H.B. No. 4472

AN ACT

relating to the Texas emissions reduction plan.

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

SECTION 1.  Section 386.051(b), Health and Safety Code, is amended to read as follows:

(b)  Under the plan, the commission and the comptroller shall provide grants or other funding for:

(1)  the diesel emissions reduction incentive program established under Subchapter C, including for infrastructure projects established under that subchapter;

(2)  the motor vehicle purchase or lease incentive program established under Subchapter D;

(3)  the air quality research support program established under Chapter 387;

(4)  the clean school bus program established under Chapter 390;

(5)  the new technology implementation grant program established under Chapter 391;

(6)  the regional air monitoring program established under Section 386.252(a);

(7)  a health effects study as provided by Section 386.252(a);

(8)  air quality planning activities as provided by Section 386.252(d);

(9)  a contract with the Energy Systems Laboratory at the Texas A&M Engineering Experiment Station for computation of creditable statewide emissions reductions as provided by Section 386.252(a);

(10)  the Texas clean fleet program established under Chapter 392;

(11)  the Texas alternative fueling facilities program established under Chapter 393;

(12)  the Texas natural gas vehicle grant program established under Chapter 394;

(13)  other programs the commission may develop that lead to reduced emissions of nitrogen oxides, particulate matter, or volatile organic compounds in a nonattainment area or affected county;

(14)  other programs the commission may develop that support congestion mitigation to reduce mobile source ozone precursor emissions;

(15)  the seaport and rail yard areas emissions reduction program established under Subchapter D-1;

(16)  conducting 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;

(17)  studies of or pilot programs for incentives for port authorities located in nonattainment areas or affected counties as provided by Section 386.252(a); [~~and~~]

(18)  the governmental alternative fuel fleet grant program established under Chapter 395; and

(19)  remittance of funds to the state highway fund for use by the Texas Department of Transportation for congestion mitigation and air quality improvement projects in nonattainment areas and affected counties.

SECTION 2.  Section 386.057, Health and Safety Code, is amended by adding Subsection (e) to read as follows:

(e)  Not later than October 1 of each year, the Texas Department of Transportation shall report to the commission the following information for all congestion mitigation and air quality improvement projects in nonattainment areas and affected counties that are planned to be funded, or received initial funding during the preceding 10 years, from money received by the department under this chapter:

(1)  projects to mitigate congestion and improve air quality that are currently planned;

(2)  projects to mitigate congestion and improve air quality that have been completed;

(3)  estimated emissions reductions for all planned and completed congestion mitigation projects; and

(4)  estimated cost per ton analysis of reduced emissions of nitrogen oxides, particulate matter, or volatile organic compounds for each congestion mitigation project planned or completed.

SECTION 3.  Sections 386.104(c) and (c-1), Health and Safety Code, are amended to read as follows:

(c)  Except as otherwise provided by this subsection, for a proposed project as described by Section 386.102(b), [~~other than a project involving a marine vessel or engine,~~] not less than 75 percent of vehicle miles traveled or hours of operation projected for the five years immediately following the award of a grant must be projected to take place in a nonattainment area or affected county of this state. The commission may set the minimum percentage of vehicle miles traveled or hours of operation required to take place in a nonattainment area or affected county at a percentage and for a period that is different from the percentage and period specified by this subsection, provided that the commission may not set the minimum percentage at a level that is less than 55 percent. The commission may allow vehicle travel on highways and roadways, or portions of a highway or roadway, designated by the commission and located outside a nonattainment area or affected county to count towards the percentage of use requirement in this subsection.

(c-1)  For a proposed project involving a marine vessel or engine, the vessel or engine must be operated in the intercoastal waterways or bays adjacent to a nonattainment area or affected county of this state for a sufficient percentage [~~amount~~] of time over the lifetime of the project, as determined by the commission, to meet the cost-effectiveness requirements of Section 386.105. The percentage determined by the commission under this subsection may not be less than 55 percent.

SECTION 4.  Section 386.250(c), Health and Safety Code, as effective September 1, 2021, is amended to read as follows:

(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 state highway fund for use by the Texas Department of Transportation for projects described by Section 386.051(b)(19) [~~Texas emissions reduction plan account~~].

SECTION 5.  Section 386.251(c), Health and Safety Code, as effective September 1, 2021, is amended to read as follows:

(c)  The account consists of its accumulated balance [~~and the amount of money transferred to the account under Section 386.250(c)~~].

SECTION 6.  Section 386.252, Health and Safety Code, as effective September 1, 2021, is amended by amending Subsection (a) and adding Subsection (a-1) 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) and after remittance to the state highway fund under Subsection (a-1), 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 Texas 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)  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.

(a-1)  The commission shall remit not less than 35 percent of the amount deposited to the credit of the fund to the state highway fund for use by the Texas Department of Transportation for projects described by Section 386.051(b)(19).

