

By: Landgraf

H.B. No. 4472

Substitute the following for H.B. No. 4472:

By: Dominguez

C.S.H.B. No. 4472

A BILL TO BE ENTITLED

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);

1 (9) a contract with the Energy Systems Laboratory at
2 the Texas A&M Engineering Experiment Station for computation of
3 creditable statewide emissions reductions as provided by Section
4 386.252(a);

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

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

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

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

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

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

20 (16) conducting research and other activities
21 associated with making any necessary demonstrations to the United
22 States Environmental Protection Agency to account for the impact of
23 foreign emissions or an exceptional event;

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

27 (18) the governmental alternative fuel fleet grant

1 program established under Chapter [395](#);

2 (19) the purchase, maintenance, upgrade, and
3 operation of air monitoring equipment as provided by Section
4 [386.252\(a\)](#);

5 (20) fee-based contracts entered into under the
6 program established under Section 386.058; and

7 (21) the energy efficiency loan guarantee program
8 established under Section 388.013.

9 SECTION 2. Subchapter [B](#), Chapter [386](#), Health and Safety
10 Code, is amended by adding Section 386.058 to read as follows:

11 Sec. 386.058. FEE-BASED CONTRACTS FOR PURCHASE OF
12 REDUCTIONS IN EMISSIONS OF NITROGEN OXIDES. (a) The commission by
13 rule shall establish a program authorizing the commission to enter
14 into fee-based contracts for the purchase of reductions in
15 emissions of nitrogen oxides.

16 (b) The program established under this section must:

17 (1) specify the types of projects that are eligible
18 for fee-based contracts under the program, such as marine emission
19 capture systems;

20 (2) measure nitrogen oxides emissions input and output
21 on a continuous basis;

22 (3) require nitrogen oxides emissions reduced under
23 the contract to be verified and certified by the commission;

24 (4) assign a dollar per ton fee based solely on the
25 dollar per ton cost of the reduction in emissions of nitrogen
26 oxides;

27 (5) require payments under the contract to be made

1 only for actual reductions in nitrogen oxides emissions that are
2 verified by the commission; and

3 (6) authorize the commission to enter into multiyear
4 contracts under the program.

5 (c) Notwithstanding Section 386.055:

6 (1) the commission may enter into a fee-based contract
7 under the program established under this section for a project
8 involving a new emissions reduction measure that would otherwise
9 generate marketable credits under a state or federal emissions
10 reduction credit averaging, banking, or trading program if, during
11 the term of the contract, the project is not used for credit under
12 any state or federal emissions reduction credit averaging, banking,
13 or trading program; and

14 (2) a project that was subject to a fee-based contract
15 under the program established under this section may be used for
16 credit under a state or federal emissions reduction credit
17 averaging, banking, or trading program if:

18 (A) the contract has expired or otherwise
19 terminated and the project is not subject to any other fee-based
20 contract entered into under the program established under this
21 section; and

22 (B) the project otherwise meets the requirements
23 of the applicable state or federal emissions reduction credit
24 averaging, banking, or trading program.

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

27 (c) Except as otherwise provided by this subsection, for a

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

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

24 SECTION 4. Section 386.154(d), Health and Safety Code, is
25 amended to read as follows:

26 (f) A new light-duty motor vehicle powered by an electric
27 drive is eligible for a \$750 incentive if the vehicle:

1 (1) is a motorcycle as defined by Section 541.201,
2 Transportation Code;

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

5 (3) has not been modified from the original
6 manufacturer's specifications;

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

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

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

14 (B) is capable of being recharged from an
15 external source of electricity;

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

20 (7) is not a motor-assisted scooter or pocket bike or
21 minimotorbike as those terms are defined by Section 551.351,
22 Transportation Code.

23 (g) The incentive under Subsection (g) is limited to 500
24 vehicles for each state fiscal biennium.

