

By: Straus, Anchia, Crabb, King of Parker,
Oliveira, et al.

H.B. No. 3693

A BILL TO BE ENTITLED

AN ACT

relating to energy demand, energy load, energy efficiency
incentives, energy programs, and energy performance measures.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter Z, Chapter 44, Education Code, is
amended by adding Section 44.902 to read as follows:

Sec. 44.902. GOAL TO REDUCE CONSUMPTION OF ELECTRIC ENERGY.

The board of trustees of a school district shall establish a goal to
reduce the school district's annual electric consumption by five
percent each state fiscal year for six years beginning September 1,
2007.

SECTION 2. Subchapter Z, Chapter 44, Education Code, is
amended by adding Section 44.903 to read as follows:

Sec. 44.903. ENERGY-EFFICIENT LIGHT BULBS IN INSTRUCTIONAL
FACILITIES. (a) In this section, "instructional facility" has the
meaning assigned by Section 46.001.

(b) A school district shall purchase for use in each type of
light fixture in an instructional facility the commercially
available model of light bulb that:

(1) uses the fewest watts for the necessary luminous
flux or light output; and

(2) is compatible with the light fixture.

SECTION 3. Subchapter Z, Chapter 51, Education Code, is
amended by adding Section 51.9271 to read as follows:

1 Sec. 51.9271. ENERGY-EFFICIENT LIGHT BULBS IN EDUCATIONAL
2 AND HOUSING FACILITIES. (a) In this section, "housing facility"
3 has the meaning assigned by Section 53.02.

4 (b) An institution of higher education shall purchase for
5 use in each type of light fixture in an educational or housing
6 facility the commercially available model of light bulb that:

7 (1) is compatible with the light fixture;

8 (2) uses the fewest watts for the necessary luminous
9 flux or light output; and

10 (3) is the most cost-effective, considering the
11 factors described by Subdivisions (1) and (2).

12 SECTION 4. Section 2155.068(d), Government Code, is amended
13 to read as follows:

14 (d) As part of the standards and specifications program, the
15 commission shall:

16 (1) review contracts for opportunities to recycle
17 waste produced at state buildings;

18 (2) develop and update a list of equipment and
19 appliances that meet the energy efficiency standards provided by
20 Section 2158.301; and

21 (3) assist state agencies in selecting products under
22 Section 2158.301, as appropriate.

23 SECTION 5. Chapter 2158, Government Code, is amended by
24 adding Subchapter F to read as follows:

25 SUBCHAPTER F. ENERGY AND EFFICIENCY STANDARDS

26 FOR EQUIPMENT AND APPLIANCES

27 Sec. 2158.301. ENERGY CONSERVATION. If available and

1 cost-effective, a state agency shall purchase equipment and
2 appliances for state use that meet or exceed:

3 (1) the federal energy conservation standards under
4 Section 325, Energy Policy and Conservation Act (42 U.S.C. Section
5 6295), or a federal regulation adopted under that Act; or

6 (2) the federal Energy Star standards designated by
7 the United States Environmental Protection Agency and the United
8 States Department of Energy.

9 SECTION 6. Subchapter A, Chapter 2165, Government Code, is
10 amended by adding Section 2165.008 to read as follows:

11 Sec. 2165.008. ENERGY-EFFICIENT LIGHT BULBS IN STATE
12 BUILDINGS. A state agency or institution of higher education in
13 charge and control of a state building shall purchase for use in
14 each type of light fixture in the building the commercially
15 available model of light bulb that:

16 (1) uses the fewest watts for the necessary luminous
17 flux or light output; and

18 (2) is compatible with the light fixture.

19 SECTION 7. Subchapter B, Chapter 2165, Government Code, is
20 amended by adding Section 2165.058 to read as follows:

21 Sec. 2165.058. VENDING MACHINES; ENERGY-SAVING DEVICE
22 REQUIRED. (a) This section does not apply to a vending machine
23 that contains a perishable food product, as defined by Section
24 96.001, Civil Practice and Remedies Code.

25 (b) The commission shall require an entity that owns or
26 operates a vending machine located in a building owned or leased by
27 the state to activate and maintain any internal energy-saving or

1 energy-management device or option that is already part of the
2 machine or contained in the machine.

3 (c) The commission shall require the use of an external
4 energy-saving or energy-management device for each vending machine
5 that:

6 (1) is located in a building owned or leased by the
7 state;

8 (2) operates with a compressor; and

9 (3) does not have an activated and operational
10 internal energy-saving or energy-management device or option.

11 (d) An entity that owns or operates a vending machine
12 subject to this section is responsible for any expenses associated
13 with the acquisition, installation, or maintenance of an
14 energy-saving device required by this section.

15 (e) The commission may impose an administrative fine on an
16 entity that operates a vending machine subject to this section in an
17 amount not to exceed \$250 a year for each machine found to be in
18 violation of this section or rules adopted by the commission under
19 this section.

20 (f) The commission shall adopt rules relating to the
21 specifications for and regulation of energy-saving devices
22 required by this section.

23 SECTION 8. Subtitle F, Title 10, Government Code, is
24 amended by adding Chapter 2264 to read as follows:

25 CHAPTER 2264. REQUIRED PUBLICATION AND REPORTING

26 BY GOVERNMENTAL ENTITIES

27 Sec. 2264.001. RECORDING AND REPORTING OF ELECTRICITY,

1 WATER, AND NATURAL GAS CONSUMPTION. (a) In this section,
2 "governmental entity" means:

3 (1) a board, commission, or department of the state or
4 a political subdivision of the state, including a municipality, a
5 county, or any kind of district; or

6 (2) an institution of higher education as defined by
7 Section 61.003, Education Code.

