

By: Landgraf

H.B. No. 4885

Substitute the following for H.B. No. 4885:

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C.S.H.B. No. 4885

A BILL TO BE ENTITLED

1 AN ACT

2 relating to programs established and funded under the Texas
3 emissions reduction plan.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

7 (b) Under the plan, the commission and the comptroller shall
8 provide grants or other funding for:

9 (1) the diesel emissions reduction incentive program
10 established under Subchapter C, including for infrastructure
11 projects established under that subchapter;

12 (2) the motor vehicle purchase or lease incentive
13 program established under Subchapter D;

14 (3) the air quality research support program
15 established under Chapter 387;

16 (4) the clean school bus program established under
17 Chapter 390;

18 (5) the new technology implementation grant program
19 established under Chapter 391;

20 (6) the regional air monitoring program established
21 under Section 386.252(a);

22 (7) a health effects study as provided by Section
23 386.252(a);

24 (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 \$216,000 may be used by the
10 commission to contract with the Energy Systems Laboratory at the
11 Texas A&M Engineering Experiment Station annually for the
12 development and annual computation of creditable statewide
13 emissions reductions obtained through wind and other renewable
14 energy resources for the state implementation plan;

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

20 (14) the balance is to be used by the commission for
21 the diesel emissions reduction incentive program under Subchapter C
22 as determined by the commission.

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

25 SUBCHAPTER G. TEXAS HYDROGEN INFRASTRUCTURE, VEHICLE, AND

26 EQUIPMENT GRANT PROGRAM

27 Sec. 386.301. DEFINITIONS. In this subchapter:

1 (1) "Hydrogen vehicle or equipment" means a motor
2 vehicle or piece of heavy-duty equipment that uses hydrogen to
3 operate the vehicle or equipment, including through the use of
4 hydrogen fuel cells or an internal combustion engine that runs on
5 hydrogen.

6 (2) "Program" means the Texas hydrogen
7 infrastructure, vehicle, and equipment grant program established
8 under this subchapter.

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

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

20 (1) implementation of hydrogen infrastructure
21 projects;

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

24 (3) replacement of on-road or non-road vehicles or
25 heavy-duty equipment with newer on-road or non-road hydrogen
26 vehicles or equipment;

27 (4) the repower of on-road or non-road vehicles or

1 heavy-duty equipment with engines that run on or are powered by
2 hydrogen; and

3 (5) use of hydrogen fuel.

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

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

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

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

20 (1) an application form;

21 (2) a brief description of:

22 (A) the program;

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

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

27 (D) the required documentation;

1 (3) the name of a person or office to contact for more
2 information;

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

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

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

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

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

26 (c) The commission may deny an application for a project
27 that does not meet the applicable project criteria or that the

1 commission determines is not made in good faith, is not credible, or
2 is not in compliance with this chapter and the goals of this
3 chapter.

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

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

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

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

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

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

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

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

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

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

10 SECTION 5. Sections 394.005(a), (b), and (c), Health and
11 Safety Code, are amended to read as follows:

12 (a) The commission shall establish criteria for
13 prioritizing qualifying vehicles eligible to receive grants under
14 this chapter. The commission shall review and revise the criteria
15 as appropriate. The criteria must prioritize the awarding of
16 grants under this chapter in the following order:

17 (1) qualifying vehicles for which not less than 75
18 percent of the annual use of the vehicle, either in terms of mileage
19 or fuel use as determined by the commission, will occur in the clean
20 transportation zone;

21 (2) qualifying vehicles not described by Subdivision
22 (1) for which not less than 75 percent of the annual use of the
23 vehicle, either in terms of mileage or fuel use as determined by the
24 commission, will occur in:

25 (A) counties in which an interstate highway is
26 located; or

27 (B) a combination of counties described by

1 Paragraph (A) and the clean transportation zone; and

2 (3) qualifying vehicles not described by Subdivision
3 (1) or (2) that will produce the greatest emissions reductions.

4 (b) To be eligible for a grant under the program:

5 (1) the use of the qualifying vehicle must be
6 projected to result in a reduction in emissions of nitrogen oxides
7 of at least 25 percent as compared to the motor vehicle or engine
8 being replaced, based on:

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

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

13 (2) the qualifying vehicle must:

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

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

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

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

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

27 (B) replace a heavy-duty or medium-duty motor

1 vehicle that:

2 (i) is owned by the applicant;

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

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

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

11 (iii) otherwise satisfies the mileage,
12 usage, and useful life requirements established under Paragraph (A)
13 as determined by documentation associated with the vehicle; or

14 (C) be a heavy-duty or medium-duty motor vehicle
15 repowered with a natural gas engine that:

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

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

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

25 (iv) is installed in an on-road vehicle
26 that, at the time of the vehicle's repowering, was in operating
27 condition and had at least two years of remaining useful life, as

1 determined in accordance with criteria established by the
2 commission.

3 (c) As a condition of receiving a grant, the qualifying
4 vehicle must be continuously owned, leased, or otherwise
5 commercially financed and registered and operated in the state by
6 the grant recipient until the earlier of the fourth anniversary of
7 the activity start date established by the commission or the date
8 the vehicle has been in operation for 400,000 miles after the
9 activity start date established by the commission. [~~Not less than~~
10 ~~75 percent of the annual use of the qualifying vehicle, either~~
11 ~~mileage or fuel use as determined by the commission, must occur in~~
12 ~~the clean transportation zone.~~]

13 SECTION 6. The change in law made by this Act applies only
14 to a grant awarded on or after the effective date of this Act. A
15 grant awarded before the effective date of this Act is governed by
16 the law in effect on the date the award was made, and the former law
17 is continued in effect for that purpose.

18 SECTION 7. This Act takes effect September 1, 2023.