25 SECTION 5. Sections 386.252(a) and (f), Health and Safety
26 Code, as effective September 1, 2021, are amended to read as
27 follows:

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

7 (1) \$3 million [~~four percent~~] may be used for the clean
8 school bus program under Chapter 390;

9 (2) \$5 million [~~three percent~~] may be used for the new
10 technology implementation grant program under Chapter 391, from
11 which at least \$1 million will be set aside for electricity storage
12 projects related to renewable energy;

13 (3) \$4 million [~~five percent~~] may be used for the Texas
14 clean fleet program under Chapter 392;

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

24 (5) \$8 million [~~10 percent~~] may be used for the Texas
25 natural gas vehicle grant program under Chapter 394;

26 (6) not more than \$6 million may be used for the Texas
27 alternative fueling facilities program under Chapter 393, of which

1 a specified amount may be used for fueling stations to provide
2 natural gas fuel, except that money may not be allocated for the
3 Texas alternative fueling facilities program for the state fiscal
4 year ending August 31, 2019;

5 (7) not more than \$1 million [~~\$750,000~~] may be used
6 each year to support research related to air quality as provided by
7 Chapter 387;

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

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

16 (10) \$5 million [~~six percent~~] may be used by the
17 commission for the seaport and rail yard areas emissions reduction
18 program established under Subchapter D-1;

19 (11) \$4 million [~~five percent~~] may be used for the
20 light-duty motor vehicle purchase or lease incentive program
21 established under Subchapter D;

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

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

6 (14) not more than \$10 million may be used by the
7 commission for the purchase, maintenance, upgrade, and operation of
8 air monitoring equipment, including data analysis, to be used in
9 nonattainment areas and affected counties;

10 (15) not more than \$10 million may be used by the
11 commission for fee-based contracts entered into under the program
12 established under Section 386.058

13 (16) not more than \$5 million may be allocated for the
14 energy efficiency loan guarantee program established under Section
15 388.013; and

16 (17) the balance is to be used by the commission for:

17 (A) the diesel emissions reduction incentive
18 program under Subchapter C as determined by the commission; and

19 (B) funding research at the Texas A&M
20 Transportation Institute to determine:

21 (1) the cost effectiveness of existing emissions
22 reduction programs; and

23 (2) cost effective programs not currently authorized
24 to receive program funding that would improve the emissions
25 reduction capabilities of the program

26 (f) Not more than \$5 [~~\$2.5~~] million from the fund and
27 account may be used by the commission to conduct research and other

1 activities associated with making any necessary demonstrations to
2 the United States Environmental Protection Agency to account for
3 the impact of foreign emissions or an exceptional event.

4 (h) Subject to the limitations outlined in this section,
5 money allocated under this section to a particular program may be
6 used for another program under the plan as determined by the
7 commission, based on demand for grants for eligible projects under
8 particular programs. ~~[after the commission solicits projects to
9 which to award grants according to the initial allocation
10 provisions of this section.]~~

11 SECTION 6. Chapter 388, Health and Safety Code, is amended
12 by adding Section 388.013 to read as follows:

13 Sec. 388.013. ENERGY EFFICIENCY LOAN GUARANTEE PROGRAM.

14 (a) The comptroller and the State Energy Conservation Office by
15 rule shall establish and administer a program that issues or
16 guarantees loans to be used for improvements that increase the
17 energy efficiency of residences that are not newly constructed.

18 (b) Rules adopted under this section must establish
19 eligibility requirements for receipt of a loan issued or guaranteed
20 under this section, including emissions reduction
21 cost-effectiveness criteria with preference given to nonattainment
22 areas or affected counties.

23 (c) The State Energy Conservation Office annually shall
24 submit to the commission and the laboratory a report that:

25 (1) evaluates the effectiveness of the program
26 established under this section; and

27 (2) quantifies energy savings and emissions

1 reductions as a result of this program for consideration in the
2 state implementation plan for emissions reduction credit.

