

1-1 By: Straus, et al. (Senate Sponsor - Fraser) H.B. No. 3693
1-2 (In the Senate - Received from the House May 11, 2007;
1-3 May 15, 2007, read first time and referred to Committee on Business
1-4 and Commerce; May 19, 2007, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 6, Nays 0;
1-6 May 19, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 3693 By: Fraser

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to energy demand, energy load, energy efficiency
1-11 incentives, energy programs, and energy performance measures.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter Z, Chapter 44, Education Code, is
1-14 amended by adding Section 44.902 to read as follows:

1-15 Sec. 44.902. GOAL TO REDUCE CONSUMPTION OF ELECTRIC ENERGY.
1-16 The board of trustees of a school district shall establish a goal to
1-17 reduce the school district's annual electric consumption by five
1-18 percent each state fiscal year for six years beginning September 1,
1-19 2007.

1-20 SECTION 2. Subchapter Z, Chapter 44, Education Code, is
1-21 amended by adding Section 44.903 to read as follows:

1-22 Sec. 44.903. ENERGY-EFFICIENT LIGHT BULBS IN INSTRUCTIONAL
1-23 FACILITIES. (a) In this section, "instructional facility" has the
1-24 meaning assigned by Section 46.001.

1-25 (b) A school district shall purchase for use in each type of
1-26 light fixture in an instructional facility the commercially
1-27 available model of light bulb that:

1-28 (1) uses the fewest watts for the necessary luminous
1-29 flux or light output;

1-30 (2) is compatible with the light fixture; and

1-31 (3) is the most cost-effective considering the factors
1-32 described by subdivisions (1) and (2).

1-33 SECTION 3. Subchapter Z, Chapter 51, Education Code, is
1-34 amended by adding Section 51.9271 to read as follows:

1-35 Sec. 51.9271. ENERGY-EFFICIENT LIGHT BULBS IN EDUCATIONAL
1-36 AND HOUSING FACILITIES. (a) In this section, "housing facility"
1-37 has the meaning assigned by Section 53.02.

1-38 (b) An institution of higher education shall purchase for
1-39 use in each type of light fixture in an educational or housing
1-40 facility the commercially available model of light bulb that:

1-41 (1) is compatible with the light fixture;

1-42 (2) uses the fewest watts for the necessary luminous
1-43 flux or light output; and

1-44 (3) is the most cost-effective, considering the
1-45 factors described by Subdivisions (1) and (2).

1-46 SECTION 4. Section 2155.068(d), Government Code, is amended
1-47 to read as follows:

1-48 (d) As part of the standards and specifications program, the
1-49 commission shall:

1-50 (1) review contracts for opportunities to recycle
1-51 waste produced at state buildings;

1-52 (2) develop and update a list of equipment and
1-53 appliances that meet the energy efficiency standards provided by
1-54 Section 2158.301; and

1-55 (3) assist state agencies in selecting products under
1-56 Section 2158.301, as appropriate.

1-57 SECTION 5. Chapter 2158, Government Code, is amended by
1-58 adding Subchapter F to read as follows:

1-59 SUBCHAPTER F. ENERGY AND EFFICIENCY STANDARDS
1-60 FOR EQUIPMENT AND APPLIANCES

1-61 Sec. 2158.301. ENERGY CONSERVATION. If available and
1-62 cost-effective, a state agency shall purchase equipment and
1-63 appliances for state use that meet or exceed:

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

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

2-7 SECTION 6. Subchapter A, Chapter 2165, Government Code, is
2-8 amended by adding Section 2165.008 to read as follows:

2-9 Sec. 2165.008. ENERGY-EFFICIENT LIGHT BULBS IN STATE
2-10 BUILDINGS. A state agency or institution of higher education in
2-11 charge and control of a state building shall purchase for use in
2-12 each type of light fixture in the building the commercially
2-13 available model of light bulb that:

2-14 (1) uses the fewest watts for the necessary luminous
2-15 flux or light output; and

2-16 (2) is compatible with the light fixture.

2-17 SECTION 7. Subchapter B, Chapter 2165, Government Code, is
2-18 amended by adding Section 2165.058 to read as follows:

2-19 Sec. 2165.058. VENDING MACHINES; ENERGY-SAVING DEVICE
2-20 REQUIRED. (a) This section does not apply to a vending machine
2-21 that contains a perishable food product, as defined by Section
2-22 96.001, Civil Practice and Remedies Code.

