

BILL ANALYSIS

C.S.H.B. 4885
By: Landgraf
Environmental Regulation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There is a need to address growing concerns about air pollution and greenhouse gas emissions in Texas, especially in the transportation sector. The adoption of cleaner, hydrogen-based technologies for vehicles and infrastructure may help reduce pollution emissions. C.S.H.B. 4885 seeks to address these concerns by updating provisions relating to the Texas emissions reduction plan in order to reallocate funds, revise certain programs, and establish the Texas hydrogen infrastructure, vehicle, and equipment grant program so that the transition to cleaner transportation options is accelerated, leading to improved air quality, reduced environmental impact, and better alignment with emissions reduction goals.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

Funding Under the Texas Emissions Reduction Plan

C.S.H.B. 4885 amends the Health and Safety Code to revise as follows the initial allocation of money from the Texas emissions reduction plan fund and Texas emissions reduction plan account that is to be used for specified programs under the Texas emissions reduction plan:

- increasing from three percent to eight percent total the percentage that may be used for the new technology implementation grant program and providing for a maximum of \$8 million of that percentage to instead be used for the Texas hydrogen infrastructure, vehicle, and equipment grant program established by the bill;
- decreasing from 10 to 7.5 the percentage that may be used for the Texas natural gas vehicle grant program;
- changing from \$16 million to 15 percent the maximum amount that may be used by the Texas Commission on Environmental Quality (TCEQ) for administrative costs; and
- decreasing from five to 2.5 the percentage that may be used for the light-duty motor vehicle purchase or lease incentive program.

Texas Hydrogen Infrastructure, Vehicle, and Equipment Grant Program

C.S.H.B. 4885 requires the TCEQ to establish and administer the Texas hydrogen infrastructure, vehicle, and equipment grant program to encourage the adoption of hydrogen infrastructure, vehicles, and equipment. The bill defines "hydrogen vehicle or equipment" as a motor vehicle or piece of heavy-duty equipment that uses hydrogen to operate the vehicle or equipment,

including through the use of hydrogen fuel cells or an internal combustion engine that runs on hydrogen. The bill requires the 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 the state. The bill requires the TCEQ and the comptroller of public accounts to provide grants or other funding for the program under the Texas emissions reduction plan.

C.S.H.B. 4885 requires the TCEQ to determine the eligibility of projects and includes the following as projects that may be considered for a program grant:

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

The bill makes such a listed project ineligible if it is required by any state or federal law, rule or regulation, memorandum of agreement, or other legally binding document, but exempts the following from such ineligibility:

- 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; and
- 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.

C.S.H.B. 4885 requires the TCEQ to develop a simple, standardized application package for program grants and sets out the package's required contents, including an application form that must require as much information as the TCEQ determines is necessary to properly evaluate each project but that must otherwise minimize the information required. The bill sets out application review procedures and related TCEQ duties and provides for grounds for application denial. The bill requires the TCEQ, subject to availability of funds, to award a grant in conjunction with the execution of a contract that obligates the TCEQ to make the grant and the recipient to perform the actions described in the recipient's grant application. The contract must 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. The bill requires grant money recaptured under the contract provision to be deposited in the Texas emissions reduction plan fund and reallocated for other projects under the Texas emissions reduction plan.

New Technology Implementation Grant Program

C.S.H.B. 4885 replaces the specification that a new technology project eligible to be considered for a grant under the TCEQ's new technology implementation grant program is a project that reduces emissions from upstream and midstream oil and gas production, completions, gathering, storage, processing, and transmission activities through an applicable method with a specification that such a project reduces emissions from any of those upstream or midstream oil and gas activities through an applicable method. The bill includes as such an eligible project a project that reduces emissions from any of those oil and gas activities that are downstream through an applicable method.