8 (b) Notwithstanding any other law, a governmental entity
9 responsible for payments for electric, water, or natural gas
10 utility services shall record in an electronic repository the
11 governmental entity's metered amount of electricity, water, or
12 natural gas consumed for which it is responsible to pay and the
13 aggregate costs for those utility services. The governmental
14 entity shall report the recorded information on a publicly
15 accessible Internet website with an interface designed for ease of
16 navigation.

17 SECTION 9. Subchapter H, Chapter 2306, Government Code, is
18 amended by adding Section 2306.187 to read as follows:

19 Sec. 2306.187. ENERGY EFFICIENCY STANDARDS FOR CERTAIN
20 SINGLE AND MULTIFAMILY DWELLINGS. (a) A newly constructed single
21 or multifamily dwelling that is constructed with assistance awarded
22 by the department, including state or federal money, housing tax
23 credits, or multifamily bond financing, must include energy
24 conservation and efficiency measures specified by the department.
25 The department by rule shall establish a minimum level of energy
26 efficiency measures that must be included in a newly constructed
27 single or multifamily dwelling as a condition of eligibility to

1 receive assistance awarded by the department for housing
2 construction. The measures adopted by the department may include:

3 (1) the installation of Energy Star-labeled ceiling
4 fans in living areas and bedrooms;

5 (2) the installation of Energy Star-labeled
6 appliances;

7 (3) the installation of Energy Star-labeled lighting
8 in all interior units;

9 (4) the installation of Energy Star-labeled
10 ventilation equipment, including power-vented fans, range hoods,
11 and bathroom fans;

12 (5) the use of energy efficient alternative
13 construction material, including structural insulated panel
14 construction;

15 (6) the installation of central air conditioning or
16 heat pump equipment with a better Seasonal Energy Efficiency Rating
17 (SEER) than that required by the energy code adopted under Section
18 388.003, Health and Safety Code; and

19 (7) the installation of the air ducting system inside
20 the conditioned space.

21 (b) A single or multifamily dwelling must include energy
22 conservation and efficiency measures specified by the department
23 if:

24 (1) the dwelling is rehabilitated with assistance
25 awarded by the department, including state or federal money,
26 housing tax credits, or multifamily bond financing; and

27 (2) any portion of the rehabilitation includes

1 alterations that will replace items that are identified as required
2 efficiency measures by the department.

3 (c) The energy conservation and efficiency measures the
4 department requires under Subsection (b) may not be more stringent
5 than the measures the department requires under Subsection (a).

6 (d) The department shall review the measures required to
7 meet the energy efficiency standards at least annually to determine
8 if additional measures are desirable and to ensure that the most
9 recent energy efficiency technology is considered.

10 (e) Subsections (a) and (b) do not apply to a single or
11 multifamily dwelling that receives weatherization assistance money
12 from the department or money provided under the first-time
13 homebuyer program.

14 SECTION 10. Section 388.003, Health and Safety Code, is
15 amended by adding Subsections (b-1), (b-2), and (b-3) to read as
16 follows:

17 (b-1) If the State Energy Conservation Office determines,
18 based on written recommendations from the laboratory, that the
19 energy efficiency provisions of the latest published editions of
20 the International Residential Code or the International Energy
21 Conservation Code for residential or commercial energy efficiency
22 and air quality are equivalent to or more stringent than the
23 provisions of editions adopted under Subsection (a) or (b), the
24 office by rule may adopt and substitute in the energy code the
25 equivalent or more stringent provisions for the provisions of the
26 initial editions described by Subsection (a) or (b). If the State
27 Energy Conservation Office adopts provisions of the latest

1 published editions of the International Residential Code or the
2 International Energy Conservation Code into the energy code, the
3 office shall establish an effective date for the new provisions
4 that is not earlier than nine months after the date of adoption.
5 The laboratory shall submit recommendations concerning the latest
6 published editions of the International Residential Code or the
7 International Energy Conservation Code not later than six months
8 after publication of new editions.

9 (b-2) The State Energy Conservation Office by rule shall
10 establish a procedure for allowing an opportunity for persons who
11 have an interest in the adoption of energy efficiency codes under
12 Subsection (b-1) to comment on a code considered for adoption,
13 including:

- 14 (1) commercial and residential builders;
- 15 (2) architects;
- 16 (3) engineers;
- 17 (4) county and other local government authorities; and
- 18 (5) environmental groups.

19 (b-3) In developing written recommendations under
20 Subsection (b-1), the laboratory shall consider the comments
21 submitted under Subsection (b-2).

22 SECTION 11. Section 388.005, Health and Safety Code, is
23 amended to read as follows:

24 Sec. 388.005. ENERGY EFFICIENCY PROGRAMS IN CERTAIN
25 GOVERNMENTAL ENTITIES [~~POLITICAL SUBDIVISIONS~~]. (a) In this
26 section:

- 27 (1) "Institution of higher education" includes an

1 institution of higher education as defined by Section 61.003,
2 Education Code, and a private institution of higher education that
3 receives funding from the state.

4 (2) "Political~~[, "political]~~ subdivision" means:

5 (A) ~~[(1)]~~ an affected county; or

6 (B) ~~[(2)]~~ any political subdivision in a
7 nonattainment area or in an affected county other than:

8 (i) ~~[(A)]~~ a school district; or

9 (ii) ~~[(B)]~~ a district as defined by Section
10 36.001 or 49.001, Water Code, that had a total annual electricity
11 expense of less than \$200,000 in the previous fiscal year of the
12 district.

13 (3) "State agency" means a department, commission,
14 board, office, council, or other agency in the executive branch of
15 state government that is created by the constitution or a statute of
16 this state and has authority not limited to a geographical portion
17 of the state.

18 (b) Each political subdivision, institution of higher
19 education, or state agency shall implement all energy efficiency
20 measures that meet the standards established for a contract for
21 energy conservation measures under Section 302.004(b), Local
22 Government Code, in order to reduce electricity consumption by the
23 existing facilities of the entity ~~[the political subdivision]~~.

