

1-1 By: Landgraf, Lozano, Morales Shaw H.B. No. 4885
 1-2 (Senate Sponsor - Birdwell)
 1-3 (In the Senate - Received from the House May 1, 2023;
 1-4 May 4, 2023, read first time and referred to Committee on Natural
 1-5 Resources & Economic Development; May 19, 2023, reported
 1-6 adversely, with favorable Committee Substitute by the following
 1-7 vote: Yeas 8, Nays 0; May 19, 2023, sent to printer.)

1-8 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-9				
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16			X	
1-17	X			
1-18	X			

1-19 COMMITTEE SUBSTITUTE FOR H.B. No. 4885 By: Birdwell

1-20 A BILL TO BE ENTITLED
 1-21 AN ACT

1-22 relating to programs established and funded under the Texas
 1-23 emissions reduction plan.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 386.051(b), Health and Safety Code, is
 1-26 amended to read as follows:

1-27 (b) Under the plan, the commission and the comptroller shall
 1-28 provide grants or other funding for:

1-29 (1) the diesel emissions reduction incentive program
 1-30 established under Subchapter C, including for infrastructure
 1-31 projects established under that subchapter;

1-32 (2) the motor vehicle purchase or lease incentive
 1-33 program established under Subchapter D;

1-34 (3) the air quality research support program
 1-35 established under Chapter 387;

1-36 (4) the clean school bus program established under
 1-37 Chapter 390;

1-38 (5) the new technology implementation grant program
 1-39 established under Chapter 391;

1-40 (6) the regional air monitoring program established
 1-41 under Section 386.252(a);

1-42 (7) a health effects study as provided by Section
 1-43 386.252(a);

1-44 (8) air quality planning activities as provided by
 1-45 Section 386.252(d);

1-46 (9) a contract with the Energy Systems Laboratory at
 1-47 the Texas A&M Engineering Experiment Station for computation of
 1-48 creditable statewide emissions reductions as provided by Section
 1-49 386.252(a);

1-50 (10) the Texas clean fleet program established under
 1-51 Chapter 392;

1-52 (11) the Texas alternative fueling facilities program
 1-53 established under Chapter 393;

1-54 (12) the Texas natural gas vehicle grant program
 1-55 established under Chapter 394;

1-56 (13) other programs the commission may develop that
 1-57 lead to reduced emissions of nitrogen oxides, particulate matter,
 1-58 or volatile organic compounds in a nonattainment area or affected
 1-59 county;

1-60 (14) other programs the commission may develop that

2-1 support congestion mitigation to reduce mobile source ozone
 2-2 precursor emissions;
 2-3 (15) the seaport and rail yard areas emissions
 2-4 reduction program established under Subchapter D-1;
 2-5 (16) conducting research and other activities
 2-6 associated with making any necessary demonstrations to the United
 2-7 States Environmental Protection Agency to account for the impact of
 2-8 foreign emissions or an exceptional event;
 2-9 (17) studies of or pilot programs for incentives for
 2-10 port authorities located in nonattainment areas or affected
 2-11 counties as provided by Section 386.252(a);
 2-12 (18) the governmental alternative fuel fleet grant
 2-13 program established under Chapter 395; ~~and~~
 2-14 (19) remittance of funds to the state highway fund for
 2-15 use by the Texas Department of Transportation for congestion
 2-16 mitigation and air quality improvement projects in nonattainment
 2-17 areas and affected counties; and
 2-18 (20) the Texas hydrogen infrastructure, vehicle, and
 2-19 equipment grant program established under Subchapter G.
 2-20 SECTION 2. Section 386.252(a), Health and Safety Code, is
 2-21 amended to read as follows:
 2-22 (a) Money in the fund and account may be used only to
 2-23 implement and administer programs established under the plan.
 2-24 Subject to the reallocation of funds by the commission under
 2-25 Subsection (h) and after remittance to the state highway fund under
 2-26 Subsection (a-1), money from the fund and account to be used for the
 2-27 programs under Section 386.051(b) shall initially be allocated as
 2-28 follows:
 2-29 (1) four percent may be used for the clean school bus
 2-30 program under Chapter 390;
 2-31 (2) eight ~~three~~ percent total may be used between
 2-32 the Texas hydrogen infrastructure, vehicle, and equipment grant
 2-33 program established under Subchapter G and ~~for~~ the new technology
 2-34 implementation grant program under Chapter 391, from which at least
 2-35 \$1 million will be set aside for electricity storage projects
 2-36 related to renewable energy and not more than \$8 million may be used
 2-37 for the Texas hydrogen infrastructure, vehicle, and equipment grant
 2-38 program;
 2-39 (3) five percent may be used for the Texas clean fleet
 2-40 program under Chapter 392;
 2-41 (4) not more than \$3 million may be used by the
 2-42 commission to fund a regional air monitoring program in commission
 2-43 Regions 3 and 4 to be implemented under the commission's oversight,
 2-44 including direction regarding the type, number, location, and
 2-45 operation of, and data validation practices for, monitors funded by
 2-46 the program through a regional nonprofit entity located in North
 2-47 Texas having representation from counties, municipalities, higher
 2-48 education institutions, and private sector interests across the
 2-49 area;
 2-50 (5) 7.5 ~~10~~ percent may be used for the Texas natural
 2-51 gas vehicle grant program under Chapter 394;
 2-52 (6) not more than \$6 million may be used for the Texas
 2-53 alternative fueling facilities program under Chapter 393, of which
 2-54 a specified amount may be used for fueling stations to provide
 2-55 natural gas fuel, except that money may not be allocated for the
 2-56 Texas alternative fueling facilities program for the state fiscal
 2-57 year ending August 31, 2019;
 2-58 (7) not more than \$750,000 may be used each year to
 2-59 support research related to air quality as provided by Chapter 387;
 2-60 (8) not more than \$200,000 may be used for a health
 2-61 effects study;
 2-62 (9) at least \$6 million but not more than 15 percent
 2-63 ~~[\$16 million]~~ may be used by the commission for administrative
 2-64 costs, including all direct and indirect costs for administering
 2-65 the plan, costs for conducting outreach and education activities,
 2-66 and costs attributable to the review or approval of applications
 2-67 for marketable emissions reduction credits;
 2-68 (10) six percent may be used by the commission for the
 2-69 seaport and rail yard areas emissions reduction program established

