

By: Landgraf, Lozano, Morales Shaw

H.B. No. 4885

A BILL TO BE ENTITLED

1 AN ACT

2 relating to programs established and funded under the Texas
3 emissions reduction plan.

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

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

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

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

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

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

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

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

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

22 (7) a health effects study as provided by Section
23 386.252(a);

24 (8) air quality planning activities as provided by

1 Section 386.252(d);

2 (9) a contract with the Energy Systems Laboratory at
3 the Texas A&M Engineering Experiment Station for computation of
4 creditable statewide emissions reductions as provided by Section
5 386.252(a);

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

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

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

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

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

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

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

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

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

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

7 (20) the Texas hydrogen infrastructure, vehicle, and
8 equipment grant program established under Subchapter G.

9 SECTION 2. Section 386.154, Health and Safety Code, is
10 amended by amending Subsection (e) and adding Subsection (f) to
11 read as follows:

12 (e) The incentive under Subsection (d) is limited to 4,000
13 ~~[2,000]~~ vehicles for each state fiscal biennium.

14 (f) Notwithstanding Subsections (c) and (e), and subject to
15 Section 386.252(a)(11), at the beginning of the second state fiscal
16 year of the biennium, the commission shall adjust the initial
17 vehicle limitations provided under Subsections (c) and (e) based on
18 demand for incentives under this section during the preceding state
19 fiscal year.

20 SECTION 3. Section 386.252(a), Health and Safety Code, is
21 amended to read as follows:

22 (a) Money in the fund and account may be used only to
23 implement and administer programs established under the plan.
24 Subject to the reallocation of funds by the commission under
25 Subsection (h) and after remittance to the state highway fund under
26 Subsection (a-1), 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) eight [~~three~~] percent total may be used between
5 the Texas hydrogen infrastructure, vehicle, and equipment grant
6 program established under Subchapter G and [~~for~~] the new technology
7 implementation grant program under Chapter 391, from which at least
8 \$1 million will be set aside for electricity storage projects
9 related to renewable energy and not more than \$8 million may be used
10 for the Texas hydrogen infrastructure, vehicle, and equipment grant
11 program;

12 (3) five percent may be used for the Texas clean fleet
13 program under Chapter 392;

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

23 (5) 7.5 [~~10~~] percent may be used for the Texas natural
24 gas vehicle grant program under Chapter 394;

25 (6) not more than \$6 million may be used for the Texas
26 alternative fueling facilities program under Chapter 393, of which
27 a specified amount may be used for fueling stations to provide

1 natural gas fuel, except that money may not be allocated for the
2 Texas alternative fueling facilities program for the state fiscal
3 year ending August 31, 2019;

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

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

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

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

17 (11) 3.5 [~~five~~] percent may be used for the light-duty
18 motor vehicle purchase or lease incentive program established under
19 Subchapter D;

20 (12) not more than \$500,000 [~~\$216,000~~] may be used by
21 the commission to contract with the Energy Systems Laboratory at
22 the Texas A&M Engineering Experiment Station annually for the
23 development and annual computation of creditable statewide
24 emissions reductions for the state implementation plan that are
25 obtained through:

26 (A) wind and other renewable energy resources;

27 (B) energy efficiency programs administered by

1 the Public Utility Commission of Texas or the State Energy
2 Conservation Office; or

3 (C) the implementation of advanced building
4 energy codes [for the state implementation plan];

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

10 (14) the balance is to be used by the commission for
11 the diesel emissions reduction incentive program under Subchapter C
12 as determined by the commission.

13 SECTION 4. Chapter 386, Health and Safety Code, is amended
14 by adding Subchapter G to read as follows:

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

17 Sec. 386.301. DEFINITIONS. In this subchapter:

18 (1) "Hydrogen vehicle or equipment" means a motor
19 vehicle or piece of heavy-duty equipment that uses hydrogen to
20 operate the vehicle or equipment, including through the use of
21 hydrogen fuel cells or an internal combustion engine that runs on
22 hydrogen.

23 (2) "Program" means the Texas hydrogen
24 infrastructure, vehicle, and equipment grant program established
25 under this subchapter.

26 Sec. 386.302. PROGRAM. (a) The commission shall establish
27 and administer the Texas hydrogen infrastructure, vehicle, and

1 equipment grant program to encourage the adoption of hydrogen
2 infrastructure, vehicles, and equipment. Under the program, the
3 commission shall provide funding for eligible projects to offset
4 the incremental cost of projects that reduce emissions of oxides of
5 nitrogen from high-emitting sources in nonattainment areas and
6 affected counties of this state. The commission shall determine
7 the eligibility of projects.

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

10 (1) implementation of hydrogen infrastructure
11 projects;

12 (2) purchase or lease of on-road or non-road hydrogen
13 vehicles or equipment;

14 (3) replacement of on-road or non-road vehicles or
15 heavy-duty equipment with newer on-road or non-road hydrogen
16 vehicles or equipment;

17 (4) the repower of on-road or non-road vehicles or
18 heavy-duty equipment with engines that run on or are powered by
19 hydrogen; and

20 (5) use of hydrogen fuel.