24 (c) Each political subdivision, institution of higher
25 education, or state agency shall establish a goal to reduce the
26 electric consumption by the entity ~~[political subdivision]~~ by five
27 percent each state fiscal year for six ~~[five]~~ years, beginning

September 1, 2007 [~~January 1, 2002~~].

(d) A political subdivision, institution of higher education, or state agency that does not attain the goals under Subsection (c) must include in the report required by Subsection (e) justification that the entity [~~political subdivision~~] has already implemented all available measures.

(e) A political subdivision, institution of higher education, or state agency annually shall report to the State Energy Conservation Office, on forms provided by that office, regarding the entity's [~~political subdivision's~~] efforts and progress under this section. The State Energy Conservation Office shall provide assistance and information to the entity [~~political subdivisions~~] to help the entity [~~the political subdivisions~~] meet the goals set under this section.

(f) This section does not apply to a state agency or an institution of higher education that the State Energy Conservation Office determines that, before September 1, 2007, adopted a plan for conserving energy under which the agency or institution established a percentage goal for reducing the consumption of electricity. The exemption provided by this section applies only while the agency or institution has an energy conservation plan in effect and only if the agency or institution submits reports on the conservation plan each calendar quarter to the governor, the Legislative Budget Board, and the State Energy Conservation Office.

SECTION 12. Section 388.008, Health and Safety Code, is amended by amending Subsections (a) and (c) and adding Subsection (d) to read as follows:

1 (a) The laboratory shall develop a standardized report
2 format to be used by providers of home energy ratings. The
3 laboratory may develop different report formats for rating newly
4 constructed residences from those for existing residences. The form
5 must be designed to give potential buyers information on a
6 structure's energy performance, including:

- 7 (1) insulation;
8 (2) types of windows;
9 (3) heating and cooling equipment;
10 (4) water heating equipment;
11 (5) additional energy conserving features, if any;
12 (6) results of performance measurements of building
13 tightness and forced air distribution; and
14 (7) an overall rating of probable energy efficiency
15 relative to the minimum requirements of the International Energy
16 Conservation Code or the energy efficiency chapter of the
17 International Residential Code, as appropriate.

18 (c) The laboratory may cooperate with an industry
19 organization or trade association to:

- 20 (1) develop guidelines for home energy ratings;
21 (2) provide training for individuals performing home
22 energy ratings and providers of home energy ratings; and
23 (3) provide a registry of completed ratings for newly
24 constructed residences and residential improvement projects for
25 the purpose of computing the energy savings and emissions
26 reductions benefits of the [The] home energy ratings program [shall
27 be implemented by September 1, 2002].

1 (d) The laboratory shall include information on the
2 benefits attained from this program in an annual report to the
3 commission.

4 SECTION 13. The heading to Section 74.3013, Property Code,
5 is amended to read as follows:

6 Sec. 74.3013. DELIVERY OF MONEY FOR RURAL SCHOLARSHIP,
7 ~~[AND]~~ ECONOMIC DEVELOPMENT, AND ENERGY EFFICIENCY ASSISTANCE.

8 SECTION 14. Sections 74.3013(a), (b), (e), (f), and (g),
9 Property Code, are amended to read as follows:

10 (a) Notwithstanding and in addition to any other provision
11 of this chapter or other law, a nonprofit cooperative corporation
12 may deliver reported money to a scholarship fund for rural
13 students, ~~[or]~~ to stimulate rural economic development, or to
14 provide energy efficiency assistance to members of electric
15 cooperatives, instead of delivering the money to the comptroller as
16 prescribed in Section 74.301.

17 (b) A nonprofit cooperative corporation may deliver the
18 money under this section only:

19 (1) to a scholarship fund established by one or more
20 nonprofit cooperative corporations in this state to enable students
21 from rural areas to attend college, technical school, or other
22 postsecondary educational institution; ~~[and]~~

23 (2) to an economic development fund for the
24 stimulation and improvement of business and commercial activity for
25 economic development in rural communities; and

26 (3) to an energy efficiency assistance fund to assist
27 members of an electric cooperative in reducing their energy

1 consumption and electricity bills.

2 (e) The comptroller shall prescribe forms and procedures
3 governing this section, including forms and procedures relating to:

4 (1) notice of presumed abandoned property;

5 (2) delivery of reported money to a scholarship, ~~[or]~~
6 economic development fund, or energy efficiency assistance fund;

7 (3) filing of a claim; and

8 (4) procedures to allow equitable opportunity for
9 participation by each nonprofit cooperative corporation in the
10 state.

11 (f) During a state fiscal year the total amount of money
12 that may be transferred by all nonprofit cooperative corporations
13 under this section may not exceed \$1 million. No more than 20
14 percent of each nonprofit cooperative's funds eligible for delivery
15 under this section shall be used for economic development. The
16 comptroller shall adopt procedures to record the total amount of
17 money transferred annually ~~[to allow equitable opportunity for~~
18 ~~participation with preference given to corporations already~~
19 ~~providing similar scholarship opportunities in other states]~~.

20 (g) Nonprofit cooperative corporations may combine
21 ~~[economic development]~~ funds from other sources with any ~~[economic~~
22 ~~development]~~ funds delivered under this section. In addition, such
23 cooperatives may engage in other business and commercial
24 activities, in their own behalf or through such subsidiaries and
25 affiliates as deemed necessary, in order to provide and promote
26 educational opportunities and to stimulate rural economic
27 development.

SECTION 15. Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.333 to read as follows:

Sec. 151.333. ENERGY-EFFICIENT PRODUCTS. (a) In this section, "energy-efficient product" means a product that has been designated as an Energy Star qualified product under the Energy Star program jointly operated by the United States Environmental Protection Agency and the United States Department of Energy.

