

By: Straus

H.B. No. 3693

A BILL TO BE ENTITLED

AN ACT

1
2 relating to energy demand, energy load, energy efficiency
3 incentives, energy programs, and energy performance measures.

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

5 SECTION 1. Subchapter D, Chapter 11, Education Code, is
6 amended by adding Section 11.171 to read as follows:

7 Sec. 11.171. SOLAR ELECTRIC GENERATION FOR PUBLIC SCHOOL
8 BUILDINGS. (a) The trustees of an independent school district
9 shall ensure that any new public school built in the district is
10 designed for and constructed with solar electric generation panels
11 on the rooftops of the school. The trustees may provide for the
12 addition of solar electric generation panels to the rooftops of any
13 existing public school in the district or for a new building on the
14 property of a public school to be designed for and constructed with
15 solar electric generation panels.

16 (b) The trustees of an independent school district shall
17 contract with the public utility, retail electric provider,
18 municipally owned utility, or electric cooperative providing
19 electricity to the district so that:

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

23 (2) the net value of that surplus electricity is
24 credited to the district.

1 SECTION 2. Section 447.009, Government Code, is amended by
2 adding Subsection (b-1) to read as follows:

3 (b-1) A state agency or institution of higher education that
4 occupies a building or facility located in an air quality
5 nonattainment area or affected county, as those terms are defined
6 in Section 386.001, Health and Safety Code, shall include in the
7 plan described in Subsection (a)(1) a goal to reduce energy
8 consumption in its buildings and facilities located in those areas
9 by five percent per year for five years beginning January 1, 2008.
10 In each year in which the goal applies, the agency or institution
11 shall issue a report to the state energy conservation office
12 detailing the agency's or institution's progress in reaching the
13 goal. The state energy conservation office shall include in its
14 annual evaluation under Section 388.006, Health and Safety Code,
15 the information provided to the office by an agency or institution
16 regarding the progress. This subsection expires January 2, 2013.

17 SECTION 3. Subchapter A, Chapter 2165, Government Code, is
18 amended by adding Sections 2165.008 and 2165.009 to read as
19 follows:

20 Sec. 2165.008. PROHIBITION ON USE OF INCANDESCENT LIGHT
21 BULBS. A state agency in charge and control of a state building or
22 of state grounds may not use incandescent light bulbs when
23 replacing a light bulb in the state building or on the state
24 grounds.

25 Sec. 2165.009. ENERGY EFFICIENCY MECHANISMS IN STATE
26 BUILDINGS. A state agency in charge and control of a state building
27 shall adopt rules, in coordination with appropriate state agencies,

1 to retrofit the building with energy efficiency mechanisms,
2 including energy-efficient facilities or appliances and
3 insulation, windows, or other building additions designed to reduce
4 energy use.

5 SECTION 4. Sections 388.003(a) and (b), Health and Safety
6 Code, are amended to read as follows:

7 (a) To achieve energy conservation in this state, the State
8 Energy Conservation Office shall adopt an energy code for
9 single-family residential construction and an energy code for all
10 other residential, commercial, and industrial construction. The
11 office shall ensure that the adopted energy codes will result in
12 energy conservation to an extent that meets or exceeds the
13 conservation to be achieved by the codes prescribed by Subsection
14 (b) and shall periodically review and consider for adoption the
15 most recent revision of those codes.

16 (b) Until the energy codes are revised as provided by
17 Subsection (a):

18 (1) [~~single-family residential construction,~~] the
19 energy efficiency chapter of the International Residential Code, as
20 it existed on May 1, 2001, is adopted as the energy code in this
21 state for single-family residential construction; and

22 (2) [~~—~~
23 [~~(b) To achieve energy conservation in all other~~
24 ~~residential, commercial, and industrial construction,~~] the
25 International Energy Conservation Code as it existed on May 1,
26 2001, is adopted as the energy code for use in this state for all
27 other residential, commercial, and industrial construction.

1 SECTION 5. Section 388.005(c), Health and Safety Code, is
2 amended to read as follows:

3 (c) Each political subdivision shall establish a goal to
4 reduce the electric consumption by the political subdivision by
5 five percent each year until December 31, 2012 [~~for five years,~~
6 ~~beginning January 1, 2002~~].

7 SECTION 6. Section 388.008, Health and Safety Code, is
8 amended by adding Subsection (d) to read as follows:

9 (d) The laboratory, in coordination with other state
10 agencies, shall adopt rules to expand the home energy ratings
11 program to ensure a residential building can receive an energy
12 efficiency rating at the request of an owner or a resident of a
13 single-family or multi-family residence.

14 SECTION 7. Chapter 388, Health and Safety Code, is amended
15 by adding Section 388.013 to read as follows:

16 Sec. 388.013. ENERGY AUDIT PROGRAM. The commission shall
17 coordinate with other state agencies to establish an energy audit
18 program for owners and other residents of single-family and
19 multi-family residences.