2-23 (b) The commission shall require an entity that owns or
2-24 operates a vending machine located in a building owned or leased by
2-25 the state to activate and maintain any internal energy-saving or
2-26 energy-management device or option that is already part of the
2-27 machine or contained in the machine.

2-28 (c) The commission shall require the use of an external
2-29 energy-saving or energy-management device for each vending machine
2-30 that:

2-31 (1) is located in a building owned or leased by the
2-32 state;

2-33 (2) operates with a compressor; and

2-34 (3) does not have an activated and operational
2-35 internal energy-saving or energy-management device or option.

2-36 (d) An entity that owns or operates a vending machine
2-37 subject to this section is responsible for any expenses associated
2-38 with the acquisition, installation, or maintenance of an
2-39 energy-saving device required by this section.

2-40 (e) The commission may impose an administrative fine on an
2-41 entity that operates a vending machine subject to this section in an
2-42 amount not to exceed \$250 a year for each machine found to be in
2-43 violation of this section or rules adopted by the commission under
2-44 this section.

2-45 (f) The commission shall adopt rules relating to the
2-46 specifications for and regulation of energy-saving devices
2-47 required by this section.

2-48 SECTION 8. Subtitle F, Title 10, Government Code, is
2-49 amended by adding Chapter 2264 to read as follows:

2-50 CHAPTER 2264. REQUIRED PUBLICATION AND REPORTING

2-51 BY GOVERNMENTAL ENTITIES

2-52 Sec. 2264.001. RECORDING AND REPORTING OF ELECTRICITY,
2-53 WATER, AND NATURAL GAS CONSUMPTION. (a) In this section,
2-54 "governmental entity" means:

2-55 (1) a board, commission, or department of the state or
2-56 a political subdivision of the state, including a municipality, a
2-57 county, or any kind of district; or

2-58 (2) an institution of higher education as defined by
2-59 Section 61.003, Education Code.

2-60 (b) Notwithstanding any other law, a governmental entity
2-61 responsible for payments for electric, water, or natural gas
2-62 utility services shall record in an electronic repository the
2-63 governmental entity's metered amount of electricity, water, or
2-64 natural gas consumed for which it is responsible to pay and the
2-65 aggregate costs for those utility services. The governmental
2-66 entity shall report the recorded information on a publicly
2-67 accessible Internet website with an interface designed for ease of
2-68 navigation.

2-69 SECTION 9. Subchapter H, Chapter 2306, Government Code, is

3-1 amended by adding Section 2306.187 to read as follows:

3-2 Sec. 2306.187. ENERGY EFFICIENCY STANDARDS FOR CERTAIN
 3-3 SINGLE AND MULTIFAMILY DWELLINGS. (a) A newly constructed single
 3-4 or multifamily dwelling that is constructed with assistance awarded
 3-5 by the department, including state or federal money, housing tax
 3-6 credits, or multifamily bond financing, must include energy
 3-7 conservation and efficiency measures specified by the department.
 3-8 The department by rule shall establish a minimum level of energy
 3-9 efficiency measures that must be included in a newly constructed
 3-10 single or multifamily dwelling as a condition of eligibility to
 3-11 receive assistance awarded by the department for housing
 3-12 construction. The measures adopted by the department may include:

3-13 (1) the installation of Energy Star-labeled ceiling
 3-14 fans in living areas and bedrooms;

3-15 (2) the installation of Energy Star-labeled
 3-16 appliances;

3-17 (3) the installation of Energy Star-labeled lighting
 3-18 in all interior units;

3-19 (4) the installation of Energy Star-labeled
 3-20 ventilation equipment, including power-vented fans, range hoods,
 3-21 and bathroom fans;

3-22 (5) the use of energy efficient alternative
 3-23 construction material, including structural insulated panel
 3-24 construction;

3-25 (6) the installation of central air conditioning or
 3-26 heat pump equipment with a better Seasonal Energy Efficiency Rating
 3-27 (SEER) than that required by the energy code adopted under Section
 3-28 388.003, Health and Safety Code; and

3-29 (7) the installation of the air ducting system inside
 3-30 the conditioned space.