(b) This section applies only to the following energy-efficient products:

(1) an air conditioner the sales price of which does not exceed \$6,000;

(2) a clothes washer;

(3) a ceiling fan;

(4) a dehumidifier;

(5) a dishwasher;

(6) an incandescent or fluorescent lightbulb;

(7) a programmable thermostat; and

(8) a refrigerator the sales price of which does not exceed \$2,000.

(c) The sale of an energy-efficient product to which this section applies is exempted from the taxes imposed by this chapter if the sale takes place during a period beginning at 12:01 a.m. on the Saturday preceding the last Monday in May (Memorial Day) and ending at 11:59 p.m. on the last Monday in May.

SECTION 16. Subchapter A, Chapter 313, Tax Code, is amended by adding Section 313.008 to read as follows:

Sec. 313.008. REPORT ON COMPLIANCE WITH ENERGY-RELATED

1 AGREEMENTS. (a) Before the beginning of each regular session of
2 the legislature, the comptroller shall submit to the lieutenant
3 governor, the speaker of the house of representatives, and each
4 member of the legislature a report on each agreement entered into
5 under this chapter involving energy-related projects, including
6 wind generation, ethanol production, liquefied natural gas
7 terminals, low sulfur diesel production, refinery cogeneration,
8 and nuclear energy production. The report must state for each
9 agreement:

10 (1) the number of qualifying jobs each recipient of a
11 limitation on appraised value committed to create;

12 (2) the number of qualifying jobs each recipient
13 created;

14 (3) the median wage of the new jobs each recipient
15 created;

16 (4) the amount of the qualified investment each
17 recipient committed to expend or allocate per project;

18 (5) the amount of the qualified investment each
19 recipient expended or allocated per project;

20 (6) the market value of the qualified property of each
21 recipient;

22 (7) the limitation on appraised value for the
23 qualified property of each recipient;

24 (8) the dollar amount of the ad valorem taxes that
25 would have been imposed on the market value of the qualified
26 property;

27 (9) the dollar amount of the ad valorem taxes imposed

1 on the qualified property;

2 (10) the number of new jobs created by each recipient
3 in each sector of the North American Industry Classification System
4 (NAICS); and

5 (11) of the number of new jobs each recipient created,
6 the number of positions created that provide health benefits for
7 employees.

8 (b) The report may not include information that is made
9 confidential by law.

10 (c) The comptroller may require a recipient to submit, on a
11 form provided by the comptroller, information required to complete
12 the report.

13 SECTION 17. Section 31.004, Utilities Code, is amended by
14 adding Subsection (c) to read as follows:

15 (c) The commission shall provide information to school
16 districts regarding how a school district may finance the
17 installation of solar electric generation panels for school
18 district buildings.

19 SECTION 18. Section 39.002, Utilities Code, is amended to
20 read as follows:

21 Sec. 39.002. APPLICABILITY. This chapter, other than
22 Sections 39.155, 39.157(e), 39.203, 39.903, ~~[and]~~ 39.904, 39.9051,
23 39.9052, and 39.914(e), does not apply to a municipally owned
24 utility or an electric cooperative. Sections 39.157(e), 39.203,
25 and 39.904, however, apply only to a municipally owned utility or an
26 electric cooperative that is offering customer choice. If there is
27 a conflict between the specific provisions of this chapter and any

1 other provisions of this title, except for Chapters 40 and 41, the
2 provisions of this chapter control.

3 SECTION 19. Section 39.107, Utilities Code, is amended by
4 adding Subsection (i) to read as follows:

5 (i) It is the intent of the legislature that net metering
6 and advanced meter data networks be deployed as rapidly as possible
7 to allow customers to better manage energy use and control costs,
8 and to facilitate demand response initiatives.

9 SECTION 20. Subchapter Z, Chapter 39, Utilities Code, is
10 amended by adding Section 39.9025 to read as follows:

11 Sec. 39.9025. HOME ELECTRIC ENERGY REPORTS. The commission
12 may encourage retail electric providers to deliver individualized
13 home electric energy reports to educate consumers about electric
14 energy use and energy efficiency to assist consumers to use energy
15 more efficiently.

16 SECTION 21. Section 39.905, Utilities Code, is amended by
17 amending Subsections (a), (b), (d), (e), and (f), and adding
18 Subsections (b-1), (b-2), (b-3), (b-4), and (g) to read as follows:

19 (a) It is the goal of the legislature that:

20 (1) electric utilities will administer energy
21 efficiency ~~[savings]~~ incentive programs in a market-neutral,
22 nondiscriminatory manner but will not offer underlying competitive
23 services;

24 (2) all customers, in all customer classes, will have
25 a choice of and access to energy efficiency alternatives and other
26 choices from the market that allow each customer to reduce energy
27 consumption, peak demand, or energy costs; ~~[and]~~

1 (3) each electric utility will provide, through
2 market-based standard offer programs or limited, targeted,
3 market-transformation programs, incentives sufficient for retail
4 electric providers and competitive energy service providers to
5 acquire additional cost-effective energy efficiency for
6 residential and commercial customers equivalent to at least:

7 (A) 10 percent of the electric utility's annual
8 growth in demand of residential and commercial customers by
9 December 31, 2007;

10 (B) 15 percent of the electric utility's annual
11 growth in demand of residential and commercial customers by
12 December 31, 2008, provided that the electric utility's program
13 expenditures for 2008 funding may not be greater than 75 percent
14 above the utility's program budget for 2007 for residential and
15 commercial customers, as included in the April 1, 2006, filing; and

16 (C) 20 percent of the electric utility's annual
17 growth in demand of residential and commercial customers by
18 December 31, 2009, provided that the electric utility's program
19 expenditures for 2009 funding may not be greater than 150 percent
20 above the utility's program budget for 2007 for residential and
21 commercial customers, as included in the April 1, 2006, filing;

22 (4) each electric utility in the ERCOT region shall
23 use its best efforts to encourage and facilitate the involvement of
24 the region's retail electric providers in the delivery of
25 efficiency programs and demand response programs under this
26 section;

27 (5) retail electric providers in the ERCOT region, and

1 electric utilities outside of the ERCOT region, shall provide
2 customers with energy efficiency educational materials; and

3 (6) ERCOT shall incorporate into its long-range demand
4 forecast the energy and demand savings projected in the annual
5 report under Subsection (b-3).