20 SECTION 8. Subtitle C, Title 5, Health and Safety Code, is
21 amended by adding Chapter 392 to read as follows:

22 CHAPTER 392. APPLIANCE EFFICIENCY STANDARDS

23 SUBCHAPTER A. GENERAL PROVISIONS

24 Sec. 392.001. DEFINITIONS. In this chapter:

25 (1) "Ballast" means a device used with an electric
26 discharge lamp to obtain necessary circuit conditions involving
27 voltage, current, and waveform, for starting and operating the

1 lamp.

2 (2) "Bottle-type water dispenser" means a water
3 dispenser that uses a bottle or reservoir as the source of potable
4 water.

5 (3) "Commercial hot food holding cabinet" means a
6 heated, fully enclosed compartment with one or more solid or glass
7 doors that is designed to maintain the temperature of hot food that
8 has been cooked in a separate appliance.

9 (4) "Compact audio product," also known as a mini,
10 mid, micro, or shelf audio system, means an integrated audio system
11 encased in a single housing that includes an amplifier and radio
12 tuner with attached or separable speakers that can reproduce audio
13 from magnetic tape, compact disc, DVD, or flash memory.

14 (5) "Digital versatile disc" or "DVD" means a
15 laser-encoded plastic medium capable of storing a large amount of
16 digital audio, video, or computer data.

17 (6) "DVD player" means a digital versatile disc player
18 that:

19 (A) is a commercially available electronic
20 product encased in a single housing that includes an integral power
21 supply; and

22 (B) is designed to decode digitized video signals
23 on a DVD.

24 (7) "DVD recorder" means a digital versatile disc
25 recorder that:

26 (A) is a commercially available electronic
27 product encased in a single housing that includes an integral power

1 supply; and

2 (B) is designed for the production or recording
3 of digitized video signals on a DVD.

4 (8) "Energy Star Program" means the United States
5 Environmental Protection Agency's Energy Star Program.

6 (9) "High-intensity discharge lamp" means a lamp in
7 which:

8 (A) light is produced by the passage of an
9 electric current through a vapor or gas;

10 (B) the light-producing arc is stabilized by bulb
11 wall temperature; and

12 (C) the arc tube has a bulb wall loading of
13 greater than three watts per square centimeter.

14 (10) "Metal halide lamp" means a high-intensity
15 discharge lamp in which the major portion of the light is produced
16 by radiation of metal halides and their products of dissociation.

17 (11) "Metal halide lamp fixture" means a fixture
18 designed to be operated with a metal halide lamp and a ballast for a
19 metal halide lamp.

20 (12) "Portable electric spa" means a factory-built
21 electric spa or hot tub, supplied with equipment for heating and
22 circulating water.

23 (13) "Residential pool pump" means a pump used to
24 circulate and filter residential swimming pool water to maintain
25 the water's clarity and sanitation.

26 (14) "Single-voltage external AC to DC power supply"
27 means a device that:

1 (A) is designed to convert line voltage
2 alternating current input into lower voltage direct current output;

3 (B) is able to convert to only one direct current
4 output voltage at a time;

5 (C) is intended to be used with a separate
6 end-use product that constitutes the primary power load;

7 (D) is contained in a physical enclosure separate
8 from the end-use product;

9 (E) is designed to be connected to the end-use
10 product by a removable or hard-wired electrical connection, cable,
11 cord, or other wiring;

12 (F) has a nameplate output power less than or
13 equal to 250 watts;

14 (G) does not have a fixed or removable battery or
15 battery pack that physically attaches directly to the power supply
16 converter unit; and

17 (H) does not have:

18 (i) a battery chemistry or type selector
19 switch and indicator light; or

20 (ii) a battery chemistry or type selector
21 switch and a state of charge meter.

22 (15) "State-regulated incandescent reflector lamp"
23 means a lamp that:

24 (A) is not colored or designed for rough or
25 vibration service applications;

26 (B) has an inner reflective coating on the outer
27 bulb to direct the light;

1 (C) has a standard E26 (Edison 26 millimeter)
2 medium screw base;

3 (D) has a rated voltage or voltage range at least
4 partially within the range of 115 to 130 volts; and

5 (E) is one of the following types:

6 (i) a blown parabolic aluminized reflector
7 (BPAR) lamp, bulged reflector (BR) lamp, elliptical reflector (ER)
8 lamp, or a lamp with a similar bulb shape with a diameter equal to or
9 greater than 2.25 inches; or

10 (ii) a reflector (R) lamp, a parabolic
11 aluminized reflector (PAR) lamp, or a lamp with a similar bulb shape
12 with a diameter of 2.25 to 2.75 inches.

13 (16) "Walk-in freezer" means a refrigerated space a
14 person can walk into that:

15 (A) has a total frozen storage area of less than
16 3,000 square feet;

17 (B) operates at a temperature at or below 32
18 degrees Fahrenheit; and

19 (C) is connected to a self-contained or remote
20 condensing unit.

