

AN ACT

relating to programs established and funded under 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

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 386.252(a), Health and Safety Code, is
10 amended to read as follows:

11 (a) Money in the fund and account may be used only to
12 implement and administer programs established under the plan.
13 Subject to the reallocation of funds by the commission under
14 Subsection (h) and after remittance to the state highway fund under
15 Subsection (a-1), money from the fund and account to be used for the
16 programs under Section 386.051(b) shall initially be allocated as
17 follows:

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

20 (2) eight ~~three~~ percent total may be used between
21 the Texas hydrogen infrastructure, vehicle, and equipment grant
22 program established under Subchapter G and ~~for~~ the new technology
23 implementation grant program under Chapter 391, from which at least
24 \$1 million will be set aside for electricity storage projects
25 related to renewable energy and not more than \$8 million may be used
26 for the Texas hydrogen infrastructure, vehicle, and equipment grant
27 program;

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

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

12 (5) 7.5 [~~10~~] percent may be used for the Texas natural
13 gas vehicle grant program under Chapter 394;

14 (6) not more than \$6 million may be used for the Texas
15 alternative fueling facilities program under Chapter 393, of which
16 a specified amount may be used for fueling stations to provide
17 natural gas fuel, except that money may not be allocated for the
18 Texas alternative fueling facilities program for the state fiscal
19 year ending August 31, 2019;

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

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

24 (9) at least \$6 million but not more than 15 percent
25 [~~\$16 million~~] may be used by the commission for administrative
26 costs, including all direct and indirect costs for administering
27 the plan, costs for conducting outreach and education activities,

1 and costs attributable to the review or approval of applications
2 for marketable emissions reduction credits;

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

6 (11) 2.5 [~~five~~] percent may be used for the light-duty
7 motor vehicle purchase or lease incentive program established under
8 Subchapter D;

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

15 (A) wind and other renewable energy resources;

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

19 (C) the implementation of advanced building
20 energy codes [~~for the state implementation plan~~];

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

26 (14) the balance is to be used by the commission for
27 the diesel emissions reduction incentive program under Subchapter C

1 as determined by the commission.

2 SECTION 3. Chapter 386, Health and Safety Code, is amended
3 by adding Subchapter G to read as follows:

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

6 Sec. 386.301. DEFINITIONS. In this subchapter:

7 (1) "Hydrogen vehicle or equipment" means a heavy-duty
8 motor vehicle or piece of heavy-duty equipment that uses hydrogen
9 to operate the vehicle or equipment, including through the use of
10 hydrogen fuel cells or an internal combustion engine that runs on
11 hydrogen.

12 (2) "Program" means the Texas hydrogen
13 infrastructure, vehicle, and equipment grant program established
14 under this subchapter.

15 Sec. 386.302. PROGRAM. (a) The commission shall establish
16 and administer the Texas hydrogen infrastructure, vehicle, and
17 equipment grant program to encourage the adoption of hydrogen
18 infrastructure, vehicles, and equipment. Under the program, the
19 commission shall provide funding for eligible projects to offset
20 the incremental cost of projects that reduce emissions of oxides of
21 nitrogen from high-emitting sources in nonattainment areas and
22 affected counties of this state. The commission shall determine
23 the eligibility of projects.

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

26 (1) implementation of hydrogen infrastructure
27 projects;

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

3 (3) replacement of on-road or non-road heavy-duty
4 vehicles or equipment with newer on-road or non-road hydrogen
5 vehicles or equipment; and

6 (4) the repower or conversion of on-road or non-road
7 heavy-duty vehicles or equipment with a powertrain that runs on or
8 is powered by hydrogen.

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

13 (1) an otherwise qualified project, regardless of the
14 fact that the state implementation plan assumes that the change in
15 vehicles, equipment, or operations will occur, if on the date the
16 grant is awarded the change is not required by any state or federal
17 law, rule or regulation, memorandum of agreement, or other legally
18 binding document; or

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

22 (d) The commission shall prioritize the awarding of grants
23 under this subchapter in the following order:

24 (1) projects to replace on-road heavy-duty vehicles
25 with newer on-road hydrogen vehicles;

26 (2) projects to purchase, lease, repower, or convert
27 on-road heavy-duty vehicles with a powertrain that runs on or is

1 powered by hydrogen;

2 (3) projects to implement hydrogen refueling
3 infrastructure that will be accessible and available to the public
4 at times designated by the grant contract;

5 (4) projects to replace non-road heavy-duty vehicles
6 with newer non-road hydrogen vehicles; and

7 (5) projects to purchase, lease, repower, or convert
8 non-road heavy-duty vehicles with a powertrain that runs on or is
9 powered by hydrogen.

10 (e) Subject to Subsection (d), in awarding grants under this
11 subchapter, the commission shall give preference to the most
12 cost-effective projects that will result in the greatest reduction
13 in emissions of oxides of nitrogen.

14 (f) The commission shall establish additional eligibility
15 and prioritization criteria as needed to implement the program.

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

19 (1) an application form;

20 (2) a brief description of:

21 (A) the program;

22 (B) the projects that are eligible for available
23 funding;

24 (C) the selection criteria and evaluation
25 process; and

26 (D) the required documentation;

27 (3) the name of a person or office to contact for more

1 information;

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

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

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

10 Sec. 386.304. APPLICATION REVIEW PROCEDURES. (a) The
11 commission shall review an application for a grant for a project
12 authorized under this subchapter. If the commission determines
13 that an application is incomplete, the commission shall notify the
14 applicant with an explanation of what is missing from the
15 application. The commission shall evaluate the completed
16 application according to the appropriate project criteria. Subject
17 to available funding, the commission shall make a final
18 determination on an application as soon as possible.

19 (b) The commission shall make every effort to expedite the
20 application review process and to award grants to qualified
21 projects in a timely manner. To the extent possible, the commission
22 shall coordinate project review and approval with any timing
23 constraints related to project purchases or installations to be
24 made by an applicant.

25 (c) The commission may deny an application for a project
26 that does not meet the applicable project criteria or that the
27 commission determines is not made in good faith, is not credible, or

1 is not in compliance with this chapter and the goals of this
2 chapter.

3 (d) Subject to availability of funds, the commission shall
4 award a grant under this subchapter in conjunction with the
5 execution of a contract that obligates the commission to make the
6 grant and the recipient to perform the actions described in the
7 recipient's grant application. The contract must incorporate
8 provisions for recapturing grant money in proportion to any loss of
9 emissions reductions compared with the volume of emissions
10 reductions that was projected in awarding the grant. Grant money
11 recaptured under the contract provision shall be deposited in the
12 fund and reallocated for other projects under this chapter.

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

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

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

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

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

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

27 (B) the installation of systems to reduce or

1 eliminate the loss of gas, flaring of gas, or burning of gas using
2 other combustion control devices; or

3 (C) the installation of systems that reduce
4 flaring emissions and other site emissions; and

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

9 SECTION 5. This Act takes effect September 1, 2023.

President of the Senate

Speaker of the House

I certify that H.B. No. 4885 was passed by the House on April 28, 2023, by the following vote: Yeas 108, Nays 37, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 4885 on May 25, 2023, by the following vote: Yeas 127, Nays 13, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 4885 was passed by the Senate, with amendments, on May 23, 2023, by the following vote: Yeas 27, Nays 4.

Secretary of the Senate

APPROVED: _____

Date

Governor