6 (b) The commission shall provide oversight and adopt rules
7 and procedures[~~, as necessary,~~] to ensure that the utilities can
8 achieve the goal of this section, including:

9 (1) establishing an energy efficiency cost recovery
10 factor for ensuring timely and reasonable cost recovery for utility
11 expenditures made to satisfy the goal of this section;

12 (2) establishing an incentive under Section 36.204 to
13 reward utilities administering programs under this section that
14 exceed the minimum goals established by this section;

15 (3) providing a utility that is unable to establish an
16 energy efficiency cost recovery factor in a timely manner due to a
17 rate freeze with a mechanism to enable the utility to:

18 (A) defer the costs of complying with this
19 section; and

20 (B) recover the deferred costs through an energy
21 efficiency cost recovery factor on the expiration of the rate
22 freeze period;

23 (4) ensuring that the costs associated with programs
24 provided under this section are borne by the customer classes that
25 receive the services under the programs; and

26 (5) ensuring the program rules encourage the value of
27 the incentives to be passed on to the end-use customer.

1 (b-1) The energy efficiency cost recovery factor under
2 Subsection (b)(1) may not result in an over-recovery of costs but
3 may be adjusted each year to change rates to enable utilities to
4 match revenues against energy efficiency costs and any incentives
5 to which they are granted. The factor shall be adjusted to reflect
6 any over-collection or under-collection of energy efficiency cost
7 recovery revenues in previous years.

8 (b-2) The commission shall conduct a study, to be funded by
9 electric utilities, regarding cost-effective energy efficiency in
10 this state. Not later than January 15, 2009, the commission shall
11 submit to the legislature a report regarding the commission's
12 findings that:

13 (1) considers the technical, economic, and achievable
14 potential, and natural occurrence of energy efficiency in this
15 state in terms of kilowatts and kilowatt hours for each element;

16 (2) determines the amount of savings that is
17 achievable through utility programs in compliance with commission
18 rules;

19 (3) recommends whether:

20 (A) utility funding of energy efficiency in areas
21 of the state with competitive retail electric service should
22 continue;

23 (B) energy efficiency in areas with competitive
24 retail electric service is best provided by the competitive market;
25 and

26 (C) utilities should fund education programs to
27 be conducted by the commission regarding the provision of energy

1 efficiency service from the competitive market;

2 (4) provides estimates of achievable savings specific
3 to each utility service area and each customer class;

4 (5) quantifies the costs and rate impacts associated
5 with meeting energy efficiency goals;

6 (6) determines whether an increase in the goal to 30
7 percent of the growth in demand for each utility is achievable by
8 December 31, 2010, and whether an increase in the goal to 50 percent
9 of the growth in demand for electricity is achievable by December
10 31, 2015, by each utility in the service area served through the
11 energy efficiency programs described by this section;

12 (7) recommends policies designed to promote energy
13 efficiency in the areas of the state that are not served by the
14 utilities which administer programs under this section; and

15 (8) identifies potential barriers to the increased
16 participation by retail electric providers in the delivery of
17 energy efficiency services to ERCOT customers, and to the increased
18 potential for energy efficiency in ERCOT or in this state
19 generally, including any recommended regulatory or statutory
20 changes to eliminate such barriers or facilitate greater
21 efficiency.

22 (b-3) Beginning not later than January 1, 2008, the
23 commission, in consultation with the State Energy Conservation
24 Office, annually for a period of five years shall compute and report
25 to ERCOT the projected energy savings and demand impacts for each
26 entity in the ERCOT region that administers standard offer
27 programs, market transformation programs, combined heating and

power technology, demand response programs, solar incentive programs, building codes, appliance efficiency standards, energy efficiency programs in public buildings, and any other relevant programs that are reasonably anticipated to reduce electricity energy or peak demand or that serve as substitutes for electric supply.

(b-4) The commission and ERCOT shall develop a method to account for the projected efficiency impacts under Subsection (b-3) in ERCOT's annual forecasts of future capacity, demand, and reserves.

(d) The commission shall establish a procedure for reviewing and evaluating market-transformation program options described by this subsection and other options. In evaluating program options, the commission may consider the ability of a program option to reduce costs to customers through reduced demand, energy savings, and relief of congestion. Utilities ~~adopt the following market-transformation program options that the utilities~~ may choose to implement any program option approved by the commission after its evaluation in order to satisfy the goal in Subsection (a), including ~~[(a)(3)]~~:

- (1) energy-smart schools;
- (2) appliance retirement and recycling;
- (3) air conditioning system tune-ups; ~~and~~
- (4) the use of trees or other landscaping for energy efficiency;
- (5) customer energy management and demand response programs;

1 (6) high performance residential and commercial
2 buildings that will achieve the levels of energy efficiency
3 sufficient to qualify those buildings for federal tax incentives;

4 (7) programs for customers who rent or lease their
5 residence or commercial space;

6 (8) programs providing energy monitoring equipment to
7 customers that enable a customer to better understand the amount,
8 price, and time of the customer's energy use;

9 (9) energy audit programs for owners and other
10 residents of single-family or multifamily residences and for small
11 commercial customers;

12 (10) net-zero energy new home programs;

13 (11) solar thermal or solar electric programs; and

14 (12) programs for using windows and other glazing
15 systems, glass doors, and skylights in residential and commercial
16 buildings that reduce solar gain by at least 30 percent from the
17 level established for the federal Energy Star windows program.