21 (c) A project listed in Subsection (b) is not eligible if it
22 is required by any state or federal law, rule or regulation,
23 memorandum of agreement, or other legally binding document. This
24 subsection does not apply to:

25 (1) an otherwise qualified project, regardless of the
26 fact that the state implementation plan assumes that the change in
27 vehicles, equipment, or operations will occur, if on the date the

1 grant is awarded the change is not required by any state or federal
2 law, rule or regulation, memorandum of agreement, or other legally
3 binding document; or

4 (2) the purchase of a hydrogen vehicle or equipment or
5 facility required only by local law or regulation or by corporate or
6 controlling board policy of a public or private entity.

7 Sec. 386.303. APPLICATION PACKAGE. (a) The commission
8 shall develop a simple, standardized application package for grants
9 under this subchapter. The package must include:

10 (1) an application form;

11 (2) a brief description of:

12 (A) the program;

13 (B) the projects that are eligible for available
14 funding;

15 (C) the selection criteria and evaluation
16 process; and

17 (D) the required documentation;

18 (3) the name of a person or office to contact for more
19 information;

20 (4) an example of the contract that an applicant will
21 be required to execute before receiving a grant; and

22 (5) any other information the commission considers
23 useful to inform the applicant and expedite the application
24 process.

25 (b) The application form shall require as much information
26 as the commission determines is necessary to properly evaluate each
27 project but shall otherwise minimize the information required.

1 Sec. 386.304. APPLICATION REVIEW PROCEDURES. (a) The
2 commission shall review an application for a grant for a project
3 authorized under this subchapter. If the commission determines
4 that an application is incomplete, the commission shall notify the
5 applicant with an explanation of what is missing from the
6 application. The commission shall evaluate the completed
7 application according to the appropriate project criteria. Subject
8 to available funding, the commission shall make a final
9 determination on an application as soon as possible.

10 (b) The commission shall make every effort to expedite the
11 application review process and to award grants to qualified
12 projects in a timely manner. To the extent possible, the commission
13 shall coordinate project review and approval with any timing
14 constraints related to project purchases or installations to be
15 made by an applicant.

16 (c) The commission may deny an application for a project
17 that does not meet the applicable project criteria or that the
18 commission determines is not made in good faith, is not credible, or
19 is not in compliance with this chapter and the goals of this
20 chapter.

21 (d) Subject to availability of funds, the commission shall
22 award a grant under this subchapter in conjunction with the
23 execution of a contract that obligates the commission to make the
24 grant and the recipient to perform the actions described in the
25 recipient's grant application. The contract must incorporate
26 provisions for recapturing grant money in proportion to any loss of
27 emissions reductions compared with the volume of emissions

1 reductions that was projected in awarding the grant. Grant money
2 recaptured under the contract provision shall be deposited in the
3 fund and reallocated for other projects under this chapter.

4 SECTION 5. Section 391.002(b), Health and Safety Code, is
5 amended to read as follows:

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

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

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

12 (3) new technology projects that reduce emissions from
13 upstream, ~~and~~ midstream, or downstream oil and gas production,
14 completions, gathering, storage, processing, ~~and~~ transmission,
15 or refining activities through:

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

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

21 (C) the installation of systems that reduce
22 flaring emissions and other site emissions; and

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

27 SECTION 6. Sections 394.005(a), (b), and (c), Health and

1 Safety Code, are amended to read as follows:

2 (a) The commission shall establish criteria for
3 prioritizing qualifying vehicles eligible to receive grants under
4 this chapter. The commission shall review and revise the criteria
5 as appropriate. The criteria must prioritize the awarding of
6 grants under this chapter in the following order:

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

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

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

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

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

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

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

26 (A) the baseline emission level set by the
27 commission under Subsection (g); and

1 (B) the certified emission rate of the qualifying
2 vehicle; and

3 (2) the qualifying vehicle must:

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

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

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

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

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

17 (B) replace a heavy-duty or medium-duty motor
18 vehicle that:

19 (i) is owned by the applicant;

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

21 (a) owned, leased, or otherwise
22 commercially financed and operated in Texas as a fleet vehicle for
23 at least the two years immediately preceding the submission of a
24 grant application; and

25 (b) registered in Texas [~~a county~~
26 ~~located in the clean transportation zone~~] for at least the two years
27 immediately preceding the submission of a grant application; and

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

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

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

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

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

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

20 (c) As a condition of receiving a grant, the qualifying
21 vehicle must be continuously owned, leased, or otherwise
22 commercially financed and registered and operated in the state by
23 the grant recipient until the earlier of the fourth anniversary of
24 the activity start date established by the commission or the date
25 the vehicle has been in operation for 400,000 miles after the
26 activity start date established by the commission. [~~Not less than~~
27 ~~75 percent of the annual use of the qualifying vehicle, either~~

1 ~~mileage or fuel use as determined by the commission, must occur in~~
2 ~~the clean transportation zone.]~~

3 SECTION 7. The change in law made by this Act applies only
4 to a grant awarded on or after the effective date of this Act. A
5 grant awarded before the effective date of this Act is governed by
6 the law in effect on the date the award was made, and the former law
7 is continued in effect for that purpose.

8 SECTION 8. This Act takes effect September 1, 2023.