

BILL ANALYSIS

Senate Research Center
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S.B. 1046
By: Estes
Natural Resources & Economic Development
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Emissions Reduction Plan (TERP) is the state's flagship program for lowering ozone emissions to bring Texas into compliance with the federal Clean Air Act. The Environmental Protection Agency recently tightened its national ozone standards, meaning the state will need every available tool, including TERP, to achieve compliance. TERP is presently scheduled to expire in 2019, but S.B. 26, passed out of the senate on March 14, 2017, would extend it until the state attains the national ozone standards.

Under current law, TERP's funding is also scheduled to expire in 2019. TERP has five sources of funding: (1) a 1.5 percent surcharge on the sale price or lease or rental amount of off-road diesel equipment sold, rented, or leased; (2) a 2.5 percent surcharge on the total consideration on the sale or lease of pre-1997, on-road diesel vehicles over 14,000 pounds, and a 1 percent surcharge for those made after 1997; (3) a 10 percent surcharge on the total fees due for the registration of truck-tractors and commercial motor vehicles; (4) an amount transferred out of the State Highway Fund (SHF) equal to \$20 out of the certificate of title fees for applicants in the non-attainment and near-non-attainment counties and \$15 out of the fees for applicants in all other counties; and (5) a \$10 fee on commercial motor vehicles required to have an annual safety inspection.

The transfer of state highway funds to TERP is a historical artifact of TERP's original expiration language. TERP was originally scheduled to expire in 2008, after which certificate of title fees were to begin being transferred to the Texas Mobility Fund. When it became apparent that the state would not attain the national ozone standards by 2008 and that TERP needed to be extended, the legislature was unable to delay the transfer of money to the Mobility Fund because the Mobility Fund had issued bonds secured by the future expected revenue. To make the extended TERP program whole without disturbing the Mobility Fund's expected revenue, the legislature began transferring to TERP an amount out of the SHF equal to the certificate of title fees deposited in the Mobility Fund.

This bill would extend TERP's funding until the state attains the national ambient air quality standards for ozone, to match S.B. 26's extension of the program. The bill would also detangle TERP's funding from the Texas Department of Transportation's funds by providing that certificate of title fees be sent directly to TERP and that an amount equal to that be transferred from the SHF to the Texas Mobility Fund. This change is intended to reduce confusion resulting from the history of TERP's funding without affecting the funding of any of the three programs.

As proposed, S.B. 1046 amends current law relating to sources of funding for 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 151.0515(d), Tax Code, as follows:

(d) Provides that this section (Texas Emissions Reduction Plan Surcharge) expires on the last day of the state fiscal biennium during which the Texas Commission on Environmental Quality (TCEQ) publishes in the Texas Register certification that, with respect to each national ambient air quality standard for ozone under 40 C.F.R. Section 81.344, the United States Environmental Protection Agency (EPA) has, for each designated area under that section, designated the area as attainment or unclassifiable, or approved a redesignation substitute making a finding of attainment for the area. Deletes existing text providing that this section expires August 31, 2019.

SECTION 2. Amends Section 152.0215(c), Tax Code, as follows:

(c) Provides that this section (Texas Emissions Reduction Plan Surcharge) expires on the last day of the state fiscal biennium during which TCEQ publishes in the Texas Register certification that, with respect to each national ambient air quality standard for ozone under 40 C.F.R. Section 81.344, the EPA has, for each designated area under that section, designated the area as attainment or unclassifiable, or approved a redesignation substitute making a finding of attainment for the area. Deletes existing text providing that this section expires August 31, 2019.

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

(b-1) Requires the fees collected under Subsection (b) (relating to the requirement that certain fees be distributed in certain ways), to be sent to the Texas comptroller of public accounts (comptroller) to be deposited to the credit of the Texas Emissions Reduction Plan (TERP) fund, except as provided by Subsection (b-4). Deletes existing text requiring fees collected under Subsection (b) to be sent to the comptroller to be deposited to the credit of the Texas Mobility Fund (TMF), except that \$5 of each fee imposed under Subsection (a)(1) and deposited on or after September 1, 2008, and before September 1, 2015, 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 the TMF, under Subsection (b-1). Requires the Texas Department of Transportation (TxDOT), on or before the fifth workday of each month, to remit to the comptroller for deposit to the credit of the TMF, rather than 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 the TMF, under Subsection (b-1) in the preceding month.

(b-3) Provides that this subsection and Subsections (b-1) and (b-2) expire on the last day of the state fiscal biennium during which TCEQ publishes in the Texas Register certification that, with respect to each national ambient air quality standard for ozone under 40 C.F.R. Section 81.344, the EPA has, for each designated area under that section, designated the area as attainment or unclassifiable, or approved a redesignation substitute making a finding of attainment for the area. Deletes existing text providing that this subsection and Subsection (b-2) expires August 31, 2019.

(b-4) Requires fees collected under Subsection (b) to be sent to the comptroller to be deposited to the credit of the TMF, if the fees are collected on or after the last day of the state fiscal biennium during which TCEQ publishes in the Texas Register certification that, with respect to each national ambient air quality standard for ozone under 40 C.F.R. Section 81.344, the EPA has, for each designated area under that section, designated the area as attainment or unclassifiable, or approved a redesignation substitute making a finding of attainment for the area.

SECTION 4. Amends Section 502.358(c), Transportation Code, as follows:

(c) Provides that this section (Texas Emissions Reduction Plan Surcharge) expires on the last day of the state fiscal biennium during which TCEQ publishes in the Texas Register certification that, with respect to each national ambient air quality standard for ozone

under 40 C.F.R. Section 81.344, the EPA has, for each designated area under that section, designated the area as attainment or unclassifiable, or approved a redesignation substitute making a finding of attainment for the area. Deletes existing text providing that this section expires August 31, 2019.

SECTION 5. Amends the heading to Section 548.5055, Transportation Code, to read as follows:

Sec. 548.5055. New heading: TEXAS EMISSIONS REDUCTION PLAN FEE.

SECTION 6. Amends Sections 548.5055(b) and (c), Transportation Code, as follows:

(b) Requires the Texas Department of Public Safety, to remit fees collected under this section (Texas Emissions Reduction Plan Surcharge) to the comptroller at the time and in the manner prescribed by the comptroller for deposit in the TERP fund. Makes a nonsubstantive change.

(c) Provides that this section expires on the last day of the state fiscal biennium during which TCEQ publishes in the Texas Register certification that, with respect to each national ambient air quality standard for ozone under 40 C.F.R. Section 81.344, the EPA has, for each designated area under that section, designated the area as attainment or unclassifiable, or approved a redesignation substitute making a finding of attainment for the area. Deletes existing text providing that this section expires August 31, 2019.

SECTION 7. Makes application of Section 501.138 (Collection and Disposition of Fees), Transportation Code, as amended by this Act, prospective.

SECTION 8. Effective date: September 1, 2017, contingent upon passage of S.B. 26 or similar legislation.