

BILL ANALYSIS

C.S.H.B. 4472
By: Landgraf
Environmental Regulation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been suggested there are a number of changes that could be made to the Texas emissions reduction plan and related programs to better utilize funds and help improve air quality and protect the public health. C.S.H.B. 4472 seeks to implement these changes.

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 2 of this bill and to the comptroller of public accounts and the State Energy Conservation Office in SECTION 6 of this bill.

ANALYSIS

C.S.H.B. 4472 amends the Health and Safety Code to require the Texas Commission on Environmental Quality (TCEQ) by rule to establish a program authorizing TCEQ to enter into fee-based contracts for the purchase of reductions in emissions of nitrogen oxides. The program must do the following:

- specify the types of projects that are eligible for fee-based contracts under the program, such as marine emission capture systems;
- measure nitrogen oxides emissions input and output on a continuous basis;
- require nitrogen oxides emissions reduced under the contract to be verified and certified by TCEQ;
- assign a dollar per ton fee based solely on the dollar per ton cost of the reduction in emissions of nitrogen oxides;
- require payments under the contract to be made only for actual reductions in nitrogen oxides emissions that are verified by TCEQ; and
- authorize TCEQ to enter into multiyear contracts under the program.

C.S.H.B. 4472 authorizes TCEQ to enter into a fee-based contract under the program for a project involving a new emissions reduction measure that would otherwise generate marketable credits under a state or federal emissions reduction credit averaging, banking, or trading program if, during the term of the contract, the project is not used for credit under any such state or federal program. The bill authorizes a project that was subject to a fee-based contract under the program established by the bill to be used for credit under such a state or federal program under the following conditions:

- the contract has expired or otherwise terminated and the project is not subject to any other fee-based contract entered into under the bill's program; and
- the project otherwise meets the requirements of the applicable state or federal program.

C.S.H.B. 4472 changes from a sufficient amount of time over a project's lifetime to a sufficient percentage of time over the lifetime the time as determined by TCEQ to meet cost-effectiveness requirements that a marine vessel or engine involved in a proposed project under the diesel emissions reduction incentive program is required to be operated in certain waterways or bays. The bill sets the minimum percentage at 55 percent.

C.S.H.B. 4472 makes a new light-duty motor vehicle powered by an electric drive eligible for a \$750 incentive under the motor vehicle purchase or lease incentive program under the following conditions:

- the vehicle is a motorcycle as defined under Transportation Code provisions relating to rules of the road;
- the vehicle was manufactured for use primarily on public streets, roads, and highways;
- the vehicle has not been modified from the original manufacturer's specifications;
- the vehicle has a maximum speed capability of at least 55 miles per hour;
- the vehicle is propelled to a significant extent by an electric motor that draws electricity from a hydrogen fuel cell or from a battery that has a capacity of not less than four kilowatt hours and is capable of being recharged from an external source of electricity;
- the vehicle was acquired on or after September 1, 2013, or a later date as established by TCEQ, by the person applying for the incentive and for use or lease by that person and not for resale; and
- the vehicle is not a motor-assisted scooter or pocket bike or minimotorbike as those terms are defined by specified Transportation Code provisions.

The bill limits a certain incentive.

C.S.H.B. 4472 requires the comptroller of public accounts and the State Energy Conservation Office (SECO) by rule to establish and administer an energy efficiency loan guarantee program that issues or guarantees loans to be used for improvements that increase the energy efficiency of residences that are not newly constructed. The bill requires the rules to establish eligibility requirements for receiving an issued or guaranteed loan, including emissions reduction cost-effectiveness criteria with preference given to nonattainment areas or affected counties. The bill requires SECO annually to submit to TCEQ and the Energy Systems Laboratory at the Texas A&M Engineering Experiment Station a report that does the following:

- evaluates the program's effectiveness; and
- quantifies energy savings and emissions reductions as a result of the program for consideration in the state implementation plan for emissions reduction credit.

The bill includes information derived from the report for use by TCEQ in taking all appropriate and necessary actions so that certain emissions reductions are credited by the U.S. Environmental Protection Agency (EPA) to the appropriate objectives in the state implementation plan.

C.S.H.B. 4472 includes projects that reduce flaring emissions and other site emissions among the projects for which TCEQ is required to give preference in awarding grants under the new technology implementation grant program. The bill removes a specification limiting eligibility for grant consideration under the program for such a project to those that achieve a reduction in emissions by capturing waste heat to generate electricity solely for on-site service. The bill provides for the use of a grant for the payment of the incremental costs of the lease of the project for which the grant is made and authorizes a grant recipient to use a grant for the costs of operating and maintaining the applicable emissions-reducing equipment.

C.S.H.B. 4472 makes a used natural gas vehicle that otherwise satisfies applicable statutory requirements a qualifying vehicle under the Texas natural gas vehicle grant program. The bill requires a used natural gas vehicle that is proposed to replace an on-road heavy-duty or medium-duty motor vehicle to be of model year 2017 or later and prohibits the model year from being more than six years older than the current model year at the time of the grant application submission.