18 (e) An electric utility may use money approved by the
19 commission for energy efficiency programs to perform necessary
20 energy efficiency research and development to foster continuous
21 improvement and innovation in the application of energy efficiency
22 technology and energy efficiency program design and
23 implementation. Money the utility uses under this subsection may
24 not exceed 10 percent of the greater of:

25 (1) the amount the commission approved for energy
26 efficiency programs in the utility's most recent full rate
27 proceeding; or

1 (2) the commission-approved expenditures by the
 2 utility for energy efficiency in the previous year.

3 (f) Unless funding is provided under Section 39.903,
 4 [~~beginning January 1, 2006,~~] each unbundled transmission and
 5 distribution utility shall include in its energy efficiency plan a
 6 targeted low-income energy efficiency program as described by
 7 Section 39.903(f)(2), and the savings achieved by the program shall
 8 count toward the transmission and distribution utility's energy
 9 efficiency goal. The commission shall determine the appropriate
 10 level of funding to be allocated to both targeted and standard offer
 11 low-income energy efficiency programs in each unbundled
 12 transmission and distribution utility service area. The total
 13 expenditures for both targeted and standard offer low-income energy
 14 efficiency programs will be based on the amount spent by the
 15 transmission and distribution utility on the commission's
 16 hard-to-reach program in calendar year 2003. This level of funding
 17 for low-income energy efficiency programs shall be provided from
 18 money approved by the commission for the transmission and
 19 distribution utility's energy efficiency programs. The state
 20 agency that administers the federal weatherization assistance
 21 program shall provide reports as required by the commission to
 22 provide the most current information available on energy and peak
 23 demand savings achieved in each transmission and distribution
 24 utility service area.

25 (g) The commission may provide for a good cause exemption to
 26 a utility's liability for an administrative penalty or other
 27 sanction if the utility fails to meet a goal for energy efficiency

1 under this section and the utility's failure to meet the goal is
2 caused by one or more factors outside of the utility's control,
3 including:

4 (1) insufficient demand by retail electric providers
5 and competitive energy service providers for program incentive
6 funds made available by the utility through its programs;

7 (2) changes in building energy codes; and

8 (3) changes in government-imposed appliance or
9 equipment efficiency standards.

10 SECTION 22. Subchapter Z, Chapter 39, Utilities Code, is
11 amended by adding Sections 39.9051, 39.9052, 39.9053, 39.911,
12 39.912, and 39.913 to read as follows:

13 Sec. 39.9051. ENERGY EFFICIENCY FOR MUNICIPALLY OWNED
14 UTILITIES. (a) In this section, "municipally owned utility" has
15 the meaning assigned by Section 11.003.

16 (b) This section applies only to a municipally owned utility
17 that had retail sales of more than 500,000 megawatt hours in 2005.

18 (c) It is the goal of the legislature that:

19 (1) municipally owned utilities will administer
20 energy savings incentive programs;

21 (2) customers of a municipally owned utility will have
22 a choice of and access to energy efficiency alternatives that allow
23 customers to reduce energy consumption, peak demand, or energy
24 costs; and

25 (3) each municipally owned utility will provide
26 incentives sufficient for municipally owned utilities to acquire
27 additional cost-effective energy efficiency.

1 (d) The governing body of a municipally owned utility shall
2 provide oversight and adopt rules and procedures, as necessary, to
3 ensure that the utility can achieve the goal of this section.

4 (e) If a municipally owned utility adopts customer choice by
5 decision of the governing body under Chapter 40, the commission
6 shall provide oversight and adopt rules and procedures, as
7 necessary, to ensure that the municipally owned utility can achieve
8 the goal in this section in a market-neutral, nondiscriminatory
9 manner. The commission shall, to the extent possible, include
10 existing energy efficiency programs already adopted by the
11 municipally owned utility.

12 (f) Not later than September 1, 2009, a municipally owned
13 utility must report to the State Energy Conservation Office, in a
14 form and manner determined by the utility in consultation with the
15 office, information regarding the combined effects of the energy
16 efficiency activities of the utility.

17 Sec. 39.9052. ENERGY EFFICIENCY FOR ELECTRIC COOPERATIVES.

18 (a) An electric cooperative shall consider adopting and
19 implementing energy efficiency programs that reduce the
20 cooperative's annual growth in demand in a manner consistent with
21 standards established in the state for other utilities.

22 (b) Not later than September 1, 2009, an electric
23 cooperative that had retail sales of more than 500,000 megawatt
24 hours in 2005 must report to the State Energy Conservation Office,
25 in a form and manner determined by the electric cooperative in
26 consultation with the office, information regarding the combined
27 effects of the energy efficiency activities of the electric

1 cooperative.

2 Sec. 39.9053. ENERGY EFFICIENCY DEMONSTRATION PROJECTS FOR
3 SOLAR ELECTRIC SYSTEM; GRANT PROGRAM. (a) The commission by rule
4 shall establish grant programs for:

5 (1) a demonstration project for installation of solar
6 electric systems for new residential subdivisions;

7 (2) a demonstration project for installation of solar
8 electric systems for new or established affordable housing for
9 persons with low incomes; and

10 (3) a demonstration project for installation of solar
11 electric systems for not more than three small businesses.

12 (b) To qualify for a grant under this section, the solar
13 electric system must be a device that:

14 (1) generates electricity using solar resources;

15 (2) has a generating capacity of not more than 1,000
16 kilowatts; and

17 (3) is installed with a warranty against breakdown or
18 undue degradation for a period of at least five years.

19 (c) A demonstration project grant program established under
20 this section must provide for full or partial payment of the cost of
21 equipment and installation for the solar electric systems. The
22 commission shall establish for each grant program a competitive
23 bidding process for grant applicants. The commission shall
24 consider the value of funding demonstration projects in different
25 parts of this state, after considering the demographic and
26 geographic diversity of this state.