21 (17) "Walk-in refrigerator" means a refrigerated
22 space a person can walk into that:

23 (A) has a total chilled storage area of less than
24 3,000 square feet;

25 (B) operates at a chilled temperature above 32
26 degrees Fahrenheit; and

27 (C) is connected to a self-contained or remote

1 condensing unit.

2 (18) "Water dispenser" means a factory-made assembly
3 that mechanically cools and heats potable water and that dispenses
4 the cooled or heated water by integral or remote means.

5 Sec. 392.002. APPLICABILITY; EXEMPTIONS. (a) This chapter
6 applies to the following new products sold, offered for sale, or
7 installed in this state:

8 (1) bottle-type water dispensers;

9 (2) commercial hot food holding cabinets;

10 (3) compact audio products;

11 (4) DVD players and recorders;

12 (5) metal halide lamp fixtures;

13 (6) portable electric spas;

14 (7) residential pool pumps;

15 (8) single-voltage external AC to DC power supplies;

16 (9) state-regulated incandescent reflector lamps;

17 (10) walk-in refrigerators and freezers; and

18 (11) any other products that are designated by the
19 comptroller in accordance with Section 392.102.

20 (b) This chapter does not apply to:

21 (1) a new product manufactured in this state and sold
22 outside the state;

23 (2) a new product manufactured outside this state and
24 sold at wholesale inside the state for final retail sale and
25 installation outside the state;

26 (3) a product installed in a mobile manufactured home
27 at the time of the home's construction;

1 (4) a product designed expressly for installation and
2 use in a recreational vehicle;

3 (5) a commercial heated glass merchandizing cabinet,
4 drawer warmer, or cook-and-hold appliance for hot food;

5 (6) a compact audio product that:

6 (A) can be independently powered by internal
7 batteries;

8 (B) has a powered external satellite antenna; or

9 (C) can provide a video output signal;

10 (7) a DVD recorder that has an electronic programming
11 guide function that provides an interactive, onscreen menu of
12 television listings and downloads program information from the
13 vertical blanking interval of a regular television signal;

14 (8) a refrigerated warehouse;

15 (9) a chilled-space product designed and marketed
16 exclusively for medical, scientific, or research purposes;

17 (10) a single-voltage external AC to DC power supply
18 that requires United States Food and Drug Administration listing
19 and approval as a medical device; or

20 (11) an incandescent reflector lamp that is rated at:

21 (A) 50 watts or less with a diameter of 30/8 or
22 40/8 inches and is one of the following types: BR30, ER30, BR40, and
23 ER40;

24 (B) 65 watts with a diameter of 30/8 or 40/8
25 inches and is one of the following types: BR30, BR40, and ER40; or

26 (C) 45 watts or less with a diameter of 20/8
27 inches (R20 lamps).

1 [Sections 392.003-392.050 reserved for expansion]

2 SUBCHAPTER B. EFFICIENCY STANDARDS

3 Sec. 392.051. MINIMUM EFFICIENCY STANDARDS FOR CERTAIN
4 APPLIANCES. Not later than September 1, 2008, the comptroller, in
5 consultation with the state energy conservation office, shall adopt
6 rules establishing minimum efficiency standards for each type of
7 new product described by Section 392.002(a).

8 Sec. 392.052. NEW OR INCREASED EFFICIENCY STANDARDS. (a)
9 The comptroller may adopt rules to establish increased efficiency
10 standards for a product listed in Section 392.002(a) or to
11 establish standards for a product not listed in that subsection.

12 (b) In considering new or increased standards, the
13 comptroller, in consultation with the state energy conservation
14 office, shall prescribe new or increased efficiency standards if
15 the comptroller determines that the standards would:

16 (1) serve to promote energy conservation in this
17 state; and

18 (2) be cost-effective for consumers who purchase and
19 use the new product.

20 Sec. 392.053. EFFECTIVE DATE OF STANDARDS. A standard
21 established under this subchapter takes effect on the first
22 anniversary of the date the rule establishing the standard is
23 adopted.

24 Sec. 392.054. BOTTLE-TYPE WATER DISPENSERS. A bottle-type
25 water dispenser designed for dispensing both hot and cold water may
26 not have standby energy consumption greater than 1.2 kilowatt-hours
27 per day, as measured in accordance with the test criteria contained

1 in version 1 of the "Energy Star Program Requirements for Bottled
2 Water Coolers," except that Section D, "Timer Usage," of those test
3 criteria may not be used to test units with an integral, automatic
4 timer.

5 Sec. 392.055. COMMERCIAL HOT FOOD HOLDING CABINETS. (a) A
6 commercial hot food holding cabinet must have a maximum idle energy
7 rate of not greater than 40 watts per cubic foot of interior volume,
8 as determined by the "idle energy rate-dry test" in ASTM F2140-01,
9 "Standard Test Method for Performance of Hot Food Holding
10 Cabinets," copyright 2007 ASTM International.

