

## **BILL ANALYSIS**

H.B. 14  
By: Morrison  
Environmental Regulation  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Interested parties explain that current law regarding the Texas emissions reduction plan administered by the Texas Commission on Environmental Quality (TCEQ) needs to be revised to simplify certain programs and clarify issues with existing language. The parties also assert that the extension of certain programs under the plan will allow TCEQ to continue to help reduce emissions in support of reducing ground-level ozone in targeted areas. H.B. 14 seeks to amend the applicable law relating to the Texas emissions reduction plan.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 5 of this bill.

### **ANALYSIS**

H.B. 14 amends the Health and Safety Code to continue until August 31, 2023, the Texas emissions reduction plan, the light-duty motor vehicle purchase or lease incentive program, the clean school bus program, the new technology implementation grant program, the Texas clean fleet program, the Texas alternative fueling facilities program, and the Texas natural gas vehicle grant program and to revise statutory provisions relating to certain programs under the Texas emissions reduction plan. The bill includes Bell, McLennan, and Webb Counties among the counties designated as an affected county for purposes of the Texas emissions reduction plan.

H.B. 14 removes the requirement for, and instead authorizes, the executive director of the Texas Commission on Environmental Quality (TCEQ) to waive any eligibility requirements for projects to receive grants under the diesel emissions reduction incentive program on a finding of good cause.

H.B. 14 includes new light-duty motor vehicles powered by a hydrogen fuel cell drive among the vehicles for which the light-duty motor vehicle purchase or lease incentive program is required to authorize statewide incentives for purchase or lease and authorizes TCEQ by rule to revise the standards for the maximum unloaded vehicle weight rating and gross vehicle weight rating of an eligible vehicle to ensure that all of the vehicle weight configurations available under one general vehicle model may be eligible for an incentive. The bill increases from \$2,500 to \$5,000 the amount of the incentive for which certain new light-duty motor vehicles powered by compressed natural gas or liquefied petroleum gas are eligible under the program. The bill extends the availability of the incentive by making it apply to each state fiscal biennium instead of the state fiscal biennium beginning September 1, 2013, and decreases the cap on the number of vehicles eligible each biennium from 2,000 vehicles to 1,000 vehicles. The bill makes a new

light-duty vehicle powered by an electric drive propelled to a significant extent by an electric motor that draws electricity from a hydrogen fuel cell eligible for a \$2,500 incentive if certain other factors are satisfied. The bill extends the availability of the electric drive incentive by making the limitation of the incentive to 2,000 vehicles applicable for each state fiscal biennium instead of the state fiscal biennium beginning September 1, 2013.

H.B. 14 authorizes TCEQ to supplement the information provided in a manufacturer's report of new vehicle models that the manufacturer intends to sell in Texas during that model year that meet the incentive requirements under the light-duty motor vehicle purchase or lease incentive program with additional information on available vehicle models, including information provided by manufacturers of systems to convert new motor vehicles to operate on natural gas or liquefied petroleum gas before sale as a new vehicle. The bill changes the basis on which a lease incentive for a new light-duty motor vehicle is required to be prorated from a four-year lease term to a three-year lease term. The bill removes statutory provisions requiring TCEQ to develop a verification form to verify the sale of vehicles under the light-duty motor vehicle purchase or lease incentive program and instead authorizes TCEQ to require the submission of forms and documentation as needed to verify eligibility for a program incentive. The bill authorizes TCEQ to provide for dealers and leasing agents to reserve for a limited time period incentives for vehicles that are not readily available and must be ordered if the dealer or leasing agent has a purchase or lease order signed by an identified customer. The bill repeals a statutory provision requiring the suspension of program incentives if the balance available for motor vehicle purchase or lease incentives falls below 15 percent of the total allocated for the incentives during that fiscal year.

