

BILL ANALYSIS

Senate Research Center

H.B. 4885
By: Landgraf et al. (Birdwell)
Natural Resources & Economic Development
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 4885 makes a number of changes to the Texas Emissions Reduction Program (TERP). The bill establishes the Texas hydrogen infrastructure, vehicle, and equipment grant program, and makes several adjustments to funding percentages across TERP. The bill also adjusts Texas Commission on Environmental Quality (TCEQ) program administration funding so that it is based on a percentage of the TERP fund, closely linking the workforce needed for administration to the relative size and usage of the fund. Finally the bill updates several programs to reflect new technologies and opportunities to improve the state implementation plan (SIP).

H.B. 4885 amends current law relating to programs established and funded under the Texas emissions reduction plan.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 386.051(b), Health and Safety Code, to require the Texas Commission on Environmental Quality (TCEQ) and the Comptroller of Public Accounts of the State of Texas (comptroller), under the Texas emissions reduction plan, to provide certain grants or other funding, including for the Texas hydrogen infrastructure, vehicle, and equipment grant program established under Subchapter G. Makes nonsubstantive changes.

SECTION 2. Amends Section 386.154, Health and Safety Code, by amending Subsection (e) and adding Subsection (f), as follows:

(e) Provides that the incentive under Subsection (d) (relating to providing that a new light-duty motor vehicle powered by an electric drive is eligible for a \$2,500 incentive if the vehicle meets certain criteria) is limited to 4,000 vehicles, rather than 2,000 vehicles, for each state fiscal biennium.

(f) Requires TCEQ, notwithstanding Subsections (c) (relating to providing that a certain incentive is limited to 1,000 vehicles for each state fiscal biennium) and (e), and subject to Section 386.252(a)(11), at the beginning of the second state fiscal year of the biennium, to adjust the initial vehicle limitations provided under Subsections (c) and (e) based on demand for incentives under Section 386.154 (Light-Duty Motor Vehicle Purchase or Lease Incentive Requirements) during the preceding state fiscal year.

SECTION 3. Amends Section 386.252(a), Health and Safety Code, as follows:

(a) Requires that money from the Texas emissions reduction plan fund (fund) and the Texas emissions reduction plan fund account to be used for the programs under Section 386.051(b), subject to the reallocation of funds by TCEQ under Subsection (h) (relating to authorizing money allocated to a particular program to be used for another program under the plan as determined by TCEQ) and after remittance to the state highway fund under Subsection (a-1) (relating to requiring TCEQ to 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 certain projects), initially be allocated as follows:

(1) makes no changes to this subdivision;

(2) eight percent total is authorized to be used between the Texas hydrogen infrastructure, vehicle, and equipment grant program established under Subchapter G and the new technology implementation grant program under Chapter 391 (New Technology Implementation for Facilities and Stationary Sources), rather than three percent is authorized to 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 and not more than \$8 million is authorized to be used for the Texas hydrogen infrastructure, vehicle, and equipment grant program;

(3)-(4) makes no changes to these subdivisions;

(5) 7.5 percent, rather than 10 percent, is authorized to be used for the Texas natural gas vehicle grant program under Chapter 394 (Texas Natural Gas Vehicle Grant Program);

(6)-(8) makes no changes to these subdivisions;

(9) at least \$6 million but not more than 15 percent, rather than not more than \$16 million, is authorized to be used by TCEQ 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) makes no changes to this subdivision;

(11) 3.5 percent, rather than five percent, is authorized to be used for the light-duty motor vehicle purchase or lease incentive program established under Subchapter D (Motor Vehicle Purchase or Lease Incentive Program);

(12) not more than \$500,000, rather than not more than \$216,000, is authorized to be used by TCEQ 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 for the state implementation plan that are obtained through:

(A) wind and other renewable energy resources, rather than wind and other renewable energy resources for the state implementation plan;

(B) energy efficiency programs administered by the Public Utility Commission of Texas or the State Energy Conservation Office; or

(C) the implementation of advanced building energy codes; and

(13)-(14) makes no changes to these subdivisions.

SECTION 4. Amends Chapter 386, Health and Safety Code, by adding Subchapter G, as follows:

SUBCHAPTER G. TEXAS HYDROGEN INFRASTRUCTURE, VEHICLE, AND EQUIPMENT GRANT PROGRAM

Sec. 386.301. DEFINITIONS. Defines "hydrogen vehicle or equipment" and "program."

Sec. 386.302. PROGRAM. (a) Requires TCEQ to establish and administer the Texas hydrogen infrastructure, vehicle, and equipment grant program (program) to encourage the adoption of hydrogen infrastructure, vehicles, and equipment. Requires TCEQ, under the program, to provide funding for eligible projects to offset the incremental cost of projects that reduce emissions of oxides of nitrogen from high-emitting sources in nonattainment areas and affected counties of this state. Requires TCEQ to determine the eligibility of projects.

