

House Bill 4885
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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 Section 386.252(d);
- (9) a contract with the Energy Systems Laboratory at the Texas A&M Engineering Experiment Station for computation of creditable statewide emissions reductions as provided by Section 386.252(a);
- (10) the Texas clean fleet program established under Chapter 392;
- (11) the Texas alternative fueling facilities program established under Chapter 393;
- (12) the Texas natural gas vehicle grant program established under Chapter 394;
- (13) other programs the commission may develop that lead to reduced emissions of nitrogen oxides, particulate matter,

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or volatile organic compounds in a nonattainment area or affected county;

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

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

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

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

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

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

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

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

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

(f) Notwithstanding Subsections (c) and (e), and subject to Section 386.252(a)(11), at the beginning of the second state fiscal year of the biennium, the commission shall adjust the

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initial vehicle limitations provided under Subsections (c) and (e) based on demand for incentives under this section during the preceding state fiscal year.

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

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

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

(2) eight [three] percent total may be used between the Texas hydrogen infrastructure, vehicle, and equipment grant program established under Subchapter G and [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 may be used for the Texas hydrogen infrastructure, vehicle, and equipment grant program;

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

(4) not more than \$3 million may be used by the commission to fund a regional air monitoring program in commission Regions 3 and 4 to be implemented under the commission's oversight, including direction regarding the type, number, location, and operation of, and data validation practices for, monitors funded by the program through a regional nonprofit

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SECTION 2. Section 386.252(a), Health and Safety Code, is amended to read as follows:

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entity located in North Texas having representation from counties, municipalities, higher education institutions, and private sector interests across the area;

(5) 7.5 [40] percent may be used for the Texas natural gas vehicle grant program under Chapter 394;

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

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

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

(9) at least \$6 million but not more than 15 percent [~~\$16 million~~] may be used by the commission 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) six percent may be used by the commission for the seaport and rail yard areas emissions reduction program established under Subchapter D-1;

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

(12) not more than \$500,000 [~~\$216,000~~] may be used by the commission to contract with the Energy Systems Laboratory at the Texas A&M Engineering Experiment Station annually for the development and annual computation of creditable

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entity located in North Texas having representation from counties, municipalities, higher education institutions, and private sector interests across the area;

(5) 7.5 [40] percent may be used for the Texas natural gas vehicle grant program under Chapter 394;

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

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

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statewide emissions reductions for the state implementation plan that are obtained through:

- (A) wind and other renewable energy resources;
 - (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 [for the state implementation plan];
- (13) not more than \$500,000 may be used for studies of or pilot programs for incentives for port authorities located in nonattainment areas or affected counties to encourage cargo movement that reduces emissions of nitrogen oxides and particulate matter; and
- (14) the balance is to be used by the commission for the diesel emissions reduction incentive program under Subchapter C as determined by the commission.

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

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

Sec. 386.301. DEFINITIONS. In this subchapter:

- (1) "Hydrogen vehicle or equipment" means 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.
- (2) "Program" means the Texas hydrogen infrastructure, vehicle, and equipment grant program established under this subchapter.

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statewide emissions reductions for the state implementation plan that are obtained through:

- (A) wind and other renewable energy resources;
 - (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 [for the state implementation plan];
- (13) not more than \$500,000 may be used for studies of or pilot programs for incentives for port authorities located in nonattainment areas or affected counties to encourage cargo movement that reduces emissions of nitrogen oxides and particulate matter; and
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- (2) "Program" means the Texas hydrogen infrastructure, vehicle, and equipment grant program established under this subchapter.

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Sec. 386.302. PROGRAM. (a) The commission shall establish and administer the Texas hydrogen infrastructure, vehicle, and equipment grant program to encourage the adoption of hydrogen infrastructure, vehicles, and equipment. Under the program, the commission shall 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. The commission shall determine the eligibility of projects.