11 (b) Interior volume must be measured in accordance with the
12 method shown in the "Energy Star Program Requirements for
13 Commercial Hot Food Holding Cabinets" as in effect on August 15,
14 2003.

15 Sec. 392.056. COMPACT AUDIO PRODUCTS. A compact audio
16 product may not use more than two watts in standby-passive mode for
17 a product without a permanently illuminated clock display and four
18 watts in standby-passive mode for a product with a permanently
19 illuminated clock display, as measured in accordance with
20 International Electrotechnical Commission (IEC) test method
21 62087:2002-2003(E), "Methods of measurement for the power
22 consumption of audio, video, and related equipment."

23 Sec. 392.057. DVD PLAYERS OR RECORDERS. A DVD player or
24 recorder may not use more than three watts in standby-passive mode,
25 as measured in accordance with International Electrotechnical
26 Commission (IEC) test method 62087:2002-2003(E), "Methods of
27 measurement for the power consumption of audio, video, and related

1 equipment."

2 Sec. 392.058. METAL HALIDE LAMP FIXTURES. A metal halide
3 lamp fixture designed to be operated with a lamp that has a wattage
4 rating of 150 to 500 watts may not contain a ballast to operate the
5 lamp known as a "probe-start metal halide ballast" that:

6 (1) does not contain an igniter; and

7 (2) starts the lamp by using a third starting
8 electrode probe in the arc tube.

9 Sec. 392.059. PORTABLE ELECTRIC SPAS. A portable electric
10 spa may not have a standby power greater than $5(V^{2/3})$ watts where V
11 equals the total volume in gallons. Standby power must be measured
12 in accordance with the test method for portable electric spas
13 contained in Section 1604, Title 20, California Code of
14 Regulations, as of December 2006.

15 Sec. 392.060. RESIDENTIAL POOL PUMP MOTORS. (a) A
16 residential pool pump motor may not be a split-phase or capacitor
17 start-induction run type motor.

18 (b) A residential pool pump motor with a capacity of one
19 horsepower or more must have the capability of operating at more
20 than one speed with a low speed having a rotation rate that is not
21 more than one-half of the motor's maximum rotation rate.

22 (c) Pool pump motor controls must have the capability of
23 operating the pool pump at more than one speed. The pump's default
24 circulation speed must be the lowest speed, and the pump's high
25 speed override capability must be governed by a control device that
26 allows the higher circulation speed to operate only for a temporary
27 period not to exceed one normal cycle.

1 Sec. 392.061. SINGLE-VOLTAGE EXTERNAL AC TO DC POWER
 2 SUPPLIES. (a) A single-voltage external AC to DC power supply must
 3 meet the minimum energy efficiency and maximum energy consumption
 4 requirements provided by the following table:

<u>Nameplate Output Power</u>	<u>Minimum Energy</u> <u>Efficiency in Active Mode</u>
<u>0 to < 1 watt</u>	<u>0.49 * Nameplate Output</u>
<u>≥1 watt and ≤49 watts</u>	<u>0.09*Ln(Nameplate Output</u> <u>Power) + 0.49</u>
<u>> 49 watts</u>	<u>0.84</u>
	<u>Maximum Energy</u> <u>Consumption in No-Load Mode</u>
<u>0 to < 10 watts</u>	<u>0.5 watts</u>
<u>≥ 10 watts and ≤250 watts</u>	<u>0.75 watts</u>

16 Where Ln (Nameplate Output) = Natural Logarithm of the
 17 nameplate output expressed in watts

18 (b) These standards apply to single-voltage external AC to
 19 DC power supplies that are sold individually and to those that are
 20 sold as a component of or in conjunction with another product.

21 (c) For purposes of this section, the efficiency of a
 22 single-voltage external AC to DC power supply must be measured in
 23 accordance with the test methodology specified by the Energy Star
 24 Program "Test Method for Calculating the Energy Efficiency of
 25 Single-Voltage External AC-DC and AC-AC Power Supplies (August 11,
 26 2004)," except that tests shall be conducted at 115 volts only.

27 Sec. 392.062. STATE-REGULATED INCANDESCENT REFLECTOR

1 LAMPS. A state-regulated incandescent reflector lamp must meet the
2 minimum average lamp efficacy requirements for federally regulated
3 incandescent reflector lamps contained in 42 U.S.C. Section
4 6295(i)(1)(A), as in effect on January 1, 2007.

