, dismantling, or preparing for recycling six or more end-of-life vehicles in a calendar year for the primary purpose of reselling the vehicles' parts. The term includes a salvage vehicle dealer licensed under Chapter 2302, Occupations Code.

(b)  Using existing funds, the commission shall conduct a study on policies pertaining to the recovery and recycling of lithium-ion and other propulsion batteries sold with electric vehicles in this state. The study must examine:

(1)  methods to ensure that as close to 100 percent as possible of electric vehicle batteries in this state are reused or recycled at end-of-life in a safe and cost-effective manner;

(2)  policy recommendations that reflect entire life cycle considerations for electric vehicle batteries, including opportunities and barriers to the reuse of electric vehicle batteries as energy storage systems after a battery is removed from a vehicle;

(3)  best management considerations for electric vehicle batteries at end-of-life and the overall effect of different management practices on the environment;

(4)  in-state and out-of-state options for the recycling of electric vehicle batteries; and

(5)  future electric vehicle battery technologies.

(c)  Not later than January 1, 2022, the commission shall establish and convene an advisory group to provide guidance and direction to the commission for purposes of conducting the study required by this section and making legislative recommendations based on the study. The advisory group shall meet at least quarterly.

(d)  The commission shall appoint to the advisory group at least one member from each of the following:

(1)  a representative from the Texas Economic Development and Tourism Office;

(2)  a representative from the Public Utility Commission of Texas;

(3)  a manufacturer of electric vehicles;

(4)  an organization that represents one or more vehicle manufacturers;

(5)  a nonprofit organization that represents utilities, electric vehicle manufacturers, and charging companies;

(6)  an electronic waste recycler or an organization that represents one or more electronic waste recyclers;

(7)  a vehicle repair dealer or an organization that represents one or more vehicle repair dealers;

(8)  a vehicle recycler or an organization that represents one or more vehicle recyclers;

(9)  a nationwide environmental organization that researches waste reduction and recycling strategies;

(10)  a representative of the large-scale lithium-ion and other energy storage technology industries;

(11)  an electric vehicle battery manufacturer; and

(12)  a standards-developing organization that has a focus on automotive engineering.

(e)  In advising the commission under this section, the advisory group shall consult with:

(1)  universities and research institutions that have conducted research in the area of battery recycling;

(2)  manufacturers of electric and hybrid vehicles; and

(3)  the recycling industry.

(f)  Not later than December 1, 2022, the commission shall prepare and submit to the governor, the lieutenant governor, and each member of the legislature a written report that includes a summary of the results of the study conducted under this section and any legislative recommendations based on the study.

(g)  The advisory group is abolished and this section expires January 1, 2023.

SECTION 16.  The Texas Transportation Electrification Council shall submit its first report under Section 490I.009, Government Code, as added by this Act, not later than December 1, 2024.

SECTION 17.  The changes in law made by this Act to Chapter 386, Health and Safety Code, apply only to a Texas emissions reduction plan grant awarded on or after the effective date of this Act. A grant awarded before the effective date of this Act is governed by the law in effect on the date the award was made, and the former law is continued in effect for that purpose.

SECTION 18.  Not later than December 1, 2024, the Texas Commission of Licensing and Regulation shall adopt the rules required by Section 2311.002, Occupations Code, as added by this Act.

SECTION 19.  This Act takes effect September 1, 2021.