

BILL ANALYSIS

Senate Research Center
87R27970 JRR-D

C.S.H.B. 4472
By: Landgraf; Bell, Cecil (Birdwell)
Natural Resources & Economic Development
5/21/2021
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 4472 makes a number of changes to the Texas Emissions Reduction Program (TERP). The bill allows the Texas Commission on Environmental Quality (TCEQ) more flexibility to administer the program. It also provides for additional funding and programs to achieve maximum reductions in oxides of nitrogen to demonstrate compliance with the state implementation plan, prevent areas of the state from being in violation of national ambient air quality standards, and achieves cost-saving and multiple benefits by reducing emissions advancing new technologies that reduce oxides of nitrogen and other emissions.

The Senate committee substitute for H.B. 4472 takes the bill back to the language passed by the Senate in S.B. 1263 with a few changes. It reduces the percentage of TERP funds sent to Fund 006 for congestion mitigation and air quality (CMAQ) projects from 40 percent to "not less than 35 percent."; it adds "affected counties" to the counties eligible for CMAQ projects; and incorporates H.B. 2136 and H.B. 2361 into the bill, both of which were heard and passed out of committee unanimously.

C.S.H.B. 4472 amends current law relating to the Texas emissions reduction plan.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 386.051(b), Health and Safety Code, as follows:

(b) Requires the Texas Commission on Environmental Quality (TCEQ) and the Comptroller of Public Accounts of the State of Texas (comptroller), under the Texas emissions reduction plan (TERP), to provide grants or other funding for:

(1) - (9) makes no changes to these subdivisions;

(10)-(12) makes nonsubstantive changes to these subdivisions;

(13)-(16) makes no changes to these subdivisions;

(17) and (18) makes nonsubstantive changes to these subdivisions; and

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

Makes nonsubstantive changes.

SECTION 2. Amends Section 386.057, Health and Safety Code, by adding Subsection (e), as follows:

(e) Requires TxDOT, not later than October 1 of each year, to report to TCEQ the following information for all congestion mitigation and air quality improvement projects in nonattainment areas and affected counties that are planned to be funded, or received initial funding during the preceding 10 years, from money received by TxDOT under Chapter 386 (Texas Emissions Reduction Plan):

- (1) projects to mitigate congestion and improve air quality that are currently planned;
- (2) projects to mitigate congestion and improve air quality that have been completed;
- (3) estimated emissions reductions for all planned and completed congestion mitigation projects; and
- (4) estimated cost per ton analysis of reduced emissions of nitrogen oxides, particulate matter, or volatile organic compounds for each congestion mitigation project planned or completed.

SECTION 3. Amends Sections 386.104(c) and (c-1), Health and Safety Code, as follows:

(c) Deletes existing text excepting a project involving a marine vessel or engine from the requirement that not less than 75 percent of vehicle miles traveled or hours of operation projected for the five years immediately following the award of a grant be projected to take place in a nonattainment area or affected county of this state.

(c-1) Requires that a vessel or engine, for a proposed project involving a marine vessel or engine, be operated in the intercoastal waterways or bays adjacent to a nonattainment area or affected county of this state for a sufficient percentage, rather than a sufficient amount, of time over the lifetime of the project, as determined by TCEQ, to meet the cost-effectiveness requirements of Section 386.105 (Calculation of Cost-Effectiveness). Prohibits the percentage determined by TCEQ under this subsection from being less than 55 percent.

SECTION 4. Amends Section 386.250(c), Health and Safety Code, as effective September 1, 2021, as follows:

(c) Requires TCEQ, not later than the 30th day after the last day of each state fiscal biennium, to transfer the unencumbered balance of the fund remaining on the last day of the state fiscal biennium to the credit of the state highway fund for use by TxDOT for projects described by Section 386.051(b)(19), rather than to the credit of the TERP account.

SECTION 5. Amends Section 386.251(c), Health and Safety Code, as effective September 1, 2021, to provide that the account consists of its accumulated balance, rather than its accumulated balance and the amount of money transferred to the account under Section 386.250(c).