5 Sec. 392.063. WALK-IN REFRIGERATORS AND FREEZERS. (a) A
6 walk-in refrigerator or freezer must have:

7 (1) automatic door closers that firmly close all
8 reach-in doors and that firmly close walk-in doors not wider than 3
9 feet 9 inches and not higher than 6 feet 11 inches that have been
10 closed to within one inch of full closure;

11 (2) wall, ceiling, and door insulation resistance
12 values of at least R-28 for refrigerators and R-32 for freezers,
13 except for glazed portions of doors and structural members;

14 (3) a floor insulation resistance value of at least
15 R-28 for freezers;

16 (4) for a single-phase evaporator fan motor rated at
17 less than one horsepower and at less than 460 volts, an
18 electronically commutated motor;

19 (5) for a condenser fan motor rated at less than one
20 horsepower:

21 (A) an electronically commutated motor;

22 (B) a permanent split capacitor-type motor; or

23 (C) a polyphase motor of one-half horsepower or
24 more; and

25 (6) except as provided by Subsection (d), for all
26 interior lights, light sources with an efficacy of 40 lumens per
27 watt or more, including ballast losses.

1 (b) In addition to the requirements under Subsection (a), a
2 walk-in refrigerator or freezer with transparent reach-in doors
3 must have the following:

4 (1) transparent reach-in doors or windows in walk-in
5 doors for a walk-in freezer of triple-pane glass with
6 heat-reflective treated glass or gas fill;

7 (2) transparent reach-in doors or windows in walk-in
8 doors for a walk-in refrigerator of double-pane or triple-pane
9 glass with heat-reflective treated glass and gas fill;

10 (3) for an appliance that has an anti-sweat heater
11 without anti-sweat heat controls, a total door rail, glass, and
12 frame heater power draw of not more than 7.1 watts per square foot
13 of door opening for a freezer and 3.0 watts per square foot of door
14 opening for a refrigerator; and

15 (4) for an appliance that has an anti-sweat heater
16 with anti-sweat heat controls and the total door rail, glass, and
17 frame heater power draw is more than 7.1 watts per square foot of
18 door opening for a freezer or 3.0 watts per square foot of door
19 opening for a refrigerator, anti-sweat heat controls that reduce
20 the energy use of the anti-sweat heater in an amount corresponding
21 to the relative humidity in the air outside the door or to the
22 condensation on the inner glass pane.

23 (c) The comptroller may delay implementation of Subsection
24 (a)(4) on a determination that the specified motors are available
25 only from one manufacturer or in quantities insufficient to serve
26 the needs of the walk-in industry for evaporator-fan applications.

27 (d) A walk-in refrigerator or freezer may have interior

1 light sources with an efficacy of less than 40 lumens per watt,
2 including ballast losses, if the lights are used in conjunction
3 with a timer or device that turns the lights off whenever the
4 refrigerator or freezer is unoccupied for a period not to exceed 15
5 minutes.

6 [Sections 392.064-392.100 reserved for expansion]

7 SUBCHAPTER C. IMPLEMENTATION AND MODIFICATION OF EFFICIENCY

8 STANDARDS

9 Sec. 392.101. PRODUCT COMPLIANCE. (a) A new product
10 described by Section 392.002(a) may not be sold or offered for sale
11 in this state unless the efficiency of the new product meets or
12 exceeds the applicable efficiency standards prescribed by the rules
13 adopted under Subchapter B.

14 (b) On or after the first anniversary of the date the sale or
15 offering for sale of a new product becomes subject to an efficiency
16 standard adopted under this chapter, that product may not be
17 installed for compensation in this state unless the efficiency of
18 the product meets or exceeds the applicable efficiency standards
19 prescribed by the rules adopted under Subchapter B.

20 Sec. 392.102. APPLICATION FOR WAIVER. For purposes of this
21 chapter, the comptroller may apply for a waiver of federal
22 preemption in accordance with federal procedures under 42 U.S.C.
23 Section 6297(d) to authorize state efficiency standards for a
24 product regulated by the federal government.

25 [Sections 392.103-392.150 reserved for expansion]

26 SUBCHAPTER D. TESTING, CERTIFICATION, LABELING, AND ENFORCEMENT

27 Sec. 392.151. PRODUCT TESTING. (a) The manufacturer of a

1 new product subject to an efficiency standard adopted under this
2 chapter shall test samples of the product in accordance with the
3 test procedures adopted under this chapter.

4 (b) The comptroller, in consultation with the state energy
5 conservation office, by rule shall adopt test procedures for
6 determining a product's energy efficiency if Subchapter B does not
7 provide for the procedures. The comptroller shall adopt test
8 methods approved by the United States Department of Energy or, in
9 the absence of those test methods, other appropriate nationally
10 recognized test methods.

11 (c) The comptroller may adopt revised test procedures when
12 new versions of test procedures become available.

13 Sec. 392.152. PRODUCT CERTIFICATION. (a) Except as
14 provided by Subsection (c), the manufacturer of a new product
15 subject to an efficiency standard adopted under this chapter shall
16 certify to the comptroller that the product is in compliance with
17 that standard according to test results.

