

By: Straus, Anchia, Crabb, King of Parker,
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H.B. No. 3693

Substitute the following for H.B. No. 3693:

By: Straus

C.S.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) uses the fewest watts for the necessary luminous
8 flux or light output; and

9 (2) is compatible with the light fixture.

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

12 (d) As part of the standards and specifications program, the
13 commission shall:

14 (1) review contracts for opportunities to recycle
15 waste produced at state buildings;

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

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

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

23 SUBCHAPTER F. ENERGY AND EFFICIENCY STANDARDS

24 FOR EQUIPMENT AND APPLIANCES

25 Sec. 2158.301. ENERGY CONSERVATION. If available and
26 cost-effective, a state agency shall purchase equipment and
27 appliances for state use that meet or exceed:

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

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

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

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

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

16 (2) is compatible with the light fixture.

17 SECTION 7. Subtitle F, Title 10, Government Code, is
18 amended by adding Chapter 2264 to read as follows:

19 CHAPTER 2264. REQUIRED PUBLICATION AND REPORTING
20 BY GOVERNMENTAL ENTITIES

21 Sec. 2264.001. RECORDING AND REPORTING OF ELECTRICITY,
22 WATER, AND NATURAL GAS CONSUMPTION. (a) In this section,
23 "governmental entity" means:

24 (1) a board, commission, or department of the state or
25 a political subdivision of the state, including a municipality, a
26 county, or any kind of district; or

27 (2) an institution of higher education as defined by

1 Section 61.003, Education Code.

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

11 SECTION 8. Subchapter H, Chapter 2306, Government Code, is
12 amended by adding Section 2306.187 to read as follows:

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

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

26 (2) the installation of Energy Star-labeled
27 appliances;

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

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

6 (5) the use of energy efficient alternative
7 construction material, including structural insulated panel
8 construction;

9 (6) the installation of central air conditioning or
10 heat pump equipment with a better Seasonal Energy Efficiency Rating
11 (SEER) than that required by the energy code adopted under Section
12 388.003, Health and Safety Code; and

13 (7) the installation of the air ducting system inside
14 the conditioned space.

15 (b) A single or multifamily dwelling must include energy
16 conservation and efficiency measures specified by the department
17 if:

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

21 (2) any portion of the rehabilitation includes
22 alterations that will replace items that are identified as required
23 efficiency measures by the department.

24 (c) The energy conservation and efficiency measures the
25 department requires under Subsection (b) may not be more stringent
26 than the measures the department requires under Subsection (a).

27 (d) The department shall review the measures required to

1 meet the energy efficiency standards at least annually to determine
2 if additional measures are desirable and to ensure that the most
3 recent energy efficiency technology is considered.

4 (e) Subsections (a) and (b) do not apply to a single or
5 multifamily dwelling that receives federal weatherization
6 assistance money from the department or money provided under the
7 first-time homebuyer program.

8 SECTION 9. Section 388.003, Health and Safety Code, is
9 amended by adding Subsections (b-1), (b-2), and (b-3) to read as
10 follows:

11 (b-1) If the State Energy Conservation Office determines,
12 based on written recommendations from the laboratory, that the
13 energy efficiency provisions of the latest published editions of
14 the International Residential Code or the International Energy
15 Conservation Code for residential or commercial energy efficiency
16 and air quality are equivalent to or more stringent than the
17 provisions of editions adopted under Subsection (a) or (b), the
18 office by rule may adopt and substitute in the energy code the
19 equivalent or more stringent provisions for the provisions of the
20 initial editions described by Subsection (a) or (b). If the State
21 Energy Conservation Office adopts provisions of the latest
22 published editions of the International Residential Code or the
23 International Energy Conservation Code into the energy code, the
24 office shall establish an effective date for the new provisions
25 that is not earlier than nine months after the date of adoption.
26 The laboratory shall submit recommendations concerning the latest
27 published editions of the International Residential Code or the

1 International Energy Conservation Code not later than six months
2 after publication of new editions.

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

8 (1) commercial and residential builders;

9 (2) architects;

10 (3) engineers;

11 (4) county and other local government authorities; and

12 (5) environmental groups.

