

By: Keffer

H.B. No. 3498

Substitute the following for H.B. No. 3498:

By: Menendez

C.S.H.B. No. 3498

A BILL TO BE ENTITLED

AN ACT

relating to energy aggregation by political subdivisions.

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

SECTION 1. Section 304.001, Local Government Code, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d) A political subdivision corporation may negotiate on behalf of its incorporating political subdivisions and the citizens of municipalities that are member political subdivisions that create aggregation programs under Section 304.002 for the purchase of electricity, make contracts for the purchase of electricity, purchase electricity, and take any other action necessary to purchase electricity for use:

(1) in the public facilities of the political subdivision or subdivisions represented by the political subdivision corporation; or

(2) by citizens of municipalities that are member political subdivisions that create aggregation programs under Section 304.002.

(d-1) In Subsection (d) [~~this subsection~~], "electricity" means electric energy, capacity, energy services, ancillary services, or other electric services for retail or wholesale consumption by the political subdivisions.

SECTION 2. Section 304.002, Local Government Code, is

1 amended by amending Subsection (a) and adding Subsections (b-1),
2 (b-2), (b-3), (d), (e), and (f) to read as follows:

3 (a) A political subdivision aggregator may negotiate for
4 the purchase of, contract for the purchase of, purchase, and take
5 any other action necessary to purchase electricity and energy
6 services on behalf of the citizens of the political subdivision or
7 subdivisions. [~~The citizens must affirmatively request to be~~
8 ~~included in the aggregation services by the political subdivision~~
9 ~~aggregator.~~]

10 (b-1) After a public hearing for which notice as provided by
11 law is given, the governing body of a municipality with a population
12 of less than 50,000 located in a county with a population of less
13 than 200,000 may adopt an ordinance or resolution providing for:

14 (1) automatic enrollment of the citizens of the
15 municipality in aggregation services provided under this section;
16 and

17 (2) enrollment on request of citizens who reside in
18 the unincorporated area located within 20 miles of the geographic
19 boundaries of the municipality.

20 (b-2) A municipality that adopts an ordinance or resolution
21 under Subsection (b-1) shall order an election on the question of
22 whether citizens of the municipality will be automatically enrolled
23 in aggregation services. Automatic enrollment of citizens of a
24 municipality in aggregation services may not be implemented by the
25 municipality under this section unless:

26 (1) approved by a majority of the voters of the
27 municipality voting in an election held for that purpose; and

1 (2) notice is provided as required by Subsection
2 (b-3).

3 (b-3) If automatic enrollment of the citizens is approved at
4 an election held under Subsection (b-2), the municipality shall
5 provide written notice to each citizen not later than the 60th day
6 before the date the automatic enrollment will take effect. The
7 notice must be mailed to each citizen and state that the citizen
8 will be automatically enrolled unless the citizen expressly
9 requests to be excluded from enrollment. A citizen who resides in
10 an unincorporated area described by Subsection (b-1)(2) must
11 affirmatively request the municipality to include the citizen in
12 the aggregation services offered by the political subdivision
13 aggregator.

14 (d) Each retail electric provider and transmission and
15 distribution utility shall provide to a municipality any
16 information the municipality considers necessary to solicit or
17 administer an aggregation program under this section, including the
18 name, address, electric service identifier, and monthly usage of
19 each residential customer who resides in the municipality. The
20 provider or utility may not require the consent of a customer as a
21 condition of providing information to a municipality under this
22 subsection. The municipality may provide to a third party or an
23 aggregator any information received under this subsection only if
24 the information is provided in relation to submitting a bid on,
25 implementing, or administering an aggregation program under this
26 section.

27 (e) This section is not intended to abrogate an electric

1 service contract between a citizen of any municipality and a
2 competitive retail electric provider. The initial customer base
3 for an aggregation program consists only of customers who remained
4 on price to beat rates established under Section 39.202, Utilities
5 Code, as of December 31, 2006, and who continue to receive service
6 from an affiliated retail electric provider on the date an
7 ordinance or resolution creating the citizen aggregation program is
8 passed. A citizen who receives power from a competitive retail
9 electric provider as of the date an ordinance or resolution passes
10 may not join an aggregation program under this section until the
11 citizen's contract with the competitive retail electric provider
12 expires.

13 (f) Any savings attributable to an aggregation program
14 under this section accrues to the citizen participants, except that
15 a municipality may recover its actual administrative costs.

16 SECTION 3. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2007.