18 (b) The comptroller shall adopt rules governing the
19 certification of products under this section and shall coordinate
20 certification by this state with the certification programs of
21 other states and federal agencies with similar standards.

22 (c) Subsection (a) does not apply to a manufacturer of
23 single-voltage external AC to DC power supplies, walk-in
24 refrigerators, or walk-in freezers.

25 Sec. 392.153. PRODUCT LABELING. (a) The manufacturer of a
26 new product subject to an efficiency standard adopted under this
27 chapter shall identify each product offered for sale or

1 installation in this state as being in compliance with this chapter
2 by means of a mark, label, or tag on the product and packaging at the
3 time of sale or installation.

4 (b) The comptroller shall adopt rules governing the
5 identification of products and packaging under this section. The
6 rules must to the greatest practical extent be coordinated with the
7 labeling programs of other states and federal agencies with
8 equivalent efficiency standards. The comptroller shall allow the
9 use of existing marks, labels, or tags that connote compliance with
10 the efficiency requirements of this chapter.

11 Sec. 392.154. COMPTROLLER TESTING FOR EFFICIENCY STANDARDS
12 COMPLIANCE. The comptroller may test products subject to an
13 efficiency standard adopted under this chapter for compliance with
14 the applicable efficiency standards. If a product tested is found
15 not to be in compliance with the standards, the comptroller shall:

16 (1) impose against the manufacturer of the product an
17 assessment in an amount sufficient to recover the costs of
18 purchasing and testing the product; and

19 (2) make information available to the public on any
20 product found to be not in compliance with the standards.

21 Sec. 392.155. INSPECTIONS. The comptroller may have
22 periodic inspections conducted of a distributor or retailer of new
23 products covered by Section 392.002 subject to an efficiency
24 standard adopted under this chapter to determine compliance with
25 this chapter. The inspections must be conducted at reasonable and
26 convenient hours. Notice must be given before an inspection may be
27 conducted.

1 Sec. 392.156. COMPLAINTS. The comptroller shall
2 investigate a complaint received concerning a violation of this
3 chapter and shall report the results of the investigation to the
4 attorney general.

5 Sec. 392.157. ATTORNEY GENERAL ENFORCEMENT. The attorney
6 general may institute proceedings to enforce this chapter.

7 Sec. 392.158. VIOLATIONS AND PENALTIES. (a) The
8 comptroller shall issue a warning to a person for the person's first
9 violation of this chapter.

10 (b) A person's second and subsequent violations are subject
11 to a civil penalty of not more than \$250.

12 (c) Each violation constitutes a separate violation, and
13 each day that a violation continues constitutes a separate
14 violation.

15 (d) A penalty assessed under this section is in addition to
16 costs assessed under Section 392.154.

17 Sec. 392.159. RULES FOR IMPLEMENTATION AND ENFORCEMENT.
18 The comptroller may adopt additional rules necessary to ensure the
19 proper implementation and enforcement of this chapter.

20 SECTION 9. Subchapter H, Chapter 151, Tax Code, is amended
21 by adding Section 151.333 to read as follows:

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

27 (b) This section applies only to the following energy

1 efficient products:

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

4 (2) a clothes washer;

5 (3) a ceiling fan;

6 (4) a dehumidifier;

7 (5) a dishwasher;

8 (6) an incandescent or fluorescent lightbulb;

9 (7) a programmable thermostat; and

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

12 (c) The sale of an energy efficient product to which this
13 section applies is exempted from the taxes imposed by this chapter
14 if:

15 (1) the product is purchased for noncommercial home or
16 personal use; and

17 (2) the sale takes place during:

18 (A) the period described by Section
19 151.326(a)(2) for the sale of certain clothing and footwear;

20 (B) a period beginning at 12:01 a.m. on the
21 Saturday preceding the last Monday in May (Memorial Day) and ending
22 at 11:59 p.m. on the last Monday in May; or

23 (C) a period around July 4, as follows:

24 (i) if July 4 occurs on a Saturday, a period
25 beginning at 12:01 a.m. on the previous Friday and ending at 11:59
26 p.m. on the following Sunday;

27 (ii) if July 4 occurs on a Sunday, a period

1 beginning at 12:01 a.m. on the previous Saturday and ending at 11:59
2 p.m. on the following Monday;

3 (iii) if July 4 occurs on a Monday or
4 Tuesday, a period beginning at 12:01 a.m. on the previous Saturday
5 and ending at 11:59 p.m. on July 4; or

6 (iv) if July 4 occurs on a Wednesday,
7 Thursday, or Friday, a period beginning at 12:01 a.m. on July 4 and
8 ending at 11:59 p.m. on the following Sunday.

9 (d) A retailer is not required to obtain an exemption
10 certificate stating that an energy efficient product to which this
11 section applies is purchased for noncommercial home or personal use
12 unless more than two items of the product are purchased at the same
13 time.