13 (b-3) In developing written recommendations under
14 Subsection (b-1), the laboratory shall consider the comments
15 submitted under Subsection (b-2).

16 SECTION 10. Section 388.005, Health and Safety Code, is
17 amended to read as follows:

18 Sec. 388.005. ENERGY EFFICIENCY PROGRAMS IN CERTAIN
19 GOVERNMENTAL ENTITIES [~~POLITICAL SUBDIVISIONS~~]. (a) In this
20 section:

21 (1) "Institution of higher education" includes an
22 institution of higher education as defined by Section 61.003,
23 Education Code, and a private institution of higher education that
24 receives funding from the state.

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

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

27 (B) [~~(2)~~] any political subdivision in a

1 nonattainment area or in an affected county other than[+]

2 [~~(A)~~ a school district, or

3 [~~(B)~~] a district as defined by Section 36.001 or
4 49.001, Water Code, that had a total annual electricity expense of
5 less than \$200,000 in the previous fiscal year of the district.

6 (3) "State agency" means a department, commission,
7 board, office, council, or other agency in the executive branch of
8 state government that is created by the constitution or a statute of
9 this state and has authority not limited to a geographical portion
10 of the state.

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

17 (c) Each political subdivision, institution of higher
18 education, or state agency shall establish a goal to reduce the
19 electric consumption by the entity [~~political subdivision~~] by five
20 percent each state fiscal year for six [~~five~~] years, beginning
21 September 1, 2007 [~~January 1, 2002~~].

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

27 (e) A political subdivision, institution of higher

1 education, or state agency annually shall report to the State
2 Energy Conservation Office, on forms provided by that office,
3 regarding the entity's [~~political subdivision's~~] efforts and
4 progress under this section. The State Energy Conservation Office
5 shall provide assistance and information to the entity [~~political~~
6 ~~subdivisions~~] to help the entity [~~the political subdivisions~~] meet
7 the goals set under this section.

8 SECTION 11. Section 388.008, Health and Safety Code, is
9 amended by amending Subsections (a) and (c) and adding Subsection
10 (d) to read as follows:

11 (a) The laboratory shall develop a standardized report
12 format to be used by providers of home energy ratings. The
13 laboratory may develop different report formats for rating newly
14 constructed residences from those for existing residences. The form
15 must be designed to give potential buyers information on a
16 structure's energy performance, including:

- 17 (1) insulation;
18 (2) types of windows;
19 (3) heating and cooling equipment;
20 (4) water heating equipment;
21 (5) additional energy conserving features, if any;
22 (6) results of performance measurements of building
23 tightness and forced air distribution; and

24 (7) an overall rating of probable energy efficiency
25 relative to the minimum requirements of the International Energy
26 Conservation Code or the energy efficiency chapter of the
27 International Residential Code, as appropriate.

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

3 (1) develop guidelines for home energy ratings;

4 (2) provide training for individuals performing home
5 energy ratings and providers of home energy ratings; and

6 (3) provide a registry of completed ratings for newly
7 constructed residences and residential improvement projects for
8 the purpose of computing the energy savings and emissions
9 reductions benefits of the [The] home energy ratings program [shall
10 be implemented by September 1, 2002].

11 (d) The laboratory shall include information on the
12 benefits attained from this program in an annual report to the
13 commission.

14 SECTION 12. The heading to Section 74.3013, Property Code,
15 is amended to read as follows:

16 Sec. 74.3013. DELIVERY OF MONEY FOR RURAL SCHOLARSHIP,
17 [AND] ECONOMIC DEVELOPMENT, AND ENERGY EFFICIENCY ASSISTANCE.

18 SECTION 13. Sections 74.3013(a), (b), (e), (f), and (g),
19 Property Code, are amended to read as follows:

20 (a) Notwithstanding and in addition to any other provision
21 of this chapter or other law, a nonprofit cooperative corporation
22 may deliver reported money to a scholarship fund for rural
23 students, [or] to stimulate rural economic development, or to
24 provide energy efficiency assistance to members of electric
25 cooperatives, instead of delivering the money to the comptroller as
26 prescribed in Section 74.301.