H.B. 14 revises the allocation formula for the Texas emissions reduction plan fund by raising the cap from five percent to 10 percent on the percent allocation that may be used for the Texas alternative fueling facilities program and authorizes a specified amount of that allocation to be used for fueling stations to provide natural gas fuel. The bill removes from the formula an allocation capped at five percent to provide grants for natural gas fueling stations under the clean transportation triangle program. The bill removes an allocation of 1.5 percent of the fund to be used for administrative costs incurred by the Energy Systems Laboratory at the Texas A&M Engineering Experiment Station and instead authorizes money in the fund to be allocated for such administrative costs. The bill specifies that the \$500,000 from the fund deposited to the credit of the clean air account to supplement funding for air quality planning activities in affected counties is to be deposited annually. The bill repeals a statutory provision authorizing money allocated to a particular program to be used for another program under the plan as determined by TCEQ.

H.B. 14 specifies that the new technology projects that reduce emissions of regulated pollutants from stationary sources eligible for a grant under the new technology implementation grant program include projects that reduce emissions from oil and gas production, storage, and transmission activities through the replacement, repower, or retrofit of stationary compressor engines or the installation of systems to reduce or eliminate the flaring of gas or the burning of gas using other combustion control devices. The bill includes projects that involve the transport, recovery for use, or prevention of the loss of natural resources originating or produced in Texas among the projects to which TCEQ is required to give preference in awarding grants under the new technology implementation grant program.

H.B. 14 changes from the calendar year to the eligibility period established by TCEQ the period during which an entity must purchase a new qualified on-road vehicle for the vehicle to be eligible for a grant under the Texas clean fleet program. The bill revises a statutory provision requiring TCEQ to minimize the amount of paperwork required for a clean fleet program grant application by removing language establishing that an applicant may be required to submit specified information after TCEQ has decided to award a grant. The bill increases from two to five years the minimum amount of useful life remaining on a vehicle that a project must replace to be eligible for a clean fleet program grant. The bill changes the period for which a qualifying vehicle must be continuously owned, registered, and operated in Texas by a grant recipient as a

condition of receiving a grant from the earlier of the fifth anniversary of the date of reimbursement of the grant-funded expenses or until the date the vehicle has been in operation for 400,000 miles after the date of reimbursement to the earlier of the fifth anniversary of the activity start date established by TCEQ or the date the vehicle has been in operation for 400,000 miles after the activity start date. The bill requires TCEQ to establish the activity start date based on the date TCEQ accepts verification of the disposition of the vehicle being replaced. The bill removes the requirement for the executive director to waive certain eligibility requirements regarding the vehicle being replaced on a finding of good cause and instead authorizes the executive director to waive the requirements on a finding of good cause.

H.B. 14 makes the requirement that TCEQ establish and administer the Texas alternative fueling facilities program to provide fueling facilities for alternative fuel applicable to the clean transportation triangle, as defined by the bill, instead of only nonattainment areas. The bill removes eligibility to participate in the program for an entity operating in Texas that acquires any alternative fueling facility and for an entity operating in Texas that constructs or reconstructs a facility to store or compress alternative fuels. The bill requires TCEQ to provide for strategically placed fueling facilities in the clean transportation triangle to enable an alternative fuel vehicle to travel in those areas relying solely on the alternative fuel and to maintain a listing to be made available to the public online of all vehicle fueling facilities that have received grant funding, including location and hours of operation.

H.B. 14 removes the authority of TCEQ to adopt guidelines to allow a private nonprofit organization or a regional planning commission, council of governments, or similar regional planning agency created under statutory provisions relating to regional planning commissions to apply for and receive a grant under the alternative fueling facilities program and instead expressly authorizes TCEQ to allow such entities to apply for and receive a grant under the program. The bill requires an application for a grant under the alternative fueling facilities program to include a certification that the applicant complies with laws, rules, guidelines, and requirements applicable to taxation of fuel provided by the applicant at each fueling facility owned or operated by the applicant; authorizes TCEQ to terminate a grant awarded without further obligation to the grant recipient if TCEQ determines that the recipient did not comply; and establishes that such provisions do not create a cause of action to contest an application or grant award. The bill requires TCEQ to disperse grants under the program through a competitive application selection process to offset a portion of the eligible costs.

