

## **BILL ANALYSIS**

Senate Research Center  
87R11903 JRR-F

S.B. 1263  
By: Birdwell  
Natural Resources & Economic Development  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Last session the legislature passed H.B. 3745 creating the “TERP Trust Fund” as a trust fund to be held outside of the state treasury by the Comptroller of Public Accounts of the State of Texas. This placed into statute the TERP trust fund concept where, beginning in 2021, all of the TERP fees are sent directly to the TERP trust fund outside of the treasury, thereby, making those monies not subject to appropriation.

Interested parties have asserted that the transfer of funds from State Highway Fund 006 to TERP (Texas Transportation Code Section 501.138), which is equal to the amount of funds deposited from the certificate of title fee to the Texas Mobility Fund, will require an appropriation under the General Appropriations Act. As Article 8, Sec. 6, of the Texas Constitution states “no money shall be drawn from the treasury but in pursuance of specific appropriations made by law,” it is their interpretation that if this appropriation does not take place, the funds required by statute to be sent from Fund 006 to the TERP trust fund will then remain in Fund 006.

This interpretation very clearly contradicts the legislative intent of the legislation that on September 1, 2021, when the TERP trust fund becomes effective, the deposit of the future TERP revenue streams, including the certificate of title fees, be diverted from the existing TERP account to the newly created TERP trust fund; thereby, removing those funds from the appropriations process to allow the Texas Commission on Environmental Quality to fully utilize all TERP dedicated revenue for its intended purpose.

S.B. 1263 remains consistent with the legislative intent of H.B. 3745 (86R) by reworking the current transfer of funds between the Texas Mobility Fund, Fund 006, and the TERP trust fund. Instead of the above structure, S.B. 1263 will direct the portion of the certificate of title fees directly to the TERP trust fund, and an amount equal to that portion of the certificate of title fees will be transferred from Fund 006 to the Texas Mobility Fund, holding the Mobility Fund harmless and keeping the transfer within the treasury.

As proposed, S.B. 1263 amends current law relating to 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 501.138, Transportation Code, by amending Subsections (b-1), (b-2), and (b-3) and adding Subsection (b-4), as follows:

(b-1) Requires that fees collected under Subsection (b) (relating to the distribution of fees paid by applicants for a vehicle title) to be sent to the Comptroller of Public Accounts of the State of Texas (comptroller), except as provided by Subsection (b-4), be deposited to the credit of the Texas emissions reduction plan fund. Deletes existing text requiring that fees collected under Subsection (b) to be sent to the comptroller be deposited to the credit of the Texas Mobility Fund, except that \$5 of each fee imposed under Subsection (a)(1)

(relating to a \$33 fee if the applicant's residence is a county located within a nonattainment area) and deposited on or after September 1, 2008, and before September 1, 2015, is required to be deposited to the credit of the Texas emissions reduction plan fund.

(b-2) Requires the comptroller to establish a record of the amount of the fees deposited to the credit of the Texas emissions reduction plan fund, rather than to the credit of the Texas Mobility Fund, under Subsection (b-1). Requires the Texas Department of Transportation, on or before the fifth workday of each month, to remit to the comptroller for deposit to the credit of the Texas Mobility Fund, rather than to the credit of the Texas emissions reduction plan fund, an amount of money equal to the amount of the fees deposited by the comptroller to the credit of the Texas emissions reduction plan fund, rather than to the credit of the Texas Mobility Fund, under Subsection (b-1) in the preceding month.

(b-3) Provides that certain subsections, including Subsection (b-1), expire on the last day of the state fiscal biennium during which the Texas Commission on Environmental Quality (TCEQ) publishes in the Texas Register the notice required by Section 382.037 (Notice in Texas Register Regarding National Ambient Air Quality Standards for Ozone), Health and Safety Code. Makes a nonsubstantive change.

(b-4) Requires that fees collected under Subsection (b) to be sent to the comptroller be deposited to the credit of the Texas 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 the notice required by Section 382.037, Health and Safety Code.

SECTION 2. Makes application of the change in law made by this Act to Section 501.138, Transportation Code, prospective.

SECTION 3. Effective date: September 1, 2021.