(b) Provides that projects that are authorized to be considered for a grant under the program include:

- (1) implementation of hydrogen infrastructure projects;
- (2) purchase or lease of on-road or non-road hydrogen vehicles or equipment;
- (3) replacement of on-road or non-road vehicles or heavy-duty equipment with newer on-road or non-road hydrogen vehicles or equipment;
- (4) the repower of on-road or non-road vehicles or heavy-duty equipment with engines that run on or are powered by hydrogen; and
- (5) use of hydrogen fuel.

(c) Provides that a project listed in Subsection (b) is not eligible if it is required by any state or federal law, rule or regulation, memorandum of agreement, or other legally binding document. Provides that this subsection does not apply to:

- (1) an otherwise qualified project, regardless of the fact that the state implementation plan assumes that the change in vehicles, equipment, or operations will occur, if on the date the grant is awarded the change is not required by any state or federal law, rule or regulation, memorandum of agreement, or other legally binding document; or
- (2) the purchase of a hydrogen vehicle or equipment or facility required only by local law or regulation or by corporate or controlling board policy of a public or private entity.

Sec. 386.303. APPLICATION PACKAGE. (a) Requires TCEQ to develop a simple, standardized application package for grants under this subchapter. Requires that the package include:

- (1) an application form;
- (2) a brief description of:
 - (A) the program;
 - (B) the projects that are eligible for available funding;
 - (C) the selection criteria and evaluation process; and
 - (D) the required documentation;
- (3) the name of a person or office to contact for more information;
- (4) an example of the contract that an applicant will be required to execute before receiving a grant; and

(5) any other information TCEQ considers useful to inform the applicant and expedite the application process.

(b) Requires that the application form require as much information as TCEQ determines is necessary to properly evaluate each project but otherwise minimize the information required.

Sec. 386.304. APPLICATION REVIEW PROCEDURES. (a) Requires TCEQ to review an application for a grant for a project authorized under this subchapter. Requires TCEQ, if TCEQ determines that an application is incomplete, to notify the applicant with an explanation of what is missing from the application. Requires TCEQ to evaluate the completed application according to the appropriate project criteria. Requires TCEQ, subject to available funding, to make a final determination on an application as soon as possible.

(b) Requires TCEQ to make every effort to expedite the application review process and to award grants to qualified projects in a timely manner. Requires TCEQ, to the extent possible, to coordinate project review and approval with any timing constraints related to project purchases or installations to be made by an applicant.

(c) Authorizes TCEQ to deny an application for a project that does not meet the applicable project criteria or that TCEQ determines is not made in good faith, is not credible, or is not in compliance with Chapter 386 (Texas Emissions Reduction Plan) and the goals of this chapter.

(d) Requires TCEQ, subject to availability of funds, to award a grant under this subchapter in conjunction with the execution of a contract that obligates TCEQ to make the grant and the recipient to perform the actions described in the recipient's grant application. Requires that the contract incorporate provisions for recapturing grant money in proportion to any loss of emissions reductions compared with the volume of emissions reductions that was projected in awarding the grant. Requires that grant money recaptured under the contract provision be deposited in the fund and reallocated for other projects under this chapter.

SECTION 5. Amends Section 391.002(b), Health and Safety Code, to provide that certain projects are authorized to be considered for a grant under the program, including new technology projects that reduce emissions from upstream, midstream, or downstream oil and gas production, completions, gathering, storage, processing, transmission, or refining activities through certain activities.

SECTION 6. Amends Sections 394.005(a), (b), and (c), Health and Safety Code, as follows:

(a) Requires that the criteria for prioritizing qualifying vehicles eligible to receive grants prioritize the awarding of grants under this chapter in the following order:

(1) qualifying vehicles for which not less than 75 percent of the annual use of the vehicle, either in terms of mileage or fuel use as determined by TCEQ, will occur in the clean transportation zone;

(2) qualifying vehicles not described by Subdivision (1) for which not less than 75 percent of the annual use of the vehicle, either in terms of mileage or fuel use as determined by TCEQ, will occur in:

(A) counties in which an interstate highway is located; or

(B) a combination of counties described by Paragraph (A) and the clean transportation zone; and

(3) qualifying vehicles not described by Subdivision (1) or (2) that will produce the greatest emissions reductions.

(b) Provides that, to be eligible for a grant under the program, the qualifying vehicle is required to meet certain criteria, including replace a heavy-duty or medium-duty motor vehicle that is an on-road vehicle that has been registered in Texas, rather than registered in a county located in the clean transportation zone, for at least the two years immediately preceding the submission of a grant application.

(c) Deletes existing text requiring that not less than 75 percent of the annual use of the qualifying vehicle, either mileage or fuel use as determined by TCEQ, occur in the clean transportation zone.

SECTION 7. Makes application of this Act prospective.

SECTION 8. Effective date: September 1, 2023.