

BILL ANALYSIS

Senate Research Center

C.S.S.B. 527
By: Fraser et al.
Natural Resources
3/9/2011
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, Texas is embracing a natural gas boom in the Barnett Shale region. Texas has reaped the increase in jobs, property tax revenue, and energy diversity possibilities for the future. In order to protect this prosperity the state needs to ensure that its citizens are breathing clean air. The Texas Emissions Reduction Plan (TERP) was created by the 77th Legislature, Regular Session, 2001, with the goal of assuring that the air in Texas is safe to breathe and meets the federal Clean Air Act's stringent standards.

This bill would charge the Texas Commission on Environmental Quality (TCEQ) with overseeing a nonprofit organization's installation and maintenance of 20 air monitors in the 16-county Barnett Shale region. The bill allocates \$3 million to \$7 million from the TERP fund in 2012 and 2013, and \$1 million to \$3 million in subsequent years for the implementation and maintenance of the air monitors.

C.S.S.B. 527 amends current law relating to projects funded through the TERP.

[**Note:** While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

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 386.051(b), Health and Safety Code, as follows:

(b) Requires the Texas Natural Resource Conservation Commission (TNRCC) and the comptroller of public accounts (comptroller) under Texas emission reduction plan (TERP), to provide grants or other funding for certain programs, including the air quality research support, rather than new technology research and development, program established under Chapter 387; the regional air monitoring program established under Section 386.252(a)(5); a health effects study as provided by Section 386.252(a)(7); air quality planning activities as provided by Section 386.252(a)(8); and a contract with the Energy Systems Laboratory at the Texas Engineering Experiment Station (laboratory) for computation of creditable statewide emissions reductions as provided by Section 386.252(a)(9).

SECTION 2. Amends Section 386.108(a), Health and Safety Code, to require TNRCC to provide funding under Section 386.252(a), rather than Section 386.252(a)(1), for infrastructure projects.

SECTION 3. Reenacts Section 386.252(a), Health and Safety Code, as amended by Chapters 1125 (H.B. 1796) and 1232 (S.B. 1759), Acts of the 81st Legislature, Regular Session, 2009, and amends it as follows:

(a) Requires that money in the TERP fund (fund) be used only to implement and administer programs established under TERP and the total appropriation be allocated as follows:

- (1) not more than four percent may be used for the clean school bus program;
- (2) not more than 10 percent may be used for on-road diesel purchase or lease incentives;
- (3) a specified amount may be used for the new technology implementation grant program, from which a defined amount may be set aside for electricity storage projects related to renewable energy;
- (4) five percent shall be used for the clean fleet program;
- (5) not less than \$3 million or more than \$7 million in 2012 and 2013 and not less than \$1 million or more than \$3 million shall be allocated in 2014 and in subsequent years to fund a regional air monitoring program in TNRCC Regions 3 and 4 to be implemented under TNRCC's oversight, including direction regarding the type, number, location, and operation of, and data validation practices for, monitors funded by the program through a regional nonprofit entity located in North Texas having representation from counties, municipalities, higher education institutions, and private sector interests across the area;
- (6) a specified amount is to be allocated each year to support research related to air quality as provided by Chapter 387;
- (7) up to \$200,000 is allocated for a health effects study;
- (8) up to \$500,000 is to be deposited in the state treasury to the credit of the clean air account created under Section 382.0622 (Clean Air Act Fees) to supplement funding for air quality planning activities in affected counties;
- (9) \$216,000 is allocated to TNRCC to contract with the laboratory annually for the development and annual computation of creditable statewide emissions reductions obtained through wind and other renewable energy resources for the state implementation plan;
- (10) not more than \$3,400,000 is allocated to TNRCC for administrative costs incurred by TNRCC;
- (11) 1.5 percent of the money in the fund is allocated for administrative costs incurred by the laboratory; and
- (12) the balance is allocated to TNRCC for the diesel emissions reduction incentive program.

Deletes existing text authorizing money in the fund to be allocated in certain amounts to certain programs, including the diesel emission reduction incentive program; the new technology research and development program; research related to air quality as provided by Section 387.010 (Air Quality Research); the new technology research and development program for the purpose of identifying, testing, and evaluating new emission-reducing technologies with potential for commercialization in this state and to facilitate their certification or verification; the development and annual computation of creditable statewide emissions reductions obtained through wind and other renewable energy resources; and certain administrative costs. Makes nonsubstantive changes.

SECTION 4. Amends the heading to Chapter 387, Health and Safety Code, to read as follows:

CHAPTER 387. AIR QUALITY RESEARCH SUPPORT PROGRAM

SECTION 5. Amends Section 387.001(2), Health and Safety Code, to redefine "program."

SECTION 6. Redesignates Section 387.010, Health and Safety Code as Section 387.002, Health and Safety Code, and amends it as follows:

Sec. 387.002. New heading: AIR QUALITY RESEARCH SUPPORT PROGRAM. Redesignates Section 387.010 as Section 387.002. (a) Makes no changes to this subsection.

(b) Requires the board of directors of a nonprofit organization establishing and administering the research program related to air quality under this chapter, rather than section, to not have more than 11 members, to include two persons with relevant scientific expertise to be nominated by TNRCC, and to not include more than four county judges selected from counties in the Houston-Galveston-Brazoria and Dallas-Fort Worth nonattainment areas. Provides that the two persons with relevant scientific background to be nominated by TNRCC may be employees or officers of TNRCC, provided that they do not participate in funding decisions affecting the granting of funds by TNRCC to a nonprofit organization on whose board they serve.

(c)-(f) Makes conforming changes.

SECTION 7. Amends Section 447.011(h), Government Code, as follows:

(h) Requires the Texas Commission on Environmental Quality (TCEQ) to obtain information on any fuel-saving technology that appears to reduce particulate matter, oxides of nitrogen, carbon monoxide, or hydrocarbon emissions. Deletes existing text authorizing TCEQ to use this information to fund the United States Environmental Protection Agency verification of a technology in accordance with Section 387.003 (New Technology Research and Development Program), Health and Safety Code.

SECTION 8. Repealers: Sections 387.003 (New Technology Research and Development Program), 387.004 (Solicitation of New Technology Proposals), 387.005 (Eligible Projects; Priorities), 387.006 (Evidence of Commercialization Potential Required), and 387.007 (Cost-Sharing), Health and Safety Code.

SECTION 9. Provides that a grant issued under Chapter 387, Health and Safety Code, before the effective date of this Act is governed by Chapter 387, Health and Safety Code, as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 10. Provides that to the extent of any conflict, this Act prevails over another Act of the 82nd Legislature, Regular Session, 2011, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 11. Effective date: September 1, 2011.