3-31 (b) A single or multifamily dwelling must include energy
 3-32 conservation and efficiency measures specified by the department
 3-33 if:

3-34 (1) the dwelling is rehabilitated with assistance
 3-35 awarded by the department, including state or federal money,
 3-36 housing tax credits, or multifamily bond financing; and

3-37 (2) any portion of the rehabilitation includes
 3-38 alterations that will replace items that are identified as required
 3-39 efficiency measures by the department.

3-40 (c) The energy conservation and efficiency measures the
 3-41 department requires under Subsection (b) may not be more stringent
 3-42 than the measures the department requires under Subsection (a).

3-43 (d) The department shall review the measures required to
 3-44 meet the energy efficiency standards at least annually to determine
 3-45 if additional measures are desirable and to ensure that the most
 3-46 recent energy efficiency technology is considered.

3-47 (e) Subsections (a) and (b) do not apply to a single or
 3-48 multifamily dwelling that receives weatherization assistance money
 3-49 from the department or money provided under the first-time
 3-50 homebuyer program.

3-51 SECTION 10. Section 388.003, Health and Safety Code, is
 3-52 amended by adding Subsections (b-1), (b-2), and (b-3) to read as
 3-53 follows:

3-54 (b-1) If the State Energy Conservation Office determines,
 3-55 based on written recommendations from the laboratory, that the
 3-56 energy efficiency provisions of the latest published editions of
 3-57 the International Residential Code or the International Energy
 3-58 Conservation Code for residential or commercial energy efficiency
 3-59 and air quality are equivalent to or more stringent than the
 3-60 provisions of editions adopted under Subsection (a) or (b), the
 3-61 office by rule may adopt and substitute in the energy code the
 3-62 equivalent or more stringent editions for of the initial editions
 3-63 described by Subsection (a) or (b). If the State Energy
 3-64 Conservation Office adopts the latest published editions of the
 3-65 International Residential Code or the International Energy
 3-66 Conservation Code into the energy code, the office shall establish
 3-67 an effective date for the new editions that is not earlier than nine
 3-68 months after the date of adoption. The laboratory shall submit
 3-69 recommendations concerning the latest published editions of the

4-1 International Residential Code or the International Energy
 4-2 Conservation Code not later than six months after publication of
 4-3 new editions.

4-4 (b-2) The State Energy Conservation Office by rule shall
 4-5 establish a procedure for allowing an opportunity for persons who
 4-6 have an interest in the adoption of energy efficiency codes under
 4-7 Subsection (b-1) to comment on a code considered for adoption,
 4-8 including:

- 4-9 (1) commercial and residential builders;
- 4-10 (2) architects;
- 4-11 (3) engineers;
- 4-12 (4) county and other local government authorities; and
- 4-13 (5) environmental groups.

4-14 (b-3) In developing written recommendations under
 4-15 Subsection (b-1), the laboratory shall consider the comments
 4-16 submitted under Subsection (b-2).

4-17 SECTION 11. Section 388.005, Health and Safety Code, is
 4-18 amended to read as follows:

4-19 Sec. 388.005. ENERGY EFFICIENCY PROGRAMS IN CERTAIN
 4-20 GOVERNMENTAL ENTITIES [~~POLITICAL SUBDIVISIONS~~]. (a) In this
 4-21 section:

4-22 (1) "Institution of higher education" includes an
 4-23 institution of higher education as defined by Section 61.003,
 4-24 Education Code, and a private institution of higher education that
 4-25 receives funding from the state.

4-26 (2) "Political[~~, "political~~] subdivision" means:
 4-27 (A) [~~(1)~~] an affected county; or
 4-28 (B) [~~(2)~~] any political subdivision in a
 4-29 nonattainment area or in an affected county other than:
 4-30 (i) [~~(A)~~] a school district; or
 4-31 (ii) [~~(B)~~] a district as defined by Section
 4-32 36.001 or 49.001, Water Code, that had a total annual electricity
 4-33 expense of less than \$200,000 in the previous fiscal year of the
 4-34 district.

4-35 (3) "State agency" means a department, commission,
 4-36 board, office, council, or other agency in the executive branch of
 4-37 state government that is created by the constitution or a statute of
 4-38 this state and has authority not limited to a geographical portion
 4-39 of the state.