27 (b) A nonprofit cooperative corporation may deliver the

1 money under this section only:

2 (1) to a scholarship fund established by one or more
3 nonprofit cooperative corporations in this state to enable students
4 from rural areas to attend college, technical school, or other
5 postsecondary educational institution; ~~and~~

6 (2) to an economic development fund for the
7 stimulation and improvement of business and commercial activity for
8 economic development in rural communities; and

9 (3) to an energy efficiency assistance fund to assist
10 members of an electric cooperative in reducing their energy
11 consumption and electricity bills.

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

14 (1) notice of presumed abandoned property;

15 (2) delivery of reported money to a scholarship, ~~or~~
16 economic development fund, or energy efficiency assistance fund;

17 (3) filing of a claim; and

18 (4) procedures to allow equitable opportunity for
19 participation by each nonprofit cooperative corporation in the
20 state.

21 (f) ~~[During a state fiscal year the total amount of money~~
22 ~~that may be transferred by all nonprofit cooperative corporations~~
23 ~~under this section may not exceed \$1 million.]~~ No more than 20

24 percent of each nonprofit cooperative's funds eligible for delivery
25 under this section shall be used for economic development. The
26 comptroller shall adopt procedures to record the total amount of
27 money transferred annually ~~[to allow equitable opportunity for~~

1 ~~participation with preference given to corporations already~~
2 ~~providing similar scholarship opportunities in other states].~~

3 (g) Nonprofit cooperative corporations may combine
4 ~~[economic development]~~ funds from other sources with any ~~[economic~~
5 ~~development]~~ funds delivered under this section. In addition, such
6 cooperatives may engage in other business and commercial
7 activities, in their own behalf or through such subsidiaries and
8 affiliates as deemed necessary, in order to provide and promote
9 educational opportunities and to stimulate rural economic
10 development.

11 SECTION 14. Subchapter H, Chapter 151, Tax Code, is amended
12 by adding Section 151.333 to read as follows:

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

18 (b) The sale of an energy-efficient product is exempted from
19 the taxes imposed by this chapter if the sale takes place during a
20 period beginning at 12:01 a.m. on April 16 of each year and ending
21 at 11:59 p.m. on that day.

22 SECTION 15. Section 31.004, Utilities Code, is amended by
23 adding Subsection (c) to read as follows:

24 (c) The commission shall provide information to school
25 districts regarding how a school district may finance the
26 installation of solar electric generation panels for school
27 district buildings.

1 SECTION 16. Section 39.002, Utilities Code, is amended to
2 read as follows:

3 Sec. 39.002. APPLICABILITY. This chapter, other than
4 Sections 39.155, 39.157(e), 39.203, 39.903, [~~and~~] 39.904, 39.9051,
5 and 39.9052, does not apply to a municipally owned utility or an
6 electric cooperative. Sections 39.157(e), 39.203, and 39.904,
7 however, apply only to a municipally owned utility or an electric
8 cooperative that is offering customer choice. If there is a
9 conflict between the specific provisions of this chapter and any
10 other provisions of this title, except for Chapters 40 and 41, the
11 provisions of this chapter control.

12 SECTION 17. Section 39.107, Utilities Code, is amended by
13 adding Subsection (i) to read as follows:

14 (i) It is the intent of the legislature that advanced meter
15 data networks be deployed as rapidly as possible to allow customers
16 to better manage energy use and control costs, and to facilitate
17 demand response initiatives.

18 SECTION 18. Subchapter Z, Chapter 39, Utilities Code, is
19 amended by adding Section 39.9025 to read as follows:

20 Sec. 39.9025. HOME ELECTRIC ENERGY REPORTS. The commission
21 may develop and implement a program for delivery of individualized
22 home electric energy reports to educate consumers about electric
23 energy use and energy efficiency, to assist consumers to use energy
24 more efficiently. An electric utility or retail electric provider,
25 as appropriate, shall cooperate with the commission by providing
26 any information the commission requests to facilitate the
27 implementation of this section. Notwithstanding any other

1 provision of this title, a utility or retail electric provider, as
2 appropriate, may release proprietary customer information to the
3 commission for purposes of this section.