SECTION 6. Amends Section 386.252, Health and Safety Code, as effective September 1, 2021, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Requires money from the fund and account to be used for the programs under Section 386.051(b), subject to the reallocation of funds by TCEQ under Subsection (h) and after remittance to the state highway fund under Subsection (a-1), rather than subject to the reallocation of funds by TCEQ under Subsection (h), initially be allocated as follows:

- (1) and (2) makes no changes to these subdivisions;
- (3) makes a nonsubstantive change to this subdivision;

(4)-(14) makes no changes to these subdivisions;

(a-1) Requires TCEQ to remit not less than 35 percent of the amount deposited to the credit of the fund to the state highway fund for use by TxDOT for projects described by Section 386.051(b)(19).

SECTION 7. Amends Section 391.002(b), Health and Safety Code, to delete existing text authorizing new technology projects that reduce emissions from upstream and midstream oil and gas production, completions, gathering, storage, processing, and transmission activities through the installation of systems that reduce flaring emissions and other site emissions by capturing waste heat to generate electricity solely for on-site service to be considered for a grant under the program.

SECTION 8. Amends Section 391.205(a), Health and Safety Code, to require TCEQ, except as provided by Subsection (c) (relating to authorizing TCEQ to give preference to certain projects under certain conditions), in awarding grants under Chapter 391 (New Technology Implementation for Facilities and Stationary Sources), to give preference to certain projects, including projects that reduce flaring emissions and other site emissions. Makes nonsubstantive changes.

SECTION 9. Amends Section 391.301, Health and Safety Code, to require a recipient of a grant under Chapter 391 to use the grant to pay the incremental costs of the purchase, lease, or installation, rather than the cost of the purchase and installation, of the project for which the grant is made, which is authorized to include reasonable and necessary expenses for the labor needed to install emissions-reducing equipment. Authorizes, rather than prohibits, the recipient to use the grant for the costs of operating and maintaining the emissions-reduction equipment.

SECTION 10. Amends Section 501.138, Transportation Code, by amending Subsections (b-1), (b-2), and (b-3) and adding Subsection (b-4), as follows:

(b-1) Requires that fees collected under Subsection (b) (relating to the distribution of fees paid by applicants for a vehicle title) to be sent to the comptroller, except as provided by Subsection (b-4), be deposited to the credit of the TERP fund. Deletes existing text requiring that fees collected under Subsection (b) to be sent to the comptroller be deposited to the credit of the Texas Mobility Fund, except that \$5 of each fee imposed under Subsection (a)(1) (relating to a \$33 fee if the applicant's residence is a county located within a nonattainment area) and deposited on or after September 1, 2008, and before September 1, 2015, is required to be deposited to the credit of the TERP fund.

(b-2) Requires the comptroller to establish a record of the amount of the fees deposited to the credit of the TERP fund, rather than to the credit of the Texas Mobility Fund, under Subsection (b-1). Requires TxDOT, on or before the fifth workday of each month, to remit to the comptroller for deposit to the credit of the Texas Mobility Fund, rather than to the credit of the TERP fund, an amount of money equal to the amount of the fees deposited by the comptroller to the credit of the TERP fund, rather than to the credit of the Texas Mobility Fund, under Subsection (b-1) in the preceding month.

(b-3) Provides that certain subsections, including Subsection (b-1), expire on the last day of the state fiscal biennium during which TCEQ publishes in the Texas Register the notice required by Section 382.037 (Notice in Texas Register Regarding National Ambient Air Quality Standards for Ozone), Health and Safety Code. Makes a nonsubstantive change.

(b-4) Requires that fees collected under Subsection (b) to be sent to the comptroller be deposited to the credit of the Texas Mobility Fund if the fees are collected on or after the last day of the state fiscal biennium during which TCEQ publishes in the Texas Register the notice required by Section 382.037, Health and Safety Code.

SECTION 11. Provides that the changes in law made by this Act apply only to a TERP grant awarded on or after the effective date of this Act. Provides that 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 12. Makes application of Section 501.138, Transportation Code, prospective.

SECTION 13. Effective date: September 1, 2021.