(b) Projects that may 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) 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. 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

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(b) Projects that may 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 heavy-duty vehicles or equipment with newer on-road or non-road hydrogen vehicles or equipment; and

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

(c) 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. 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

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(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) The commission shall develop a simple, standardized application package for grants under this subchapter. The package must include:
(1) an application form;
(2) a brief description of:
(A) the program;

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(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.

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

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

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

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

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

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

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

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

Sec. 386.303. APPLICATION PACKAGE. (a) The commission shall develop a simple, standardized application package for grants under this subchapter. The package must include:
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(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 the commission considers useful to inform the applicant and expedite the application process.
(b) The application form shall require as much information as the commission determines is necessary to properly evaluate each project but shall otherwise minimize the information required.
Sec. 386.304. APPLICATION REVIEW PROCEDURES.
(a) The commission shall review an application for a grant for a project authorized under this subchapter. If the commission determines that an application is incomplete, the commission shall notify the applicant with an explanation of what is missing from the application. The commission shall evaluate the completed application according to the appropriate project criteria. Subject to available funding, the commission shall make a final determination on an application as soon as possible.
(b) The commission shall make every effort to expedite the application review process and to award grants to qualified projects in a timely manner. To the extent possible, the commission shall coordinate project review and approval with any timing constraints related to project purchases or installations to be made by an applicant.
(c) The commission may deny an application for a project that does not meet the applicable project criteria or that the commission determines is not made in good faith, is not

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(B) the projects that are eligible for available funding;
(C) the selection criteria and evaluation process; and
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(3) the name of a person or office to contact for more information;
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credible, or is not in compliance with this chapter and the goals of this chapter.

(d) Subject to availability of funds, the commission shall award a grant under this subchapter in conjunction with the execution of a contract that obligates the commission 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. Grant money recaptured under the contract provision shall be deposited in the fund and reallocated for other projects under this chapter.

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

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

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

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

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

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

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

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credible, or is not in compliance with this chapter and the goals of this chapter.

(d) Subject to availability of funds, the commission shall award a grant under this subchapter in conjunction with the execution of a contract that obligates the commission 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. Grant money recaptured under the contract provision shall be deposited in the fund and reallocated for other projects under this chapter.

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

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

SECTION 6. Sections 394.005(a), (b), and (c), Health and Safety Code, are amended to read as follows:

(a) The commission shall establish criteria for prioritizing qualifying vehicles eligible to receive grants under this chapter. The commission shall review and revise the criteria as appropriate. The criteria must 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 the commission, 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 the commission, 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) To be eligible for a grant under the program:

(1) the use of the qualifying vehicle must be projected to result in a reduction in emissions of nitrogen oxides of at

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least 25 percent as compared to the motor vehicle or engine being replaced, based on:

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

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

(2) the qualifying vehicle must:

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

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

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

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

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

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

(i) is owned by the applicant;

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

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

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

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(iii) otherwise satisfies the mileage, usage, and useful life requirements established under Paragraph (A) as determined by documentation associated with the vehicle; or
(C) be a heavy-duty or medium-duty motor vehicle repowered with a natural gas engine that:

- (i) is installed in an on-road vehicle that has been owned, leased, or otherwise commercially financed and registered and operated by the applicant in Texas for at least the two years immediately preceding the submission of a grant application;
- (ii) satisfies any minimum average annual mileage or fuel usage requirements established by the commission;
- (iii) satisfies any minimum percentage of annual usage requirements established by the commission; and
- (iv) is installed in an on-road vehicle that, at the time of the vehicle's repowering, was in operating condition and had at least two years of remaining useful life, as determined in accordance with criteria established by the commission.

(c) As a condition of receiving a grant, the qualifying vehicle must be continuously owned, leased, or otherwise commercially financed and registered and operated in the state by the grant recipient until the earlier of the fourth anniversary of the activity start date established by the commission or the date the vehicle has been in operation for 400,000 miles after the activity start date established by the commission. ~~[Not less than 75 percent of the annual use of the qualifying vehicle, either mileage or fuel use as determined by the commission, must occur in the clean transportation zone.]~~

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

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

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