4 SECTION 19. Section 39.905, Utilities Code, is amended by
5 amending Subsections (a), (b), (d), (e), and (f), and adding
6 Subsections (b-1), (b-2), (b-3), (b-4), and (g) to read as follows:

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

8 (1) electric utilities will administer energy
9 efficiency [~~savings~~] incentive programs in a market-neutral,
10 nondiscriminatory manner but will not offer underlying competitive
11 services;

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

16 (3) each electric utility will provide, through
17 market-based standard offer programs or limited, targeted,
18 market-transformation programs, incentives sufficient for retail
19 electric providers and competitive energy service providers to
20 acquire additional cost-effective energy efficiency equivalent to
21 at least:

22 (A) 10 percent of the electric utility's annual
23 growth in demand by December 31, 2007;

24 (B) 15 percent of the electric utility's annual
25 growth in demand by December 31, 2008, provided that the electric
26 utility's program expenditures for 2008 funding may not be greater
27 than 75 percent above the utility's program budget for 2007, as

1 included in the April 1, 2006, filing; and

2 (C) 20 percent of the electric utility's annual
3 growth in demand by December 31, 2009, provided that the electric
4 utility's program expenditures for 2009 funding may not be greater
5 than 150 percent of the utility's program budget for 2007, as
6 included in the April 1, 2006, filing;

7 (4) each electric utility in the ERCOT region shall
8 use its best efforts to encourage and facilitate the involvement of
9 the region's retail electric providers in the delivery of
10 efficiency programs and demand response programs under this
11 section;

12 (5) retail electric providers in the ERCOT region, and
13 electric utilities outside of the ERCOT region, shall provide
14 customers with energy efficiency educational materials; and

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

18 (b) The commission shall provide oversight and adopt rules
19 and procedures, as necessary, to ensure that the utilities can
20 achieve the goal of this section, including:

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

24 (2) establishing a financial incentive or performance
25 bonus to reward utilities administering programs under this section
26 that exceed the minimum goals established by this section;

27 (3) providing a utility that is unable to establish an

1 energy efficiency cost recovery factor in a timely manner due to a
2 rate freeze with a mechanism to enable the utility to:

3 (A) defer the costs of complying with this
4 section; and

5 (B) recover the deferred costs through an energy
6 efficiency cost recovery factor on the expiration of the rate
7 freeze period;

8 (4) ensuring, to the greatest extent possible, that
9 the costs associated with programs provided under this section are
10 borne by the customer classes that are eligible to receive the
11 services under the programs; and

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

14 (b-1) The energy efficiency cost recovery factor under
15 Subsection (b)(1) shall be adjusted each year to change rates to
16 enable utilities to match revenues against energy efficiency costs
17 and any incentives to which they are granted. The factor shall be
18 adjusted to reflect any over-collection or under-collection of
19 energy efficiency cost recovery revenues in previous years.

20 (b-2) The commission shall conduct a study regarding energy
21 efficiency in this state. Not later than January 15, 2009, the
22 commission shall submit to the legislature a report regarding the
23 commission's findings that:

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

27 (2) determines the amount of savings that is

1 achievable through utility programs in compliance with commission
2 rules;

3 (3) recommends whether:

4 (A) utility funding of energy efficiency in areas
5 of the state with competitive retail electric service should
6 continue;

7 (B) energy efficiency in areas with competitive
8 retail electric service is best provided by the competitive market;
9 and

10 (C) utilities should fund education programs to
11 be conducted by the commission regarding the provision of energy
12 efficiency service from the competitive market;

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

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

17 (6) determines whether an increase in the goal to 30
18 percent of the growth in demand for each utility is achievable by
19 December 31, 2010, and whether an increase in the goal to 50 percent
20 of the growth in demand for electricity is achievable by December
21 31, 2015, by each utility in the service area served through the
22 energy efficiency programs described by this section;

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

26 (8) identifies potential barriers to the increased
27 participation by retail electric providers in the delivery of

1 energy efficiency services to ERCOT customers, and to the increased
2 potential for energy efficiency in ERCOT or in this state
3 generally, including any recommended regulatory or statutory
4 changes to eliminate such barriers or facilitate greater
5 efficiency.