3-1 under Subchapter D-1;
3-2 (11) 2.5 [~~five~~] percent may be used for the light-duty
3-3 motor vehicle purchase or lease incentive program established under
3-4 Subchapter D;
3-5 (12) not more than \$500,000 [~~\$216,000~~] may be used by
3-6 the commission to contract with the Energy Systems Laboratory at
3-7 the Texas A&M Engineering Experiment Station annually for the
3-8 development and annual computation of creditable statewide
3-9 emissions reductions for the state implementation plan that are
3-10 obtained through:
3-11 (A) wind and other renewable energy resources;
3-12 (B) energy efficiency programs administered by
3-13 the Public Utility Commission of Texas or the State Energy
3-14 Conservation Office; or
3-15 (C) the implementation of advanced building
3-16 energy codes [~~for the state implementation plan~~];
3-17 (13) not more than \$500,000 may be used for studies of
3-18 or pilot programs for incentives for port authorities located in
3-19 nonattainment areas or affected counties to encourage cargo
3-20 movement that reduces emissions of nitrogen oxides and particulate
3-21 matter; and
3-22 (14) the balance is to be used by the commission for
3-23 the diesel emissions reduction incentive program under Subchapter C
3-24 as determined by the commission.
3-25 SECTION 3. Chapter 386, Health and Safety Code, is amended
3-26 by adding Subchapter G to read as follows:
3-27 SUBCHAPTER G. TEXAS HYDROGEN INFRASTRUCTURE, VEHICLE, AND
3-28 EQUIPMENT GRANT PROGRAM
3-29 Sec. 386.301. DEFINITIONS. In this subchapter:
3-30 (1) "Hydrogen vehicle or equipment" means a heavy-duty
3-31 motor vehicle or piece of heavy-duty equipment that uses hydrogen
3-32 to operate the vehicle or equipment, including through the use of
3-33 hydrogen fuel cells or an internal combustion engine that runs on
3-34 hydrogen.
3-35 (2) "Program" means the Texas hydrogen
3-36 infrastructure, vehicle, and equipment grant program established
3-37 under this subchapter.
3-38 Sec. 386.302. PROGRAM. (a) The commission shall establish
3-39 and administer the Texas hydrogen infrastructure, vehicle, and
3-40 equipment grant program to encourage the adoption of hydrogen
3-41 infrastructure, vehicles, and equipment. Under the program, the
3-42 commission shall provide funding for eligible projects to offset
3-43 the incremental cost of projects that reduce emissions of oxides of
3-44 nitrogen from high-emitting sources in nonattainment areas and
3-45 affected counties of this state. The commission shall determine
3-46 the eligibility of projects.
3-47 (b) Projects that may be considered for a grant under the
3-48 program include:
3-49 (1) implementation of hydrogen infrastructure
3-50 projects;
3-51 (2) purchase or lease of on-road or non-road hydrogen
3-52 vehicles or equipment;
3-53 (3) replacement of on-road or non-road heavy-duty
3-54 vehicles or equipment with newer on-road or non-road hydrogen
3-55 vehicles or equipment; and
3-56 (4) the repower or conversion of on-road or non-road
3-57 heavy-duty vehicles or equipment with a powertrain that runs on or
3-58 is powered by hydrogen.
3-59 (c) A project listed in Subsection (b) is not eligible if it
3-60 is required by any state or federal law, rule or regulation,
3-61 memorandum of agreement, or other legally binding document. This
3-62 subsection does not apply to:
3-63 (1) an otherwise qualified project, regardless of the
3-64 fact that the state implementation plan assumes that the change in
3-65 vehicles, equipment, or operations will occur, if on the date the
3-66 grant is awarded the change is not required by any state or federal
3-67 law, rule or regulation, memorandum of agreement, or other legally
3-68 binding document; or
3-69 (2) the purchase of a hydrogen vehicle or equipment or

4-1 facility required only by local law or regulation or by corporate or
 4-2 controlling board policy of a public or private entity.

