

By: Goodwin

H.B. No. 3637

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

7 CHAPTER 490I. TEXAS TRANSPORTATION ELECTRIFICATION COUNCIL

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

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

13 (b) The council is composed of the chair of, or if not
14 applicable, the administrative head of, each of the following
15 entities:

- 16 (1) the Public Utility Commission of Texas;
- 17 (2) the Electric Reliability Council of Texas;
- 18 (3) the Texas Commission on Environmental Quality;
- 19 (4) the State Energy Conservation Office;
- 20 (5) the Texas Department of Licensing and Regulation;
- 21 (6) the Texas Department of Transportation;
- 22 (7) the Texas Department of Motor Vehicles;
- 23 (8) the Texas Department of Housing and Community
24 Affairs;

- 1 (9) the Texas State Affordable Housing Corporation;
- 2 (10) the Texas Division of Emergency Management; and
- 3 (11) the Texas Economic Development and Tourism
- 4 Office.

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

8 (a-1) The chair of the Public Utility Commission of Texas
9 shall serve as the initial presiding officer of the council. This
10 subsection expires September 1, 2023.

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

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

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

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

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

26 (c) This section expires September 1, 2023.

27 Sec. 490I.005. ELECTRIC VEHICLE CHARGING INFRASTRUCTURE

1 PLAN. (a) The council shall:

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

5 (2) update the plan biennially.

6 (b) The plan must:

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

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

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

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

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

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

25 (iii) in rural communities, multifamily and
26 underserved communities, town centers, commercial and retail
27 areas, parks and other publicly owned lands, and other areas that

1 are in close proximity to where local electric vehicle users live or
2 work;

3 (B)

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

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

7 (iii) at warehouse complexes and truck
8 stops;

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

11 (D) covers any other areas identified by the
12 council;

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

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

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

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

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

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

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

- 14 (1) privately owned electric utilities;
- 15 (2) municipally owned electric utilities;
- 16 (3) electric cooperatives;
- 17 (4) state and local transportation and transit
18 agencies;
- 19 (5) port authorities;
- 20 (6) warehousing and logistics centers;
- 21 (7) electric vehicle charging infrastructure
22 companies;
- 23 (8) environmental groups;
- 24 (9) consumer advocates;
- 25 (10) motor vehicle manufacturers;
- 26 (11) nonprofit organizations developing electric
27 vehicle policy;

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

3 (13) apartment associations;

4 (14) low-income community development corporations;
5 and

6 (15) interested members of the public.

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

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

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

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

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

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

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

25 (b) This section expires September 1, 2023.

26 Sec. 490I.009. BIENNIAL REPORT. Not later than December 1
27 of each even-numbered year, the council shall prepare and submit to

1 the governor, the lieutenant governor, each member of the
2 legislature, and relevant state and federal agencies a written
3 report that includes:

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

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

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

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

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

17 SECTION 3. Section 386.152, Health and Safety Code, is
18 amended to read as follows:

19 Sec. 386.152. APPLICABILITY.

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

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

26 SECTION 4. Section 386.153, Health and Safety Code, is
27 amended by amending Subsection (c) and adding Subsection (e) to

1 read as follows:

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

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

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

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

21 (1) has four wheels;

22 (2) was originally manufactured to comply with and has
23 been certified by an original equipment manufacturer or
24 intermediate or final state vehicle manufacturer as complying with,
25 or has been altered to comply with, federal motor vehicle safety
26 standards, state emissions regulations, and any additional federal
27 or state regulations applicable to vehicles powered by compressed

1 natural gas or liquefied petroleum gas;

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

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

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

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

11 (5) has, as applicable, a:

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

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

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

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

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

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

25 (6) was sold or leased [acquired] on or after
26 September 1, 2013, or a later date established by the commission, by
27 the seller or lessor [person] applying for the incentive under this

1 subsection and for use or lease by the purchaser or lessee of the
2 vehicle [that person] and not for resale.

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

10 (d) A new light-duty motor vehicle powered by an electric
11 drive is eligible for a \$2,500 incentive if the vehicle:

12 (1) has four wheels;

13 (2) was manufactured for use primarily on public
14 streets, roads, and highways;

15 (3) has not been modified from the original
16 manufacturer 's specifications;

17 (4) has a maximum speed capability of at least 55 miles
18 per hour;

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

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

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

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

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

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

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

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

12 (3) was sold or leased on or after September 1, 2021,
13 or a later date as established by the commission, by the seller or
14 lessor applying for the incentive under this subsection and for use
15 or lease by the purchaser or lessee of the vehicle and not for
16 resale.