3 SECTION 7. Section 389.002, Health and Safety Code, is
4 amended to read as follows:

5 Sec. 389.002. USE OF CERTAIN INFORMATION FOR FEDERAL
6 RECOGNITION OF EMISSIONS REDUCTIONS. The commission, using
7 information derived from the reports to the commission under
8 Sections 386.205, 388.003(e), ~~and~~ 388.006, and 388.013, shall
9 take all appropriate and necessary actions so that emissions
10 reductions achieved by means of activities under Chapters 386 and
11 388 are credited by the United States Environmental Protection
12 Agency to the appropriate emissions reduction objectives in the
13 state implementation plan.

14 SECTION 8. Section 391.002(b), Health and Safety Code, is
15 amended to read as follows:

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

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

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

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

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

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

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

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

11 SECTION 9. Section 391.205(a), Health and Safety Code, is
12 amended to read as follows:

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

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

19 (2) contain an energy efficiency component;

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

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

24 (5) reduce flaring emissions and other site emissions.

25 SECTION 10. Section 391.301, Health and Safety Code, is
26 amended to read as follows:

27 Sec. 391.301. RESTRICTION ON USE OF GRANT. A recipient of a

1 grant under this chapter must use the grant to pay the incremental
2 costs of the purchase, lease, or [~~and~~] installation of the project
3 for which the grant is made, which may include reasonable and
4 necessary expenses for the labor needed to install
5 emissions-reducing equipment. The recipient may [~~not~~] use the
6 grant for the costs of operating and maintaining the
7 emissions-reducing equipment.

8 SECTION 11. Section 394.003, Health and Safety Code, is
9 amended by amending Subsection (a) and adding Subsection (c) to
10 read as follows:

11 (a) A vehicle is a qualifying vehicle that may be considered
12 for a grant under the program if during the eligibility period
13 established by the commission the entity:

14 (1) purchased, leased, or otherwise commercially
15 financed the vehicle as an [~~a new~~] on-road heavy-duty or
16 medium-duty motor vehicle that:

17 (A) is a new natural gas vehicle or, subject to
18 Subsection (c), a used natural gas vehicle;

19 (B) is certified to the appropriate current
20 federal emissions standards as determined by the commission; and

21 (C) replaces an on-road heavy-duty or
22 medium-duty motor vehicle of the same weight classification and
23 use; or

24 (2) repowered the on-road motor vehicle to a natural
25 gas vehicle powered by a natural gas engine that is certified to the
26 appropriate current federal emissions standards as determined by
27 the commission.

1 (c) A used natural gas vehicle that is proposed to replace
2 an on-road heavy-duty or medium-duty motor vehicle must be of model
3 year 2017 or later, provided that the model year may not be more
4 than six years older than the current model year at the time of the
5 submission of the grant application.

6 SECTION 12. Section 394.005(b), Health and Safety Code, is
7 amended to read as follows:

8 (b) To be eligible for a grant under the program:

9 (1) the use of the qualifying vehicle must be
10 projected to result in a reduction in emissions of nitrogen oxides
11 of at least 25 percent as compared to the motor vehicle or engine
12 being replaced, based on:

13 (A) the baseline emission level set by the
14 commission under Subsection (g); and

15 (B) the certified emission rate of the qualifying
16 [~~new~~] vehicle; and

17 (2) the qualifying vehicle must:

18 (A) replace a heavy-duty or medium-duty motor
19 vehicle that:

20 (i) is an on-road vehicle that has been
21 owned, leased, or otherwise commercially financed and registered
22 and operated by the applicant in Texas for at least the two years
23 immediately preceding the submission of a grant application;

24 (ii) satisfies any minimum average annual
25 mileage or fuel usage requirements established by the commission;

26 (iii) satisfies any minimum percentage of
27 annual usage requirements established by the commission; and

1 (iv) is in operating condition and has at
2 least two years of remaining useful life, as determined in
3 accordance with criteria established by the commission;