6 (b-3) Beginning not later than January 1, 2008, the
7 commission, in consultation with the State Energy Conservation
8 Office, annually for a period of five years shall compute and report
9 to ERCOT the projected energy savings and demand impacts for each
10 entity in the ERCOT region that administers standard offer
11 programs, market transformation programs, combined heating and
12 power technology, demand response programs, solar incentive
13 programs, building codes, appliance efficiency standards, energy
14 efficiency programs in public buildings, and any other relevant
15 programs that are reasonably anticipated to reduce electricity
16 energy or peak demand or that serve as substitutes for electric
17 supply.

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

22 (d) The commission shall establish a procedure for
23 reviewing and evaluating market-transformation program options
24 described by this subsection and other options. In evaluating
25 program options, the commission may consider the ability of a
26 program option to reduce costs to customers through reduced demand,
27 energy savings, and relief of congestion. Utilities [~~adopt the~~

1 ~~following market-transformation program options that the~~
2 ~~utilities]~~ may choose to implement any program option approved by
3 the commission after its evaluation in order to satisfy the goal in
4 Subsection (a), including [(a)(3)]:

5 (1) energy-smart schools;

6 (2) appliance retirement and recycling;

7 (3) air conditioning system tune-ups; ~~and]~~

8 (4) the use of trees or other landscaping for energy
9 efficiency;

10 (5) customer energy management and demand response
11 programs;

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

15 (7) programs for customers who rent or lease their
16 residence or commercial space;

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

20 (9) energy audit programs for owners and other
21 residents of single-family and multifamily residences;

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

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

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

1 (e) An electric utility may use money approved by the
2 commission for energy efficiency programs to perform necessary
3 energy efficiency research and development to foster continuous
4 improvement and innovation in the application of energy efficiency
5 technology and energy efficiency program design and
6 implementation. Money the utility uses under this subsection may
7 not exceed 10 percent of the greater of:

8 (1) the amount the commission approved for energy
9 efficiency programs in the utility's most recent full rate
10 proceeding; or

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

13 (f) Unless funding is provided under Section 39.903,
14 [~~beginning January 1, 2006,~~] each unbundled transmission and
15 distribution utility shall include in its energy efficiency plan a
16 targeted low-income energy efficiency program as described by
17 Section 39.903(f)(2), and the savings achieved by the program shall
18 count toward the transmission and distribution utility's energy
19 efficiency goal. The commission shall determine the appropriate
20 level of funding to be allocated to both targeted and standard offer
21 low-income energy efficiency programs in each unbundled
22 transmission and distribution utility service area. The total
23 expenditures for both targeted and standard offer low-income energy
24 efficiency programs will be based on the amount spent by the
25 transmission and distribution utility on the commission's
26 hard-to-reach program in calendar year 2003. This level of funding
27 for low-income energy efficiency programs shall be provided from

1 money approved by the commission for the transmission and
2 distribution utility's energy efficiency programs. The state
3 agency that administers the federal weatherization assistance
4 program shall provide reports as required by the commission to
5 provide the most current information available on energy and peak
6 demand savings achieved in each transmission and distribution
7 utility service area.

8 (g) The commission may provide for a good cause exemption to
9 a utility's liability for an administrative penalty or other
10 sanction if the utility fails to meet a goal for energy efficiency
11 under this section and the utility's failure to meet the goal is
12 caused by one or more factors outside of the utility's control,
13 including:

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

17 (2) changes in building energy codes; and

18 (3) changes in government-imposed appliance or
19 equipment efficiency standards.

20 SECTION 20. Subchapter Z, Chapter 39, Utilities Code, is
21 amended by adding Sections 39.9051, 39.9052, 39.911, 39.912, and
22 39.913 to read as follows:

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

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

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

2 (1) municipally owned utilities will administer
3 energy savings incentive programs;

4 (2) customers of a municipally owned utility will have
5 a choice of and access to energy efficiency alternatives that allow
6 customers to reduce energy consumption, peak demand, or energy
7 costs; and

8 (3) each municipally owned utility will provide
9 incentives sufficient for municipally owned utilities to acquire
10 additional cost-effective energy efficiency.

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

14 (e) If a municipally owned utility adopts customer choice by
15 decision of the governing body under Chapter 40, the commission
16 shall provide oversight and adopt rules and procedures, as
17 necessary, to ensure that the municipally owned utility can achieve
18 the goal in this section in a market-neutral, nondiscriminatory
19 manner. The commission shall, to the extent possible, include
20 existing energy efficiency programs already adopted by the
21 municipally owned utility.