4-40 (b) Each political subdivision, institution of higher
 4-41 education, or state agency shall implement all energy efficiency
 4-42 measures that meet the standards established for a contract for
 4-43 energy conservation measures under Section 302.004(b), Local
 4-44 Government Code, in order to reduce electricity consumption by the
 4-45 existing facilities of the entity [~~the political subdivision~~].

4-46 (c) Each political subdivision, institution of higher
 4-47 education, or state agency shall establish a goal to reduce the
 4-48 electric consumption by the entity [~~political subdivision~~] by five
 4-49 percent each state fiscal year for six [~~five~~] years, beginning
 4-50 September 1, 2007 [~~January 1, 2002~~].

4-51 (d) A political subdivision, institution of higher
 4-52 education, or state agency that does not attain the goals under
 4-53 Subsection (c) must include in the report required by Subsection
 4-54 (e) justification that the entity [~~political subdivision~~] has
 4-55 already implemented all available measures.

4-56 (e) A political subdivision, institution of higher
 4-57 education, or state agency annually shall report to the State
 4-58 Energy Conservation Office, on forms provided by that office,
 4-59 regarding the entity's [~~political subdivision's~~] efforts and
 4-60 progress under this section. The State Energy Conservation Office
 4-61 shall provide assistance and information to the entity [~~political~~
 4-62 ~~subdivisions~~] to help the entity [~~the political subdivisions~~] meet
 4-63 the goals set under this section.

4-64 (f) This section does not apply to a state agency or an
 4-65 institution of higher education that the State Energy Conservation
 4-66 Office determines that, before September 1, 2007, adopted a plan
 4-67 for conserving energy under which the agency or institution
 4-68 established a percentage goal for reducing the consumption of
 4-69 electricity. The exemption provided by this section applies only

5-1 while the agency or institution has an energy conservation plan in
 5-2 effect and only if the agency or institution submits reports on the
 5-3 conservation plan each calendar quarter to the governor, the
 5-4 Legislative Budget Board, and the State Energy Conservation Office.

5-5 SECTION 12. Section 388.008, Health and Safety Code, is
 5-6 amended by amending Subsections (a) and (c) and adding Subsection
 5-7 (d) to read as follows:

5-8 (a) The laboratory shall develop a standardized report
 5-9 format to be used by providers of home energy ratings. The
 5-10 laboratory may develop different report formats for rating newly
 5-11 constructed residences from those for existing residences. The form
 5-12 must be designed to give potential buyers information on a
 5-13 structure's energy performance, including:

- 5-14 (1) insulation;
- 5-15 (2) types of windows;
- 5-16 (3) heating and cooling equipment;
- 5-17 (4) water heating equipment;
- 5-18 (5) additional energy conserving features, if any;
- 5-19 (6) results of performance measurements of building
 5-20 tightness and forced air distribution; and
- 5-21 (7) an overall rating of probable energy efficiency
 5-22 relative to the minimum requirements of the International Energy
 5-23 Conservation Code or the energy efficiency chapter of the
 5-24 International Residential Code, as appropriate.

5-25 (c) The laboratory may cooperate with an industry
 5-26 organization or trade association to:

- 5-27 (1) develop guidelines for home energy ratings;
- 5-28 (2) provide training for individuals performing home
 5-29 energy ratings and providers of home energy ratings; and
- 5-30 (3) provide a registry of completed ratings for newly
 5-31 constructed residences and residential improvement projects for
 5-32 the purpose of computing the energy savings and emissions
 5-33 reductions benefits of the [The] home energy ratings program [shall
 5-34 be implemented by September 1, 2002].

5-35 (d) The laboratory shall include information on the
 5-36 benefits attained from this program in an annual report to the
 5-37 commission.

5-38 SECTION 13. The heading to Section 74.3013, Property Code,
 5-39 is amended to read as follows:

5-40 Sec. 74.3013. DELIVERY OF MONEY FOR RURAL SCHOLARSHIP,
 5-41 [AND] ECONOMIC DEVELOPMENT, AND ENERGY EFFICIENCY ASSISTANCE.