H.B. 14 revises statutory provisions establishing eligibility of facilities for grants under the alternative fueling facilities program, including removing the requirement that TCEQ by rule establish criteria for prioritizing facilities eligible to receive a grant and setting out specified fueling facilities to which TCEQ may or shall give preference or otherwise limit grant selections. The bill includes among the expenses for which a recipient is prohibited from using the grant expenses for the purchase of land or an interest in land and expenses for equipment or facility improvements that are not directly related to the delivery, storage, compression, or dispensing of the alternative fuel at the facility. The bill requires each grant to be awarded using a contract that requires the recipient to meet operational, maintenance, and reporting requirements as specified by TCEQ. The bill removes a statutory provision setting the amount TCEQ is required to award to each grant recipient and instead caps grants awarded under the program for a facility to provide alternative fuels other than natural gas at the lesser of 50 percent of \$600,000 or the sum of the actual eligible costs incurred by the grant recipient within deadlines established by TCEQ and caps grants awarded for a facility to provide natural gas at \$400,000 for a compressed or liquefied natural gas facility and \$600,000 for a facility providing both liquefied and compressed natural gas.

H.B. 14 changes from the calendar year to the eligibility period established by TCEQ the period during which an entity must have purchased, leased, or otherwise commercially financed a vehicle as a new on-road heavy-duty or medium-duty motor vehicle that meets certain conditions or during which an entity must have repowered an on-road motor vehicle to a natural gas vehicle powered by a natural gas engine that meets certain specifications for the vehicle to be a

qualifying vehicle that may be considered for a grant under the Texas natural gas vehicle grant program. The bill adds as an alternative to a vehicle purchased, leased, or otherwise commercially financed as a new on-road heavy-duty or medium-duty motor vehicle being powered by an engine certified to meet specified environmental standards as a condition of eligibility for a grant that the vehicle be certified to meet such standards. The bill also adds alternative U.S. Environmental Protection Agency standards as a standard a vehicle's natural gas engine may meet to be eligible for a grant.

H.B. 14 removes the specification that the criteria for prioritizing qualifying vehicles eligible for grants under the natural gas vehicle grant program required to be established by TCEQ be established by rule and the specification that the required review and revision of the criteria by TCEQ be after consultation with the Texas Emissions Reduction Plan Advisory Board. The bill increases from two years to four years the minimum amount of useful life remaining on a heavy-duty or medium-duty motor vehicle being replaced or being repowered with a natural gas engine for a qualifying vehicle to be eligible for a grant under the program. The bill changes the period for which a qualifying vehicle must be continuously owned, leased, or otherwise commercially financed and registered and operated in Texas by a grant recipient as a condition of receiving a grant to be eligible for the grant from the earlier of the fourth anniversary of the date of reimbursement of the grant-funded expenses or until the date the vehicle has been in operation for 400,000 miles after the date of reimbursement to the earlier of the fourth anniversary of the activity start date established by TCEQ or the date the vehicle has been in operation for 400,000 miles after the activity start date. The bill requires TCEQ to establish the activity start date based on the date TCEQ accepts verification of the disposition of the vehicle or engine being replaced. The bill changes the areas for which not less than 75 percent of the annual use of the qualifying vehicle, either mileage or fuel use as determined by TCEQ, must occur to include the clean transportation triangle, as defined by the bill. The bill removes a specification that TCEQ's authority to consider and establish baseline emission rates for additional pollutants of concern be based on a determination made after consultation with the advisory board. The bill removes the requirement for, and instead authorizes, the executive director of TCEQ to waive the requirement of a vehicle being replaced by a qualifying vehicle to be 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 on a finding of good cause.

H.B. 14 revises statutory provisions relating to restrictions on the use of a grant under the natural gas vehicle grant program, relating to a limit on the amount of a grant, and relating to procedures for awarding grants and streamlining the grant application, contracting, reimbursement, and reporting process for qualifying natural gas purchases and repowers. The bill repeals statutory provisions relating to participating dealers in the natural gas vehicle grant program, the awarding of grants under the program in the clean transportation triangle, and the authority of TCEQ to contract with one or more entities for administration of the program.

H.B. 14 repeals the following provisions of the Health and Safety Code:

- Section 386.161(b)
- Section 386.252(e-1)
- Section 394.009
- Section 394.010
- Section 394.011

**EFFECTIVE DATE**

August 31, 2015.