14 SECTION 10. Section 31.004, Utilities Code, is amended by
15 adding Subsection (c) to read as follows:

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

20 SECTION 11. Section 39.002, Utilities Code, is amended to
21 read as follows:

22 Sec. 39.002. APPLICABILITY. This chapter, other than
23 Sections 39.155, 39.157(e), 39.203, 39.903, ~~and~~ 39.904, and
24 39.9054, does not apply to a municipally owned utility or an
25 electric cooperative. Sections 39.157(e), 39.203, and 39.904,
26 however, apply only to a municipally owned utility or an electric
27 cooperative that is offering customer choice. If there is a

1 conflict between the specific provisions of this chapter and any
2 other provisions of this title, except for Chapters 40 and 41, the
3 provisions of this chapter control.

4 SECTION 12. Section 39.905, Utilities Code, is amended by
5 amending Subsections (a), (b), (d), and (e) and adding Subsections
6 (a-1), (a-2), (a-3), (c-1), (g), (h), and (i) to read as follows:

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

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

11 (2) all customers, in all customer classes, have a
12 choice of, year-round ~~and~~ access to, and assistance in choosing
13 energy efficiency alternatives, incentive programs, 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 10 percent of the electric utility's annual growth in
22 demand from residential and small commercial customers;

23 (4) the commission ensures the development of
24 cost-effective and market-based load response programs;

25 (5) each electric utility will promote demand response
26 programs to all customer classes; and

27 (6) each transmission and distribution utility will

1 meet at least 40 percent of the annual growth in demand through a
2 combination of energy efficiency measures and load management by
3 December 31, 2013.

4 (a-1) The commission shall:

5 (1) ensure timely and reasonable cost recovery for
6 utility expenditures made to acquire cost-effective energy
7 efficiency to meet the goal provided by Subsection (a), provided
8 that the amount a utility recovers in a period may not be greater
9 than an amount equal to 100 percent above the utility's efficiency
10 program expenditures for the previous period;

11 (2) establish a performance incentive for utilities
12 that make an additional three percent incremental expenditure to
13 acquire energy efficiency above the goal provided by Subsection
14 (a)(3); and

15 (3) identify in the report provided under Section
16 31.003 any potential barriers to acquiring additional increases in
17 energy efficiency and any statutory changes necessary to eliminate
18 those barriers.

19 (a-2) The commission shall reward a transmission and
20 distribution utility that exceeds the goal provided by Subsection
21 (a)(6) and shall penalize a transmission and distribution utility
22 that fails to achieve the goal. The commission may not penalize a
23 transmission and distribution utility that fails to achieve the
24 goal if the reason for not achieving the goal is outside of the
25 utility's control.

26 (a-3) The commission shall review the potential for energy
27 and demand savings each biennium, establish interim goals, and

1 adjust standard offer and incentive programs to ensure that
2 progress is made toward achieving the goal provided by Subsection
3 (a)(6) and that the programs are achieving the maximum
4 cost-effective energy efficiency equivalent that can be obtained
5 below avoided costs and within the program guidelines established
6 by the commission. This subsection expires January 1, 2014.

7 (b) The commission shall provide oversight and adopt rules
8 and procedures, as necessary, to ensure that the utilities can
9 achieve the goal of this section. The commission shall ensure that
10 costs associated with programs provided under this section are
11 borne by the customers who receive services under the programs.

12 (c-1) The commission, as necessary to allow an electric
13 utility to achieve the goals provided by this section, may allow the
14 utility to vary the structure and delivery of standard offer
15 programs offered in the utility's service area markets based on the
16 characteristics of each market to compensate for the differences
17 between urban and rural service area markets. The commission may
18 allow special programs to be developed to serve rural areas.

19 (d) The commission shall adopt the following
20 market-transformation program options that the utilities may
21 choose to implement in order to satisfy the goal in Subsection
22 (a)(3):

- 23 (1) energy-smart schools;
- 24 (2) appliance retirement and recycling;
- 25 (3) air conditioning system tune-ups; ~~and~~
- 26 (4) the use of trees or other landscaping for energy
27 efficiency;

1 (5) providing energy monitoring equipment to
2 customers to allow the customers a better understanding of the
3 amount and time of energy use;

4 (6) customer energy management and demand response
5 controls;

6 (7) rental or lease property retrofit programs; and

7 (8) high performance buildings.

8 (e) An electric utility may use money approved by the
9 commission for energy efficiency programs to perform necessary
10 research and development to foster continuous improvement and
11 innovation in the application of energy efficiency technology and
12 energy efficiency program design and implementation. Money the
13 utility uses under this subsection may not exceed 10 percent of the
14 amount the commission approved for energy efficiency programs in
15 the utility's most recent full rate proceeding.