C.S.H.B. 4472 specifies that the initial allocation of money from the Texas emissions reduction plan fund and the Texas emissions reduction plan account for programs under the Texas emissions reduction plan is per fiscal year. The bill revises the initial allocations for certain programs and provides for funding and caps on the initial allocations for the following:

- the amount for use by TCEQ for the purchase, maintenance, upgrade, and operation of air monitoring equipment, including data analysis, to be used in nonattainment areas and affected counties;
- the amount for use by TCEQ for fee-based contracts for the purchase of reductions in emissions of nitrogen oxides entered into under the applicable program established by the bill; and
- the energy efficiency loan guarantee program established by the bill.

The bill provides for the balance of the initial allocations to be used by TCEQ for, in addition to the diesel emissions reduction incentive program, funding research at the Texas A&M Transportation Institute to determine the following:

- the cost effectiveness of existing emissions reduction programs; and
- cost effective programs not currently authorized to receive program funding that would improve the emissions reduction capabilities of the program.

The bill increases from \$2.5 million to \$5 million the cap on the amount of money from the fund and account that may be used by TCEQ to conduct research and other activities associated with making any necessary demonstrations to EPA to account for the impact of foreign emissions or an exceptional event. The bill removes the restriction on the authorization for money allocated to a particular program to be used for another program under the plan as determined by TCEQ based on demand for grants for eligible projects under particular programs only after TCEQ solicits projects to which to award grants according to initial allocation provisions.

C.S.H.B. 4472 amends the Transportation Code to redirect from the credit of the Texas Mobility Fund to the credit of the Texas emissions reduction plan fund the deposit of motor vehicle title fees collected under the Certificate of Title Act that are sent to the comptroller. Accordingly, the Texas Department of Transportation monthly must remit to the comptroller for deposit to the credit of the mobility fund an amount of money equal to the amount of the fees deposited by the comptroller to the credit of the plan fund in the preceding month. The bill redirects the deposit of the fees back to the credit of the 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 certain notice regarding attainment of national ambient air quality standards for ozone.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 4472 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes provisions not included in the original relating to the following:

- establishment of a program authorizing TCEQ to enter into fee-based contracts for the purchase of reductions in emissions of nitrogen oxides;
- revision of the diesel emissions reduction incentive program with regard to a marine vessel or engine;
- eligibility of a new light-duty motor vehicle powered by an electric drive for a \$750 incentive under the motor vehicle purchase or lease incentive program;
- establishment of the energy efficiency loan guarantee program; and
- a used natural gas vehicle as a qualifying vehicle under the Texas natural gas vehicle grant program.

The substitute includes a specification not included in the original that the initial allocation of money from the Texas emissions reduction plan fund and the Texas emissions reduction plan account for programs under the Texas emissions reduction plan is per fiscal year. The substitute provides for a capped initial allocation of money for use by TCEQ for the purchase, maintenance, upgrade, and operation of air monitoring equipment, including data analysis, to be used in nonattainment areas and affected counties whereas the original did not provide for this initial allocation. The substitute differs from the original with regard to the changes of the initial allocations for the following programs:

- the new technology implementation grant program; and
- the Texas clean fleet program.

The substitute includes changes to the initial allocations for the following programs which the original did not address:

- the clean school bus program;
- the Texas natural gas vehicle grant program;
- air quality research as provided by the air quality research support program;
- the seaport and rail yard areas emissions reduction program; and
- the light-duty motor vehicle purchase or lease incentive program.

The substitute includes language not included in the original providing for the balance of the initial allocations to be used by TCEQ for, in addition to the diesel emissions reduction incentive program, funding research at the Texas A&M Transportation Institute to determine the following:

- the cost effectiveness of existing emissions reduction programs; and
- cost effective programs not currently authorized to receive program funding that would improve the emissions reduction capabilities of the program.

The substitute includes provisions not included in the original that do the following:

- increase from \$2.5 million to \$5 million the cap on the amount of applicable money that may be used by TCEQ to conduct research and other activities associated with making any necessary demonstrations to EPA to account for the impact of foreign emissions or an exceptional event; and
- remove the restriction on the certain authorization for money allocated to a particular program to be used for another program only after TCEQ solicits projects to which to award grants according to initial allocation provisions.

The substitute differs from the original by including projects that reduce flaring emissions and other site emissions, whereas the original included projects that reduce emissions, among the projects for which TCEQ is required to give preference in awarding grants under the new technology implementation grant program. The substitute provides for the use of a grant to pay the incremental costs of the lease of a project, whereas the original provided for the use of a grant to pay the incremental costs of the rental of the project. The original removed the statutory prohibition against a grant recipient using the grant for the costs of operating and maintaining the applicable emissions-reducing equipment whereas the substitute removes this prohibition and instead authorizes the recipient to use the grant for those costs.

The substitute does not include a provision included in the original decreasing from 1.5 percent to one percent the amount of the Texas emissions reduction plan surcharge imposed on the retail sale, lease, or rental of new or used equipment based on the sale price or the lease or rental amount.