27 (d) To qualify for a grant under Subsection (a)(1) the

1 applicant:

2 (1) must be a person whose primary business activity
3 is the building of residential housing developments; and

4 (2) must have installed or must be contractually
5 obligated to install qualifying solar electric systems in each
6 residence constructed in a residential subdivision.

7 (e) To qualify for a grant under Subsection (a)(2) the
8 applicant must have installed or be contractually obligated to
9 install a qualifying solar electric system for residential real
10 property:

11 (1) appraised in accordance with Section 23.21, Tax
12 Code, as affordable housing property; or

13 (2) subject to a contractual obligation that the
14 property will be appraised in accordance with Section 23.21, Tax
15 Code, as affordable housing property within a reasonable time after
16 the grant is received.

17 (f) To qualify for a grant under Subsection (a)(3), the
18 applicant must be a small business or owner of a small business that
19 meets qualifications adopted by the commission after consideration
20 of federal Small Business Administration standards for
21 qualification for loans from that administration.

22 (g) The commission shall issue a report to the governor,
23 lieutenant governor, and speaker of the house of representatives
24 not later than December 1 of each even-numbered year summarizing
25 the status of the grant programs established under Subsection (a).
26 The report must include the amount of money granted to each
27 demonstration project and an evaluation of whether the projects

1 demonstrate the economic and ecologic viability of solar electric
2 system installations.

3 (h) This section expires December 31, 2010.

4 Sec. 39.911. ALTERNATIVE FUNDING FOR ENERGY EFFICIENCY AND
5 RENEWABLE ENERGY SYSTEMS. The State Energy Conservation Office, in
6 coordination with the governor, the Department of Agriculture, the
7 Texas Commission on Environmental Quality, the Texas Education
8 Agency, the commission, and other appropriate state agencies, shall
9 solicit gifts, grants, and other financial resources available to
10 fund energy efficiency improvements and renewable energy systems
11 for public and private facilities in this state.

12 Sec. 39.912. REPORT ON COMBINED HEATING AND POWER
13 TECHNOLOGY. The commission shall study the installation and use of
14 combined heating and power technology in this state, and shall
15 submit a report regarding the commission's findings to the 81st
16 Legislature. The report shall include:

17 (1) an explanation describing combined heating and
18 power technology and its use; and

19 (2) an explanation of how combined heating and power
20 technology can be implemented in this state to meet energy
21 efficiency goals.

22 Sec. 39.913. COMBINING CERTAIN REPORTS. The commission may
23 combine the reports required under Sections 39.905(b-2) and 39.912.

24 SECTION 23. Subchapter Z, Chapter 39, Utilities Code, is
25 amended by adding Section 39.914 to read as follows:

26 Sec. 39.914. CREDIT FOR SURPLUS SOLAR GENERATION BY PUBLIC
27 SCHOOLS. (a) An electric utility or retail electric provider

1 shall provide for net metering and contract with an independent
2 school district so that:

3 (1) surplus electricity produced by a school
4 building's solar electric generation panels is made available for
5 sale to the electric transmission grid and distribution system; and

6 (2) the net value of that surplus electricity is
7 credited to the district.

8 (b) For areas of this state in which customer choice has not
9 been introduced, the commission by rule shall require that credits
10 for electricity produced by a school building's solar electric
11 generation panels reflect the value of the electricity that is made
12 available for sale to the electric utility in accordance with
13 federal regulations.

14 (c) For independent school districts in areas in which
15 customer choice has been introduced, the district must sell the
16 school buildings' surplus electricity produced to the retail
17 electric provider that serves the school district's load at a value
18 agreed to between the district and the provider that serves the
19 district's load. The agreed value may be based on the clearing
20 price of energy at the time of day that the electricity is made
21 available to the grid. The independent organization identified in
22 Section 39.151 shall develop procedures so that the amount of
23 electricity purchased from a district under this section is
24 accounted for in settling the total load served by the provider that
25 serves the district's load. A district requesting net metering
26 services for purposes of this section must have metering devices
27 capable of providing measurements consistent with the independent

1 organization's settlement requirements.

2 (d) A transmission and distribution utility shall make
3 available to an independent school district for purposes of this
4 section metering required for services provided under this section,
5 including separate meters that measure the load and generator
6 output or a single meter capable of measuring separately in-flow
7 and out-flow at the point of common coupling meter point. The
8 district must pay the differential cost of the metering unless the
9 meters are provided at no additional cost. Except as provided by
10 this section, Section 39.107 applies to metering under this
11 section.

12 (e) A municipally owned utility or electric cooperative
13 shall consider and complete the determinations regarding net
14 metering service as provided by the federal Public Utility
15 Regulatory Policies Act of 1978 (16 U.S.C. Section 2601 et seq., as
16 amended by the federal Energy Policy Act of 2005 (Pub. L. No.
17 109-58)) after proceedings conducted in accordance with that law.
18 A municipally owned utility or electric cooperative shall report
19 the determinations made under this subsection to the State Energy
20 Conservation Office and include in that report information
21 regarding metering electricity generated by solar panels on public
22 school building rooftops.