4-3 (d) The commission shall prioritize the awarding of grants
 4-4 under this subchapter in the following order:

4-5 (1) projects to replace on-road heavy-duty vehicles
 4-6 with newer on-road hydrogen vehicles;

4-7 (2) projects to purchase, lease, repower, or convert
 4-8 on-road heavy-duty vehicles with a powertrain that runs on or is
 4-9 powered by hydrogen;

4-10 (3) projects to implement hydrogen refueling
 4-11 infrastructure that will be accessible and available to the public
 4-12 at times designated by the grant contract;

4-13 (4) projects to replace non-road heavy-duty vehicles
 4-14 with newer non-road hydrogen vehicles; and

4-15 (5) projects to purchase, lease, repower, or convert
 4-16 non-road heavy-duty vehicles with a powertrain that runs on or is
 4-17 powered by hydrogen.

4-18 (e) Subject to Subsection (d), in awarding grants under this
 4-19 subchapter, the commission shall give preference to the most
 4-20 cost-effective projects that will result in the greatest reduction
 4-21 in emissions of oxides of nitrogen.

4-22 (f) The commission shall establish additional eligibility
 4-23 and prioritization criteria as needed to implement the program.

4-24 Sec. 386.303. APPLICATION PACKAGE. (a) The commission
 4-25 shall develop a simple, standardized application package for grants
 4-26 under this subchapter. The package must include:

4-27 (1) an application form;

4-28 (2) a brief description of:

4-29 (A) the program;

4-30 (B) the projects that are eligible for available
 4-31 funding;

4-32 (C) the selection criteria and evaluation
 4-33 process; and

4-34 (D) the required documentation;

4-35 (3) the name of a person or office to contact for more
 4-36 information;

4-37 (4) an example of the contract that an applicant will
 4-38 be required to execute before receiving a grant; and

4-39 (5) any other information the commission considers
 4-40 useful to inform the applicant and expedite the application
 4-41 process.

4-42 (b) The application form shall require as much information
 4-43 as the commission determines is necessary to properly evaluate each
 4-44 project but shall otherwise minimize the information required.

4-45 Sec. 386.304. APPLICATION REVIEW PROCEDURES. (a) The
 4-46 commission shall review an application for a grant for a project
 4-47 authorized under this subchapter. If the commission determines
 4-48 that an application is incomplete, the commission shall notify the
 4-49 applicant with an explanation of what is missing from the
 4-50 application. The commission shall evaluate the completed
 4-51 application according to the appropriate project criteria. Subject
 4-52 to available funding, the commission shall make a final
 4-53 determination on an application as soon as possible.

4-54 (b) The commission shall make every effort to expedite the
 4-55 application review process and to award grants to qualified
 4-56 projects in a timely manner. To the extent possible, the commission
 4-57 shall coordinate project review and approval with any timing
 4-58 constraints related to project purchases or installations to be
 4-59 made by an applicant.

4-60 (c) The commission may deny an application for a project
 4-61 that does not meet the applicable project criteria or that the
 4-62 commission determines is not made in good faith, is not credible, or
 4-63 is not in compliance with this chapter and the goals of this
 4-64 chapter.

4-65 (d) Subject to availability of funds, the commission shall
 4-66 award a grant under this subchapter in conjunction with the
 4-67 execution of a contract that obligates the commission to make the
 4-68 grant and the recipient to perform the actions described in the
 4-69 recipient's grant application. The contract must incorporate

5-1 provisions for recapturing grant money in proportion to any loss of
5-2 emissions reductions compared with the volume of emissions
5-3 reductions that was projected in awarding the grant. Grant money
5-4 recaptured under the contract provision shall be deposited in the
5-5 fund and reallocated for other projects under this chapter.

5-6 SECTION 4. Section 391.002(b), Health and Safety Code, is
5-7 amended to read as follows:

5-8 (b) Projects that may be considered for a grant under the
5-9 program include:

5-10 (1) advanced clean energy projects, as defined by
5-11 Section 382.003;

5-12 (2) new technology projects that reduce emissions of
5-13 regulated pollutants from stationary sources;

5-14 (3) new technology projects that reduce emissions from
5-15 upstream, ~~and~~ midstream, or downstream oil and gas production,
5-16 completions, gathering, storage, processing, ~~and~~ transmission,
5-17 or refining activities through:

5-18 (A) the replacement, repower, or retrofit of
5-19 stationary compressor engines;

5-20 (B) the installation of systems to reduce or
5-21 eliminate the loss of gas, flaring of gas, or burning of gas using
5-22 other combustion control devices; or

5-23 (C) the installation of systems that reduce
5-24 flaring emissions and other site emissions; and

5-25 (4) electricity storage projects related to renewable
5-26 energy, including projects to store electricity produced from wind
5-27 and solar generation that provide efficient means of making the
5-28 stored energy available during periods of peak energy use.

5-29 SECTION 5. This Act takes effect September 1, 2023.

5-30 * * * * *