5-42 SECTION 14. Sections 74.3013(a), (b), (e), (f), and (g),
 5-43 Property Code, are amended to read as follows:

5-44 (a) Notwithstanding and in addition to any other provision
 5-45 of this chapter or other law, a nonprofit cooperative corporation
 5-46 may deliver reported money to a scholarship fund for rural
 5-47 students, ~~or~~ to stimulate rural economic development, or to
 5-48 provide energy efficiency assistance to members of electric
 5-49 cooperatives, instead of delivering the money to the comptroller as
 5-50 prescribed in Section 74.301.

5-51 (b) A nonprofit cooperative corporation may deliver the
 5-52 money under this section only:

- 5-53 (1) to a scholarship fund established by one or more
 5-54 nonprofit cooperative corporations in this state to enable students
 5-55 from rural areas to attend college, technical school, or other
 5-56 postsecondary educational institution; ~~and~~
- 5-57 (2) to an economic development fund for the
 5-58 stimulation and improvement of business and commercial activity for
 5-59 economic development in rural communities; and
- 5-60 (3) to an energy efficiency assistance fund to assist
 5-61 members of an electric cooperative in reducing their energy
 5-62 consumption and electricity bills.

5-63 (e) The comptroller shall prescribe forms and procedures
 5-64 governing this section, including forms and procedures relating to:

- 5-65 (1) notice of presumed abandoned property;
- 5-66 (2) delivery of reported money to a scholarship, ~~or~~
 5-67 economic development fund, or energy efficiency assistance fund;
- 5-68 (3) filing of a claim; and
- 5-69 (4) procedures to allow equitable opportunity for

6-1 participation by each nonprofit cooperative corporation in the
6-2 state.

6-3 (f) During a state fiscal year the total amount of money
6-4 that may be transferred by all nonprofit cooperative corporations
6-5 under this section may not exceed \$2 [~~\$1~~] million. No more than 20
6-6 percent of each nonprofit cooperative's funds eligible for delivery
6-7 under this section shall be used for economic development. The
6-8 comptroller shall adopt procedures to record the total amount of
6-9 money transferred annually [~~to allow equitable opportunity for~~
6-10 ~~participation with preference given to corporations already~~
6-11 ~~providing similar scholarship opportunities in other states~~].

6-12 (g) Nonprofit cooperative corporations may combine
6-13 [~~economic development~~] funds from other sources with any [~~economic~~
6-14 ~~development~~] funds delivered under this section. In addition, such
6-15 cooperatives may engage in other business and commercial
6-16 activities, in their own behalf or through such subsidiaries and
6-17 affiliates as deemed necessary, in order to provide and promote
6-18 educational opportunities and to stimulate rural economic
6-19 development.

6-20 SECTION 15. Subchapter H, Chapter 151, Tax Code, is amended
6-21 by adding Section 151.333 to read as follows:

6-22 Sec. 151.333. ENERGY-EFFICIENT PRODUCTS. (a) In this
6-23 section, "energy-efficient product" means a product that has been
6-24 designated as an Energy Star qualified product under the Energy
6-25 Star program jointly operated by the United States Environmental
6-26 Protection Agency and the United States Department of Energy.

6-27 (b) This section applies only to the following
6-28 energy-efficient products:

6-29 (1) an air conditioner the sales price of which does
6-30 not exceed \$6,000;

6-31 (2) a clothes washer;

6-32 (3) a ceiling fan;

6-33 (4) a dehumidifier;

6-34 (5) a dishwasher;

6-35 (6) an incandescent or fluorescent lightbulb;

6-36 (7) a programmable thermostat; and

6-37 (8) a refrigerator the sales price of which does not
6-38 exceed \$2,000.

6-39 (c) The sale of an energy-efficient product to which this
6-40 section applies is exempted from the taxes imposed by this chapter
6-41 if the sale takes place during a period beginning at 12:01 a.m. on
6-42 the Saturday preceding the last Monday in May (Memorial Day) and
6-43 ending at 11:59 p.m. on the last Monday in May.

