By:  Goodwin H.B. No. 3637

A BILL TO BE ENTITLED

AN ACT

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

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, 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 chair of the Public Utility Commission of Texas 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)

(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;

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

(D)  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; and

(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).

(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; and

(15)  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, 2023.

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 386.152, Health and Safety Code, is amended to read as follows:

Sec. 386.152.  APPLICABILITY.

(a)  The provisions of this subchapter relating to a lessee do not apply to a person who rents or leases a light-duty motor vehicle for a term of 30 days or less.

(b)  The provisions of this subchapter relating to a lessor do not apply to a person who rents or leases a light-duty motor vehicle to a person for a term of 30 days or less.

SECTION 4.  Section 386.153, Health and Safety Code, is amended by amending Subsection (c) and adding Subsection (e) to read as follows:

(c)  Only one incentive will be provided for each new light-duty motor vehicle. The incentive shall be provided to the seller or lessor of the vehicle. The seller or lessor shall credit the amount of the incentive to the purchaser or lessee at the time the sale is made or the lease is entered into. The incentive may not [shall] be provided to a seller [the lessee and not to the purchaser] if the motor vehicle is sold [purchased] for the purpose of leasing the vehicle to another person.

(e)  The commission shall establish a registration program for sellers and lessors of new motor vehicles to apply online and receive incentives under this subchapter. The commission shall promptly pay the incentives when authorized under the registration program established by this subsection.

SECTION 5.  Section 386.154, Health and Safety Code, is amended by amending Subsections (a), (b), and (d) and adding Subsections (f), (g), and (h) to read as follows:

(a)  A new light-duty motor vehicle powered by compressed natural gas or liquefied petroleum gas is eligible for a $5,000 incentive if the vehicle:

(1)  has four wheels;

(2)  was originally manufactured to comply with and has been certified by an original equipment manufacturer or intermediate or final state vehicle manufacturer as complying with, or has been altered to comply with, federal motor vehicle safety standards, state emissions regulations, and any additional federal or state regulations applicable to vehicles powered by compressed natural gas or liquefied petroleum gas;

(3)  was manufactured for use primarily on public streets, roads, and highways;

(4)  has a dedicated or bi-fuel compressed natural gas or liquefied petroleum gas fuel system:

(A)  installed prior to first sale or within 500 miles of operation of the vehicle following first sale; and

(B)  with a range of at least 125 miles as estimated, published, and updated by the United States Environmental Protection Agency;

(5)  has, as applicable, a:

(A)  compressed natural gas fuel system that complies with the:

(i)  2013 NFPA 52 Vehicular Gaseous Fuel Systems Code; and

(ii)  American National Standard for Basic Requirements for Compressed Natural Gas Vehicle (NGV) Fuel Containers, commonly cited as "ANSI/CSA NGV2"; or

(B)  liquefied petroleum gas fuel system that complies with:

(i)  the 2011 NFPA 58 Liquefied Petroleum Gas Code; and

(ii)  Section VII of the 2013 ASME Boiler and Pressure Vessel Code; and

(6)  was sold or leased [acquired] on or after September 1, 2013, or a later date established by the commission, by the seller or lessor [person] applying for the incentive under this subsection and for use or lease by the purchaser or lessee of the vehicle [that person] and not for resale.

(b)  If the commission determines that an updated version of a code or standard described by Subsection (a)(5) is more stringent than the version of the code or standard described by Subsection (a)(5), the commission by rule may provide that a vehicle for which a seller or lessor [person] applies for an incentive under Subsection (a) is eligible for the incentive only if the vehicle complies with the updated version of the code or standard.

(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 sold or leased [acquired] on or after September 1, 2013, or a later date as established by the commission, by the seller or lessor [person] applying for the incentive under this subsection and for use or lease by the purchaser or lessee of the vehicle [~~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 sold or leased on or after September 1, 2021, or a later date as established by the commission, by the seller or lessor applying for the incentive under this subsection and for use or lease by the purchaser or lessee of the vehicle 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 6.  Sections 386.157(a) and (c), Health and Safety Code, are amended to read as follows:

(a)  A seller or lessor of [person who purchases or leases] a new light-duty motor vehicle described by Section 386.154 and listed under Section 386.156(a) is eligible to apply for an incentive under this subchapter.

(c)  To receive money under an incentive program provided by this subchapter, the seller or lessor of a light-duty motor vehicle shall verify online that funds are available, that the seller or lessor is eligible [the purchaser or lessee of a new light-duty motor vehicle who is eligible to apply] for an incentive under this subchapter, and if the incentive is for a vehicle described by Section 386.154(d) or (f), that the purchaser or lessee of the vehicle has watched an online video that explains how and when to charge an electric vehicle to reduce peak demand for electricity and reduce air emissions [shall apply for the incentive in the manner provided by law or by rule of the commission].

SECTION 7.  Section 386.158, Health and Safety Code, is amended to read as follows:

Sec. 386.158.  COMMISSION TO ACCOUNT FOR MOTOR VEHICLE PURCHASE OR LEASE INCENTIVES.

(a)  The commission by rule shall develop a method to administer and account for the motor vehicle purchase or lease incentives authorized by this subchapter and to pay incentive money to the seller [purchaser] or lessor [lessee] of a new motor vehicle[, on application of the purchaser or lessee as provided by this subchapter].

(b)  The commission shall develop and publish online forms and instructions for the seller [purchaser] or lessor [lessee] of a new motor vehicle to use in applying to the commission for an incentive payment under this subchapter. [The commission shall make the forms available to new motor vehicle dealers and leasing agents. Dealers and leasing agents shall make the forms available to their prospective purchasers or lessees.]

(c)  The commission may require the online submission of forms and documentation as needed to verify eligibility for an incentive under this subchapter.

SECTION 8.  Section 386.159, Health and Safety Code, is amended to read as follows:

Sec. 386.159.  PURCHASE OR LEASE INCENTIVES ONLINE PORTAL [INFORMATION]. [(a)] The commission shall establish an online portal [a toll-free telephone number available to motor vehicle dealers and leasing agents for the dealers and agents to call] to verify that incentives are available. [The commission may provide for issuing verification numbers over the telephone line.

[(b)  Reliance by a dealer or leasing agent on information provided by the commission is a complete defense to an action involving or based on eligibility of a vehicle for an incentive or availability of vehicles eligible for an incentive.]

SECTION 9.  Section 386.160, Health and Safety Code, is amended to read as follows:

Sec. 386.160.  RESERVATION OF INCENTIVES. The commission may provide for new motor vehicle sellers [~~dealers~~] and leasing agents to reserve for a limited time period incentives for eligible vehicles [~~that are not readily available and must be ordered,~~] if the seller [~~dealer~~] or leasing agent has a purchase or lease order signed by an identified customer.

SECTION 10.  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 11.  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 19.  (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 20.  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 21.  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 22.  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 23.  This Act takes effect September 1, 2021.