16 (g) The commission and the comptroller jointly by rule shall
17 develop a program through which customers may receive a refund of
18 not more than three percent of the taxes the customer paid for
19 electric services taxable under Chapter 151, Tax Code. To be
20 eligible for the program, a customer may not participate in a
21 program under Subsection (a)(3) and must engage in energy
22 efficiency measures that reduce electric energy consumption,
23 increase the efficiency of electric energy production, or reduce
24 peak demand. Rules adopted under this section must provide for a
25 tax refund for energy efficiency measures described by this
26 subsection that were taken on or after January 1, 2005.

27 (h) Not later than October 1, 2007, the commission shall

1 implement an emergency energy efficiency and load management
2 program to ensure that adequate reserve margins are maintained
3 through December 31, 2011. The programs implemented under this
4 subsection shall target:

- 5 (1) high use areas;
6 (2) high growth areas; and
7 (3) customers that use the largest amount of
8 electricity.

9 (i) Each biennium, the commission shall:

10 (1) review the expenditures for efficiency and load
11 management programs for transmission and distribution utilities;
12 and

13 (2) adjust rates to ensure that expenditures for
14 efficiency are recovered in a timely process.

15 SECTION 13. Subchapter Z, Chapter 39, Utilities Code, is
16 amended by adding Sections 39.9051, 39.9052, 39.9053, and 39.9054
17 to read as follows:

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

21 (b) It is the goal of the legislature that:

22 (1) municipally owned utilities will administer
23 energy savings incentive programs;

24 (2) all customers, in all customer classes, have a
25 choice of and access to energy efficiency alternatives that allow
26 each customer to reduce energy consumption, peak demand, or energy
27 costs; and

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

4 (c) The governing body of a municipally owned utility shall
5 provide oversight and adopt rules and procedures, as necessary, to
6 ensure that the utility can achieve the goal of this section.

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

15 Sec. 39.9052. ENERGY EFFICIENCY FOR ELECTRIC COOPERATIVES.
16 Each electric cooperative shall administer energy efficiency
17 programs providing all customer classes with access to energy
18 efficiency alternatives. Energy efficiency programs shall be
19 approved by the governing body of the electric cooperative.

20 Sec. 39.9053. GOAL FOR COMBINED HEATING AND POWER. (a) It
21 is the goal for the state that by January 1, 2023, 3,750 megawatts
22 of generation capacity from combined heating and power technology
23 be installed in the state.

24 (b) The commission shall establish biannual goals for
25 increasing the number of megawatts of energy produced by combined
26 heating and power technology to meet the goal provided by
27 Subsection (a).

1 (c) The commission by rule shall establish a program to
2 encourage electric utilities to comply with this section.

3 (d) The commission by rule shall establish fair
4 interconnection standards, standby charges, insurance
5 requirements, capacity factors, and buyback rates for excess energy
6 produced.

7 (e) The commission, with the assistance of ERCOT, shall
8 establish procedures that allow excess energy produced by combined
9 heat and power technology to be aggregated and sold in the wholesale
10 market.

11 Sec. 39.9054. CREDIT FOR SURPLUS SOLAR GENERATION BY PUBLIC
12 SCHOOLS. (a) An electric utility, retail electric provider,
13 municipally owned utility, or electric cooperative shall provide
14 for net metering and contract with an independent school district
15 so that:

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

19 (2) the net value of that surplus electricity is
20 credited to the district.

21 (b) The commission by rule shall require that credits for
22 electricity produced by a school building's solar electric
23 generation panels reflect the value of the electricity at the time
24 of day that it is made available for sale to the electric
25 transmission grid and distribution system.

26 SECTION 14. Section 11.171, Education Code, as added by
27 this Act, does not apply to the construction or design of a school

1 building the planning process for which began before the effective
2 date of this Act.

3 SECTION 15. (a) The efficiency standards prescribed by
4 rules adopted under Subchapter B, Chapter 392, Health and Safety
5 Code, as added by this Act, apply only to the sale or offer of sale
6 of a new product to which that chapter applies that occurs on or
7 after January 1, 2009.

8 (b) Notwithstanding Subsection (a) of this section:

9 (1) a new residential pool pump that does not meet the
10 efficiency standards contained in Sections 392.060(b) and (c),
11 Health and Safety Code, as added by this Act, may be sold in this
12 state through December 31, 2009; and

13 (2) a new single-voltage external AC to DC power
14 supply made available by a manufacturer directly to a consumer or to
15 a service or repair facility after and separate from the original
16 sale of a product requiring the power supply as a service part or
17 spare part is not required to meet the standards of Section 392.061,
18 Health and Safety Code, as added by this Act, until January 1, 2013.

19 SECTION 16. Section 151.333, Tax Code, as added by this Act,
20 does not affect taxes imposed before the effective date of this Act,
21 and the law in effect before the effective date of this Act is
22 continued in effect for purposes of the liability for and
23 collection of those taxes.

24 SECTION 17. This Act takes effect September 1, 2007.