

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1263
By: Birdwell
Natural Resources & Economic Development
4/15/2021
Committee Report (Substituted)

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.

C.S.S.B. 1263 seeks to ensure that the transfer of funds enacted last session are accomplished. Due to concerns that constitutional limitations will restrict the transfer of funds from State Highway Fund 006 to TERP, as set forth in H.B. 3745 last session, C.S.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.

In addition, C.S.S.B. 1263 requires the Texas Commission on Environmental Quality (TCEQ) to remit 40 percent of all funds held in the TERP trust fund to Fund 006 for a newly created program used for Congestion Mitigation and Air Quality (CMAQ) projects in nonattainment areas to be administered by the Texas Department of Transportation (TxDOT). Any funds not used by TCEQ for TERP within the biennium are also sent to Fund 006 for CMAQ projects. TxDOT will also be required to provide an annual report to TCEQ regarding the new program.

C.S.S.B. 1263 amends current law relating to the Texas emissions reduction plan fund.

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) Require the Texas Commission on Environmental Quality (TCEQ) and the Comptroller of Public Accounts of the State of Texas (comptroller), under the Texas emissions reduction plan (TERP), to provide grants or other funding for:

(1) - (16) makes no changes to these subdivisions;

(17) and (18) makes nonsubstantive changes to these subdivisions;

(19) the remittance of TERP funds to the state highway fund for use by the Texas Department of Transportation (TxDOT) for congestion mitigation and air quality improvement projects in nonattainment areas. Makes nonsubstantive changes.

SECTION 2. Amends Section 386.057, Health and Safety Code, by adding Subsection (e), as follows:

(e) Requires TxDOT, not later than October 1 of each year, to report to TCEQ the following information for all congestion mitigation and air quality improvement projects in nonattainment areas that are planned to be funded, or received initial funding during the preceding 10 years, from money received by TxDOT under Section 386.250 (Texas Emissions Reduction Plan Fund):

- (1) projects to mitigate congestion and improve air quality that are currently planned;
- (2) projects to mitigate congestion and improve air quality that have been completed;
- (3) estimated emissions reductions for all planned and completed congestion mitigation projects; and
- (4) estimated cost per ton analysis of reduced emissions of nitrogen oxides, particulate matter, or volatile organic compounds for each congestion mitigation project planned or completed.

SECTION 3. Amends Section 386.250, Health and Safety Code, as effective September 1, 2021, by amending Subsection (c) and adding Subsection (d), as follows:

(c) Requires TCEQ to remit 40 percent of the amount deposited to the credit of the TERP fund to the state highway fund for use by TxDOT for projects described by Section 386.051(b)(19).

(d) Creates this subsection from existing text. Requires TCEQ, not later than the 30th day after the last day of each state fiscal biennium, to transfer the unencumbered balance of the TERP fund remaining on the last day of the state fiscal biennium to the credit of the state highway fund for use by TxDOT for projects described by Section 386.051(b)(19), rather than to the credit of the TERP plan account.

SECTION 4. Amends Section 386.251(c), Health and Safety Code, as effective September 1, 2021, to delete existing text providing that the TERP plan account consists of the amount of money transferred to the account under Section 386.250(c).

SECTION 5. 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, except as provided by Subsection (b-4), be deposited to the credit of the TERP fund. Deletes existing text requiring that fees collected under Subsection (b) 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 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 to the credit of the Texas Mobility Fund, under Subsection (b-1). Requires TxDOT, 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 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 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 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 6. Makes application of Section 501.138, Transportation Code, as amended by this Act, prospective.

SECTION 7. Effective date: September 1, 2021.