

BILL ANALYSIS

Senate Research Center
78R12442 MI-F

H.B. 638
By: Chisum (Armbrister)
Natural Resources
5/14/2003
Engrossed

DIGEST AND PURPOSE

In 2001, the Texas Legislature adopted a program for the mandatory permitting of all grandfathered facilities in Texas. Generally, grandfathered facilities are required to file applications for permits and install pollution abatement equipment by certain dates depending on whether the facility is located in east or west Texas. Should owners and operators of grandfathered reciprocating internal combustion engines that are connected to a pipeline have to comply with these general permitting standards, they will lose a significant amount of their pipeline capacity and deliverability of natural gas will be dramatically impaired.

Accordingly, the legislature adopted a special permit called the Pipeline Facilities Permit applicable to grandfathered reciprocating internal combustion engines that are a part of processing, treating, compression, or pumping facilities connected to or a part of a gathering or transmission pipeline. Under that permit a grandfathered reciprocating internal combustion engine is required to achieve up to a 20 percent reduction in its hourly emissions of nitrogen oxides, expressed in terms of grams per brake horsepower-hour, if the engine is located in west Texas, and a 50 percent reduction of its hourly emissions of nitrogen oxides, expressed in terms of grams per brake horsepower-hour, if the engine is located in east Texas. In this manner the legislature protects the pipeline's capacity, permits the engine and achieves a reduction in the engine's hourly emissions rate.

To help defray the costs of achieving emissions reductions for east Texas grandfathered pipeline engines and in the context of a settlement of a lawsuit over the provisions of the Houston-Galveston state implementation plan, the legislature created an emissions reductions incentives program and a related account, the proceeds from which will be used to provide a partial reimbursement for the cost of achieving reductions of emissions of nitrogen oxides that exceed 30 percent but do not exceed 50 percent of the engine's hourly emissions before modification.

The Texas Commission on Environmental Quality (TCEQ) was given the authority to develop the remaining criteria for eligibility for reimbursement from the Account. The TCEQ rules developed included a concept that was considered and rejected by the legislature in the development of the Pipeline Facilities Permit. H.B. 638 would clarify legislative intent.

The account will be funded in three separate installments. Because those installments will not be made in the same biennium, this bill also dedicates the proceeds and interest in the account to its statutory purpose and protects it from being put to use for some other purpose.

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 Sections 382.051865(a), (c), and (d), Health and Safety Code, as follows:

- (a) Requires, rather than authorizes, the Texas Commission on Environmental Quality (TCEQ), by rule, to develop a program for the reduction of emissions of nitrogen oxides

from reciprocating internal combustion engines associated with pipelines that are required by this subchapter to reduce the hourly emissions rate of nitrogen oxides, expressed in terms of grams per brake horsepower-hour, by at least 50 percent.

(c) Requires, rather than authorizes, the emissions reduction program to include incentives as developed by TCEQ for nitrogen oxides emissions reduction projects for reciprocating internal combustion engines described by Subsection (a), including a partial reimbursement for the capital cost of installing technology to reduce the emissions. Makes conforming changes.

(d) Prohibits rules adopted under this section from requiring more stringent emissions reduction criteria than those specified in this subsection for determining eligibility for an emissions reduction project incentive under the program. Requires a facility, to be eligible under the criteria, to meet certain conditions. Deletes existing text relating to requiring rules adopted under this section to include certain criteria. Makes a nonsubstantive change.

SECTION 2. Amends Section 78(b), Chapter 1158, Acts of the 77th Legislature, Regular Session, 2001, by transferring it to Subchapter C, Chapter 382, Health and Safety Code, and redesignating it as Section 382.051866, as follows:

Sec. 382.051866. EMISSIONS REDUCTIONS INCENTIVES ACCOUNT. (a) Defines “affiliate.”

(b) Requires the comptroller of public accounts to establish an account within the clean air account, rather than the clean air account no. 151, to be known as the emissions reductions incentives account.

(c) Created from existing text. Provides that the emissions reductions incentives account consists of money from certain sources.

(d) Created from existing text. Authorizes money in the emissions reductions incentives account to be appropriated only to pay for emissions reduction project incentives under a program developed under Section 382.051865 and administrative expenses associated with providing the incentives or the incentive program established under that section. Deletes existing text relating to authorizing TCEQ to use money in the emissions reductions incentives account for certain purposes. Makes a nonsubstantive change.

(e) Provides that a person or an affiliate of a person who pays or contributes money to the emissions reductions incentives account is ineligible to receive money from the account under a program developed under Section 382.051865.

(f) Created from existing text.

SECTION 3. Amends Section 382.05186, Health and Safety Code, by adding Subsection (j) to provide that a reciprocating internal combustion engine that is subject to this section and to a mass emissions cap as established by TCEQ rule is considered permitted under this section with respect to all air contaminants if the facility meets certain conditions.

SECTION 4. Effective date: upon passage or September 1, 2003.