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

27 Sec. 39.9052. ENERGY EFFICIENCY FOR ELECTRIC COOPERATIVES.

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

5 (b) Not later than September 1, 2009, an electric
6 cooperative that had retail sales of more than 500,000 megawatt
7 hours in 2005 must report to the State Energy Conservation Office,
8 in a form and manner determined by the electric cooperative in
9 consultation with the office, information regarding the combined
10 effects of the energy efficiency activities of the electric
11 cooperative.

12 Sec. 39.911. ALTERNATIVE FUNDING FOR ENERGY EFFICIENCY AND
13 RENEWABLE ENERGY SYSTEMS. The State Energy Conservation Office, in
14 coordination with the governor, the Department of Agriculture, the
15 Texas Commission on Environmental Quality, the Texas Education
16 Agency, the commission, and other appropriate state agencies, shall
17 solicit gifts, grants, and other financial resources available to
18 fund energy efficiency improvements and renewable energy systems
19 for public and private facilities in this state.

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

25 (1) an explanation describing combined heating and
26 power technology and its use; and

27 (2) an explanation of how combined heating and power

1 technology can be implemented in this state to meet energy
2 efficiency goals.

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

5 SECTION 21. Section 40.055(a), Utilities Code, is amended
6 to read as follows:

7 (a) The municipal governing body or a body vested with the
8 power to manage and operate a municipally owned utility has
9 exclusive jurisdiction to:

10 (1) set all terms of access, conditions, and rates
11 applicable to services provided by the municipally owned utility,
12 subject to Sections 40.054 and 40.056, including nondiscriminatory
13 and comparable rates for distribution but excluding wholesale
14 transmission rates, terms of access, and conditions for wholesale
15 transmission service set by the commission under this subtitle,
16 provided that the rates for distribution access established by the
17 municipal governing body shall be comparable to the distribution
18 access rates that apply to the municipally owned utility and the
19 municipally owned utility's affiliates;

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

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

25 (4) establish nondiscriminatory transition charges
26 reasonably designed to recover the stranded investment over an
27 appropriate period of time, provided that recovery of retail

1 stranded costs shall be from all existing or future retail
2 customers, including the facilities, premises, and loads of those
3 retail customers, within the utility's geographical certificated
4 service area as it existed on May 1, 1999;

5 (5) determine the extent to which the municipally
6 owned utility will provide various customer services at the
7 distribution level, including other services that the municipally
8 owned utility is legally authorized to provide, or will accept the
9 services from other providers;

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

13 (7) establish and enforce service quality and
14 reliability standards and consumer safeguards designed to protect
15 retail electric customers, including safeguards that will
16 accomplish the objectives of Sections 39.101(a) and (b), consistent
17 with this chapter;

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

20 (9) determine any other utility matters that the
21 municipal governing body or body vested with power to manage and
22 operate the municipally owned utility believes should be included;

23 [~~and~~]

24 (10) make any other decisions affecting the
25 municipally owned utility's participation in customer choice that
26 are not inconsistent with this chapter;

27 (11) determine the extent to which the municipally

1 owned utility offers energy efficiency programs and how the
2 programs are administered by the utility, except as provided by
3 Section 39.9051(e); and

4 (12) determine the extent to which the electric
5 cooperative offers energy efficiency programs and how the programs
6 are administered by the electric cooperative.

7 SECTION 22. (a) The State Energy Conservation Office shall
8 adopt rules implementing a procedure for stakeholder participation
9 as required under Section 388.003(b-2), Health and Safety Code, as
10 added by this Act, as soon as practicable after the effective date
11 of this Act.

12 (b) The State Energy Conservation Office shall adopt rules
13 as necessary to implement Section 44.902, Education Code, as added
14 by this Act, as soon as practicable after the effective date of this
15 Act.

16 SECTION 23. (a) The energy conservation standards for
17 equipment and appliances under Section 2158.301, Government Code,
18 as added by this Act, apply to a purchase by a state agency on or
19 after the effective date of this Act.

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

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

1 taxes.

2 SECTION 25. This Act takes effect September 1, 2007.