4 (B) replace a heavy-duty or medium-duty motor
5 vehicle that:

6 (i) is owned by the applicant;

7 (ii) is an on-road vehicle that has been:

8 (a) owned, leased, or otherwise
9 commercially financed and operated in Texas as a fleet vehicle for
10 at least the two years immediately preceding the submission of a
11 grant application; and

12 (b) registered in a county located in
13 the clean transportation zone for at least the two years
14 immediately preceding the submission of a grant application; and

15 (iii) otherwise satisfies the mileage,
16 usage, and useful life requirements established under Paragraph (A)
17 as determined by documentation associated with the vehicle; or

18 (C) be a heavy-duty or medium-duty motor vehicle
19 repowered with a natural gas engine that:

20 (i) is installed in an on-road vehicle that
21 has been owned, leased, or otherwise commercially financed and
22 registered and operated by the applicant in Texas for at least the
23 two years immediately preceding the submission of a grant
24 application;

25 (ii) satisfies any minimum average annual
26 mileage or fuel usage requirements established by the commission;

27 (iii) satisfies any minimum percentage of

1 annual usage requirements established by the commission; and

2 (iv) is installed in an on-road vehicle
3 that, at the time of the vehicle's repowering, was in operating
4 condition and had at least two years of remaining useful life, as
5 determined in accordance with criteria established by the
6 commission.

7 SECTION 13. Section 501.138, Transportation Code, is
8 amended by amending Subsections (b-1), (b-2), and (b-3) and adding
9 Subsection (b-4) to read as follows:

10 (b-1) Except as provided by Subsection (b-4), fees [~~Fees~~]
11 collected under Subsection (b) to be sent to the comptroller shall
12 be deposited to the credit of the Texas [~~Mobility Fund, except that~~
13 ~~\$5 of each fee imposed under Subsection (a)(1) and deposited on or~~
14 ~~after September 1, 2008, and before September 1, 2015, shall be~~
15 ~~deposited to the credit of the Texas~~] emissions reduction plan
16 fund.

17 (b-2) The comptroller shall establish a record of the amount
18 of the fees deposited to the credit of the Texas emissions reduction
19 plan fund [~~Mobility Fund~~] under Subsection (b-1). On or before the
20 fifth workday of each month, the Texas Department of Transportation
21 shall remit to the comptroller for deposit to the credit of the
22 Texas Mobility Fund [~~emissions reduction plan fund~~] an amount of
23 money equal to the amount of the fees deposited by the comptroller
24 to the credit of the Texas emissions reduction plan fund [~~Mobility~~
25 ~~Fund~~] under Subsection (b-1) in the preceding month. The Texas
26 Department of Transportation shall use for remittance to the
27 comptroller as required by this subsection money in the state

1 highway fund that is not required to be used for a purpose specified
2 by Section 7-a, Article VIII, Texas Constitution, and may not use
3 for that remittance money received by this state under the
4 congestion mitigation and air quality improvement program
5 established under 23 U.S.C. Section 149.

6 (b-3) This subsection and Subsections (b-1) and
7 ~~[Subsection]~~ (b-2) expire on the last day of the state fiscal
8 biennium during which the Texas Commission on Environmental Quality
9 publishes in the Texas Register the notice required by Section
10 382.037, Health and Safety Code.

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

17 SECTION 14. The changes in law made by this Act apply only
18 to a Texas emissions reduction plan grant awarded on or after the
19 effective date of this Act. A grant awarded before the effective
20 date of this Act is governed by the law in effect on the date the
21 award was made, and the former law is continued in effect for that
22 purpose.

23 SECTION 15. The change in law made by this Act to Section
24 501.138, Transportation Code, applies only to a fee collected on or
25 after the effective date of this Act. A fee collected before the
26 effective date of this Act is governed by the law in effect when the
27 fee was collected, and the former law is continued in effect for

1 that purpose.

2 SECTION 16. This Act takes effect September 1, 2021.