SECTION 7.  Section 391.002(b), Health and Safety Code, is amended to read as follows:

(b)  Projects that may be considered for a grant under the program include:

(1)  advanced clean energy projects, as defined by Section 382.003;

(2)  new technology projects that reduce emissions of regulated pollutants from stationary sources;

(3)  new technology projects that reduce emissions from upstream and midstream oil and gas production, completions, gathering, storage, processing, and transmission activities through:

(A)  the replacement, repower, or retrofit of stationary compressor engines;

(B)  the installation of systems to reduce or eliminate the loss of gas, flaring of gas, or burning of gas using other combustion control devices; or

(C)  the installation of systems that reduce flaring emissions and other site emissions [~~by capturing waste heat to generate electricity solely for on-site service~~]; and

(4)  electricity storage projects related to renewable energy, including projects to store electricity produced from wind and solar generation that provide efficient means of making the stored energy available during periods of peak energy use.

SECTION 8.  Section 391.205(a), Health and Safety Code, is amended to read as follows:

(a)  Except as provided by Subsection (c), in awarding grants under this chapter the commission shall give preference to projects that:

(1)  involve the transport, use, recovery for use, or prevention of the loss of natural resources originating or produced in this state;

(2)  contain an energy efficiency component;

(3)  include the use of solar, wind, or other renewable energy sources; [~~or~~]

(4)  recover waste heat from the combustion of natural resources and use the heat to generate electricity; or

(5)  reduce flaring emissions and other site emissions.

SECTION 9.  Section 391.301, Health and Safety Code, is amended to read as follows:

Sec. 391.301.  RESTRICTION ON USE OF GRANT. A recipient of a grant under this chapter must use the grant to pay the incremental costs of the purchase, lease, or [~~and~~] installation of the project for which the grant is made, which may include reasonable and necessary expenses for the labor needed to install emissions-reducing equipment. The recipient may [~~not~~] use the grant for the costs of operating and maintaining the emissions-reducing equipment.

SECTION 10.  Section 501.138, Transportation Code, is amended by amending Subsections (b-1), (b-2), and (b-3) and adding Subsection (b-4) to read as follows:

(b-1)  Except as provided by Subsection (b-4), fees [~~Fees~~] collected under Subsection (b) to be sent to the comptroller shall be deposited to the credit of the Texas [~~Mobility Fund, except that $5 of each fee imposed under Subsection (a)(1) and deposited on or after September 1, 2008, and before September 1, 2015, shall be deposited to the credit of the Texas~~] emissions reduction plan fund.

(b-2)  The comptroller shall establish a record of the amount of the fees deposited to the credit of the Texas emissions reduction plan fund [~~Mobility Fund~~] under Subsection (b-1). On or before the fifth workday of each month, the Texas Department of Transportation shall remit to the comptroller for deposit to the credit of the Texas Mobility Fund [~~emissions reduction plan fund~~] an amount of money equal to the amount of the fees deposited by the comptroller to the credit of the Texas emissions reduction plan fund [~~Mobility Fund~~] under Subsection (b-1) in the preceding month.  The Texas Department of Transportation shall use for remittance to the comptroller as required by this subsection money in the state highway fund that is not required to be used for a purpose specified by Section 7-a, Article VIII, Texas Constitution, and may not use for that remittance money received by this state under the congestion mitigation and air quality improvement program established under 23 U.S.C. Section 149.

(b-3)  This subsection and Subsections (b-1) and [~~Subsection~~] (b-2) expire on the last day of the state fiscal biennium during which the Texas Commission on Environmental Quality publishes in the Texas Register the notice required by Section 382.037, Health and Safety Code.

(b-4)  Fees collected under Subsection (b) to be sent to the comptroller shall be deposited to the credit of the Texas Mobility Fund if the fees are collected on or after the last day of the state fiscal biennium during which the Texas Commission on Environmental Quality publishes in the Texas Register the notice required by Section 382.037, Health and Safety Code.

SECTION 11.  The changes in law made by this Act 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 12.  The change in law made by this Act to Section 501.138, Transportation Code, applies only to a fee collected on or after the effective date of this Act. A fee collected before the effective date of this Act is governed by the law in effect when the fee was collected, and the former law is continued in effect for that purpose.

SECTION 13.  This Act takes effect September 1, 2021.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

    President of the Senate Speaker of the House

I certify that H.B. No. 4472 was passed by the House on May 14, 2021, by the following vote:  Yeas 117, Nays 27, 3 present, not voting; and that the House concurred in Senate amendments to H.B. No. 4472 on May 28, 2021, by the following vote:  Yeas 103, Nays 32, 1 present, not voting.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Chief Clerk of the House

I certify that H.B. No. 4472 was passed by the Senate, with amendments, on May 25, 2021, by the following vote:  Yeas 31, Nays 0.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Secretary of the Senate

APPROVED: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

                 Date

          \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

               Governor