Texas Natural Gas Vehicle Grant Program

C.S.H.B. 4885 revises the requirements for a grant under the Texas natural gas vehicle grant program as follows:

- removes the requirement that a minimum of 75 percent of the annual use of a qualifying vehicle, either mileage or fuel use as determined by the TCEQ, occur in the clean transportation zone; and
- with respect to a grant for the replacement of a heavy-duty or medium-duty motor fleet vehicle, replaces the requirement for the vehicle being replaced to have been registered in a county located in the clean transportation zone for a certain period of time with a requirement for the vehicle to have been registered anywhere in Texas for that period.

C.S.H.B. 4885 requires the criteria that are established by the TCEQ for prioritizing qualifying vehicles eligible for grants under the program to prioritize the awarding of grants in the following order:

- 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 the TCEQ, will occur in the clean transportation zone;
- qualifying vehicles, other than those prioritized higher, 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 the TCEQ, will occur in counties in which an interstate highway is located or in a combination of such counties and the clean transportation zone; and
- qualifying vehicles, other than those prioritized higher, that will otherwise produce the greatest emissions reductions.

Procedural Provision

C.S.H.B. 4885 applies only to a grant awarded on or after the bill's effective date.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 4885 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute differs from the introduced in the following ways with respect to the initial allocation of money from the Texas emissions reduction plan fund and Texas emissions reduction plan account that is to be used for specified programs under the Texas emissions reduction plan:

- whereas the introduced provided for a maximum of \$8 million that may be used for hydrogen infrastructure and vehicles under the new technology implementation grant program, the substitute instead provides for such a maximum amount to be used for the Texas hydrogen infrastructure, vehicle, and equipment grant program that is specific to the substitute's provisions;
- the substitute omits a provision in the introduced that increases from five to 7.5 the percentage that may be used for the Texas clean fleet program;
- whereas the introduced decreased from 10 to five the percentage that may be used for the Texas natural gas vehicle grant program, the substitute decreases that percentage from 10 to 7.5;
- the substitute omits provisions in the introduced that change from a maximum of \$6 million to eight percent the amount that may be used for the Texas alternative fueling facilities program and that remove an authorization for a specified amount to be used for fueling stations to provide natural gas fuel; and
- the substitute includes a provision absent from the introduced that changes from \$16 million to 15 percent the maximum amount that may be used by the TCEQ for administrative costs.

The substitute omits provisions in the introduced that included as projects eligible to be considered for a grant under the new technology implementation grant program projects that encourage the adoption of hydrogen infrastructure and vehicles, including specified projects. The substitute includes provisions absent from the introduced that instead establish the Texas hydrogen infrastructure, vehicle, and equipment grant program. Whereas the introduced included a definition for "hydrogen vehicle," the substitute includes a definition for "hydrogen vehicle or equipment."

The substitute includes provisions absent from the introduced that revise the new technology projects that reduce emissions from oil and gas activities that are eligible to be considered for a grant under the new technology implementation grant program.

The substitute omits provisions in the introduced that require the TCEQ to establish and administer a grant program to encourage the purchase, construction, and installation of infrastructure needed in nonattainment areas and affected counties of the state to support the use of drayage trucks that are or cargo handling equipment that is powered by an alternative fuel.

The substitute omits provisions in the introduced that relate to the light-duty motor vehicle purchase or lease incentive program and do the following:

- revise the eligibility of a new light-duty motor vehicle powered by an electric drive for a \$2,500 incentive;
- make certain new light-duty motor vehicles powered by an electric drive eligible for a \$4,000 incentive; and
- require the TCEQ, at the beginning of the second state fiscal year of the biennium and subject to applicable funding, to adjust the initial limitations for the number of vehicles that may receive an incentive based on demand for incentives during the preceding state fiscal year.

The substitute omits provisions in the introduced that remove the \$600,000 cap for a grant awarded to a facility to provide alternative fuels other than natural gas under the Texas alternative fueling facilities program.

The substitute includes provisions absent from the introduced that revise the requirements for a grant under the Texas natural gas vehicle grant program and require the TCEQ's prioritizing criteria to prioritize the awarding of grants in a specified order.