

## **BILL ANALYSIS**

C.S.H.B. 1960  
By: Chisum  
Environmental Regulation  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Federal regulations have produced programs that tend to be costly and leave little room for industry to exercise flexibility in achieving the goal of complying with emissions limitations. CSHB 1960 allows the Texas Commission on Environmental Quality to enter into a voluntary emissions reductions agreement with the owner of stationary source(s) under which the owner agrees to reduce emissions at the source according to an emissions reduction plan and the commission grants the owner a regulatory assurance period.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 1 (Section 382.259, Health and Safety Code) of this bill and SECTION 3 expressly grants rulemaking authority to the Texas Commission on Environmental Quality and Public Utility Commission to implement this act.

### **ANALYSIS**

SECTION 1. Amends Chapter 382, Health and Safety Code, by adding Subchapter H as follows:

Sec. 382.251 defines "voluntary agreement."

Sec. 382.252 states the subchapter only applies to electric utilities outside the Electric Reliability Council of Texas.

Sec. 382.253 (a) allows the commission to enter into a voluntary emissions reductions agreement with the owner of stationary source(s) under which the owner agrees to reduce emissions at the source according to an emissions reduction plan and the commission grants the owner a regulatory assurance period.

Sec. 382.253 (b) requires the commission to evaluate the regulatory assurance period according to stated criteria.

Sec. 382.253 (c) requires the commission to structure a voluntary agreement to minimize the costs and maximize the flexibility available to the owner who seeks to enter into the voluntary agreement by using methods that include stated criteria.

Sec. 382.253 (d) requires the commission to evaluate proposed agreements to ensure specified results.

Sec. 382.253 (e) requires the commission to conduct and include as attachments to an approved agreement the commission's analysis of the proposed emissions reduction plan and the agreement's compliance with the requirements of specified sections of the code.

Sec. 382.254 Lists what must be included in the emissions reduction plan.

Sec. 382.255 (a) requires that the commission grant the owner who enters into a voluntary agreement

a regulatory assurance period. Specifies length of time for that period.

Sec. 382.255 (b) conditionally prohibits the commission from requiring the owner that is the subject of the voluntary agreement to install pollution control equipment or implementing certain control strategies in addition to equipment or strategies that are part of the agreement. It specifies conditions for sources to comply with a federal regulatory requirement as described under specified conditions.

Sec. 382.256 requires public notice and opportunity to comment before approving a voluntary agreement.

Sec. 382.257 (a) requires the commission to consider any public comment on the agreement in deciding to approve or reject a proposed agreement.

Sec. 382.257 (b) requires the commission to approve a proposed agreement unless it determines that the agreement does not meet the requirements.

Sec. 382.258 allows the commission to enforce a voluntary agreement .

Sec. 382.259 Requires the commission to adopt rules necessary to implement the subchapter.

SECTION 2. Amends Subchapter E, Chapter 36, Utilities Code, by adding Section 36.2025 as follows:

Sec. 36.2025 (a) defines “air quality improvement costs.”

Sec. 36.2025 (b) stipulates that this section applies only to an investor-owned electric utility operating solely outside ERCOT.

Sec. 36.2025 (c) requires the commission to, upon petition, provide for a cost recovery rider to the utility’s rates.

Sec. 36.2025 (d) delineates specifications for a petition.

Sec. 36.2025 (e) requires the commission to approve a proposed cost recovery rider with stated conditions.

Sec. 36.2025 (f) requires the commission to apportion pro rata to each type and class of service provided by the utility improvement costs. Provides for length of cost recovery rider.

Sec. 36.2025 (g) Allows the commission to review the cost recovery rider yearly.

Sec. 36.2025 (h) stipulates that a proceeding under this section is not a rate case.

SECTION 3. Rulemaking authority.

SECTION 4. Immediate effect if it receives a vote of two-thirds of all the members. If two-thirds vote is not received, effective date is September 1, 2003.

#### **EFFECTIVE DATE**

Immediate effect if it receives a vote of two-thirds of all the members. If two-thirds vote is not received, effective date is September 1, 2003.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

Now the bill only applies to electric utilities outside the Electric Reliability Council of Texas. It adds additional PUCT oversight requiring the Commission to review all costs to assure that expenditures in implementing any agreement are prudently incurred, establishes a cap on cost recovery of 3 percent of retail rates, including fuel, and provides that all revenues received from the sale of emission credits generated by voluntary projects go to customers. CSHB 1960 sets a limitation on any future adjustments to the rate rider mechanism after customer choice is offered in a non-ERCOT area, grants TCEQ more flexibility in reviewing the costs associated with a voluntary emissions reduction program as well as consideration of other alternatives when the voluntary plan is negotiated with TCEQ, and removes language in Sec. 382.255(b)(2) and 382.255(c) that addressed future Federal environmental mandates.