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

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

25 SECTION 6. Sections [386.157\(a\)](#) and (c), Health and Safety
26 Code, are amended to read as follows:

27 (a) A seller or lessor of [person who purchases or leases] a

1 new light-duty motor vehicle described by Section 386.154 and
2 listed under Section 386.156(a) is eligible to apply for an
3 incentive under this subchapter.

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

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

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

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

25 (b) The commission shall develop and publish online forms
26 and instructions for the seller [purchaser] or lessor [lessee] of a
27 new motor vehicle to use in applying to the commission for an

1 incentive payment under this subchapter. [The commission shall
2 make the forms available to new motor vehicle dealers and leasing
3 agents. Dealers and leasing agents shall make the forms available
4 to their prospective purchasers or lessees.]

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

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

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

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

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

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

1 SECTION 10. Sections 386.250(b) and (c), Health and Safety
2 Code, as effective September 1, 2021, are amended to read as
3 follows:

4 (b) The fund consists of:

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

7 (A) Section 386.056;

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

9 (C) Sections 501.138, 502.358, and 548.5055,
10 Transportation Code; ~~and~~

11 (2) grant money recaptured under Section
12 386.111(d) And Chapter 391; and

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

14 (c) Not later than the 30th day after the last day of each
15 state fiscal biennium, the commission shall transfer the
16 unencumbered balance of the fund remaining on the last day of the
17 state fiscal biennium to the credit of the Texas emissions
18 reduction plan account. This subsection does not apply to federal
19 funds deposited to the credit of the fund.

20 SECTION 11. Section 386.252, Health and Safety Code, as
21 effective September 1, 2021, is amended by amending Subsection (a)
22 and adding Subsection (i) to read as follows:

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

1 follows:

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

4 (2) three percent may be used for the new technology
5 implementation grant program under Chapter 391, from which at least
6 \$1 million will be set aside for electricity storage projects
7 related to renewable energy;

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

10 (4) not more than \$3 million may be used by the
11 commission to fund a regional air monitoring program in commission
12 Regions 3 and 4 to be implemented under the commission 's oversight,
13 including direction regarding the type, number, location, and
14 operation of, and data validation practices for, monitors funded by
15 the program through a regional nonprofit entity located in North
16 Texas having representation from counties, municipalities, higher
17 education institutions, and private sector interests across the
18 area;

19 (5) 10 percent may be used for the Texas natural gas
20 vehicle grant program under Chapter 394;

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

27 (7) not more than \$750,000 may be used each year to

1 support research related to air quality as provided by Chapter 387;

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

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

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

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

16 (12) not more than \$216,000 may be used by the
17 commission to contract with the Energy Systems Laboratory at the
18 Texas A&M Engineering Experiment Station annually for the
19 development and annual computation of creditable statewide
20 emissions reductions obtained through wind and other renewable
21 energy resources for the state implementation plan;

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

27 (14) the balance is to be used by the commission for

1 the diesel emissions reduction incentive program under Subchapter C
2 as determined by the commission.

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

6 SECTION 19. (a) In this section:

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

9 (2) "Vehicle" has the meaning assigned by Section
10 [541.201](#), Transportation Code.

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

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

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

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

1 a vehicle;

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

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

7 (5) future electric vehicle battery technologies.

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

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

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

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

20 (3) a manufacturer of electric vehicles;

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

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

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

27 (7) a vehicle repair dealer or an organization that

1 represents one or more vehicle repair dealers;

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

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

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

8 (11) an electric vehicle battery manufacturer; and

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

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

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

15 (2) manufacturers of electric and hybrid vehicles; and

16 (3) the recycling industry.

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

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

24 SECTION 20. The Texas Transportation Electrification
25 Council shall submit its first report under Section 490I.009,
26 Government Code, as added by this Act, not later than December 1,
27 2024.

1 SECTION 21. The changes in law made by this Act to Chapter
2 386, Health and Safety Code, apply only to a Texas emissions
3 reduction plan grant awarded on or after the effective date of this
4 Act. A grant awarded before the effective date of this Act is
5 governed by the law in effect on the date the award was made, and the
6 former law is continued in effect for that purpose.

7 SECTION 22. Not later than December 1, 2024, the Texas
8 Commission of Licensing and Regulation shall adopt the rules
9 required by Section 2311.002, Occupations Code, as added by this
10 Act.

11 SECTION 23. This Act takes effect September 1, 2021.