23 SECTION 24. Section 40.055(a), Utilities Code, is amended
24 to read as follows:

25 (a) The municipal governing body or a body vested with the
26 power to manage and operate a municipally owned utility has
27 exclusive jurisdiction to:

1 (1) set all terms of access, conditions, and rates
2 applicable to services provided by the municipally owned utility,
3 subject to Sections 40.054 and 40.056, including nondiscriminatory
4 and comparable rates for distribution but excluding wholesale
5 transmission rates, terms of access, and conditions for wholesale
6 transmission service set by the commission under this subtitle,
7 provided that the rates for distribution access established by the
8 municipal governing body shall be comparable to the distribution
9 access rates that apply to the municipally owned utility and the
10 municipally owned utility's affiliates;

11 (2) determine whether to unbundle any energy-related
12 activities and, if the municipally owned utility chooses to
13 unbundle, whether to do so structurally or functionally;

14 (3) reasonably determine the amount of the municipally
15 owned utility's stranded investment;

16 (4) establish nondiscriminatory transition charges
17 reasonably designed to recover the stranded investment over an
18 appropriate period of time, provided that recovery of retail
19 stranded costs shall be from all existing or future retail
20 customers, including the facilities, premises, and loads of those
21 retail customers, within the utility's geographical certificated
22 service area as it existed on May 1, 1999;

23 (5) determine the extent to which the municipally
24 owned utility will provide various customer services at the
25 distribution level, including other services that the municipally
26 owned utility is legally authorized to provide, or will accept the
27 services from other providers;

1 (6) manage and operate the municipality's electric
2 utility systems, including exercise of control over resource
3 acquisition and any related expansion programs;

4 (7) establish and enforce service quality and
5 reliability standards and consumer safeguards designed to protect
6 retail electric customers, including safeguards that will
7 accomplish the objectives of Sections 39.101(a) and (b), consistent
8 with this chapter;

9 (8) determine whether a base rate reduction is
10 appropriate for the municipally owned utility;

11 (9) determine any other utility matters that the
12 municipal governing body or body vested with power to manage and
13 operate the municipally owned utility believes should be included;
14 [~~and~~]

15 (10) make any other decisions affecting the
16 municipally owned utility's participation in customer choice that
17 are not inconsistent with this chapter; and

18 (11) determine the extent to which the municipally
19 owned utility offers energy efficiency programs and how the
20 programs are administered by the utility, except as provided by
21 Section 39.9051(e).

22 SECTION 25. Section 41.055, Utilities Code, is amended to
23 read as follows:

24 Sec. 41.055. JURISDICTION OF BOARD OF DIRECTORS. A board of
25 directors has exclusive jurisdiction to:

26 (1) set all terms of access, conditions, and rates
27 applicable to services provided by the electric cooperative, except

1 as provided by Sections 41.054 and 41.056, including
2 nondiscriminatory and comparable rates for distribution but
3 excluding wholesale transmission rates, terms of access, and
4 conditions for wholesale transmission service set by the commission
5 under Subchapter A, Chapter 35, provided that the rates for
6 distribution established by the electric cooperative shall be
7 comparable to the distribution rates that apply to the electric
8 cooperative and its subsidiaries;

9 (2) determine whether to unbundle any energy-related
10 activities and, if the board of directors chooses to unbundle,
11 whether to do so structurally or functionally;

12 (3) reasonably determine the amount of the electric
13 cooperative's stranded investment;

14 (4) establish nondiscriminatory transition charges
15 reasonably designed to recover the stranded investment over an
16 appropriate period of time;

17 (5) determine the extent to which the electric
18 cooperative will provide various customer services, including
19 nonelectric services, or accept the services from other providers;

20 (6) manage and operate the electric cooperative's
21 utility systems, including exercise of control over resource
22 acquisition and any related expansion programs;

23 (7) establish and enforce service quality standards,
24 reliability standards, and consumer safeguards designed to protect
25 retail electric customers;

26 (8) determine whether a base rate reduction is
27 appropriate for the electric cooperative;

1 (9) determine any other utility matters that the board
2 of directors believes should be included;

3 (10) sell electric energy and capacity at wholesale,
4 regardless of whether the electric cooperative participates in
5 customer choice;

6 (11) determine the extent to which the electric
7 cooperative offers energy efficiency programs and how the programs
8 are administered by the electric cooperative; and

9 (12) [~~(11)~~] make any other decisions affecting the
10 electric cooperative's method of conducting business that are not
11 inconsistent with the provisions of this chapter.

12 SECTION 26. The State Energy Conservation Office shall
13 adopt rules implementing a procedure for stakeholder participation
14 as required under Section 388.003(b-2), Health and Safety Code, as
15 added by this Act, as soon as practicable after the effective date
16 of this Act.

17 SECTION 27. (a) The energy conservation standards for
18 equipment and appliances under Section 2158.301, Government Code,
19 as added by this Act, apply to a purchase by a state agency on or
20 after the effective date of this Act.

21 (b) The Texas Building and Procurement Commission shall
22 develop a list of equipment and appliances under Section 2155.068,
23 Government Code, as amended by this Act, as soon as practicable
24 after the effective date of this Act.

25 SECTION 28. Section 2165.058(c), Government Code, as added
26 by this Act, applies only to an entity that contracts with the Texas
27 Building and Procurement Commission or another state agency to

1 install or operate a vending machine on or after the effective date
2 of this Act.

3 SECTION 29. (a) The Public Utility Commission of Texas may
4 apply to a demonstration project grant program established under
5 Section 39.9053, Utilities Code, as added by this Act, any money
6 appropriated to the commission that may be used for that purpose.

7 (b) The Public Utility Commission of Texas may solicit and
8 accept gifts, grants, and other donations from any source to carry
9 out the demonstration project grant program established under
10 Section 39.9053, Utilities Code, as added by this Act.

11 (c) Contingent on the passage and becoming law of S.B. No.
12 482, Acts of the 80th Legislature, Regular Session, 2007, or
13 similar legislation that enacts a provision that establishes a fee
14 on a retail electric provider related to the number of customers the
15 provider gains in a given period, notwithstanding any law
16 dedicating that fee revenue for a particular purpose, that fee
17 revenue may be appropriated for use by the Public Utility
18 Commission of Texas for a demonstration project grant program under
19 Section 39.9053, Utilities Code, as added by this Act.

20 (d) This section expires December 31, 2010.

21 SECTION 30. The change in law made by this Act does not
22 affect taxes imposed before the effective date of this Act, and the
23 law in effect before the effective date of this Act is continued in
24 effect for purposes of the liability for and collection of those
25 taxes.

26 SECTION 31. This Act takes effect September 1, 2007.