6-44 SECTION 16. Subsection (b), Section 202.061, Tax Code, is
6-45 amended to read as follows:

6-46 (b) The taxpayer responsible for the payment of severance
6-47 taxes on the production from a marginal well in this state on which
6-48 enhanced efficiency equipment is installed and used is entitled to
6-49 a credit in an amount equal to 10 percent of the cost of the
6-50 equipment, provided that:

6-51 (1) the cumulative total of all severance tax credits
6-52 authorized by this section may not exceed \$1,000 for any marginal
6-53 well;

6-54 (2) the enhanced efficiency equipment installed in a
6-55 qualifying marginal well must have been purchased and installed not
6-56 earlier than September 1, 2005, or later than September 1, 2013
6-57 [~~2009~~];

6-58 (3) the taxpayer must file an application with the
6-59 comptroller for the credit and must demonstrate to the comptroller
6-60 that the enhanced efficiency equipment has been purchased and
6-61 installed in the marginal well within the period prescribed by
6-62 Subdivision (2);

6-63 (4) the number of applications the comptroller may
6-64 approve each state fiscal year may not exceed a number equal to one
6-65 percent of the producing marginal wells in this state on September 1
6-66 of that state fiscal year, as determined by the comptroller; and

6-67 (5) the manufacturer of the enhanced efficiency
6-68 equipment must obtain an evaluation of the product under Subsection
6-69 (a).

7-1 SECTION 17. Subchapter A, Chapter 313, Tax Code, is amended
7-2 by adding Section 313.008 to read as follows:

7-3 Sec. 313.008. REPORT ON COMPLIANCE WITH ENERGY-RELATED
7-4 AGREEMENTS. (a) Before the beginning of each regular session of
7-5 the legislature, the comptroller shall submit to the lieutenant
7-6 governor, the speaker of the house of representatives, and each
7-7 member of the legislature a report assessing the progress of each
7-8 agreement entered into under this chapter utilizing data certified
7-9 by agreement recipients, on each agreement entered into under this
7-10 chapter involving energy-related projects, including wind
7-11 generation, ethanol production, liquefied natural gas terminals,
7-12 low sulfur diesel production, refinery cogeneration, and nuclear
7-13 energy production. The report must state for each agreement:

7-14 (1) the number of qualifying jobs each recipient of a
7-15 limitation on appraised value committed to create;

7-16 (2) the number of qualifying jobs each recipient
7-17 created;

7-18 (3) the median wage of the new jobs each recipient
7-19 created;

7-20 (4) the amount of the qualified investment each
7-21 recipient committed to expend or allocate per project;

7-22 (5) the amount of the qualified investment each
7-23 recipient expended or allocated per project;

7-24 (6) the market value of the qualified property of each
7-25 recipient as established by the local appraiser;

7-26 (7) the limitation on appraised value for the
7-27 qualified property of each recipient;

7-28 (8) the dollar amount of the ad valorem taxes that
7-29 would have been imposed on the market value of the qualified
7-30 property;

7-31 (9) the dollar amount of the ad valorem taxes imposed
7-32 on the qualified property;

7-33 (10) the number of new jobs created by each recipient
7-34 in each sector of the North American Industry Classification System
7-35 (NAICS); and

7-36 (11) of the number of new jobs each recipient created,
7-37 the number of positions created that provide health benefits for
7-38 employees.

7-39 (b) The report may not include information that is made
7-40 confidential by law.

7-41 (c) The comptroller may require a recipient to submit, on a
7-42 form provided by the comptroller, information required to complete
7-43 the report.

7-44 SECTION 18. Section 31.004, Utilities Code, is amended by
7-45 adding Subsection (c) to read as follows:

7-46 (c) The commission shall provide information to school
7-47 districts regarding how a school district may finance the
7-48 installation of solar electric generation panels for school
7-49 district buildings.

7-50 SECTION 19. Section 39.002, Utilities Code, is amended to
7-51 read as follows:

7-52 Sec. 39.002. APPLICABILITY. This chapter, other than
7-53 Sections 39.155, 39.157(e), 39.203, 39.903, ~~and~~ 39.904, 39.9051,
7-54 39.9052, and 39.914(e), does not apply to a municipally owned
7-55 utility or an electric cooperative. Sections 39.157(e), 39.203,
7-56 and 39.904, however, apply only to a municipally owned utility or an
7-57 electric cooperative that is offering customer choice. If there is
7-58 a conflict between the specific provisions of this chapter and any
7-59 other provisions of this title, except for Chapters 40 and 41, the
7-60 provisions of this chapter control.

7-61 SECTION 20. Section 39.107, Utilities Code, is amended by
7-62 adding Subsection (i) to read as follows:

7-63 (i) Subject to the restrictions in Subsection (h), it is the
7-64 intent of the legislature that net metering and advanced meter
7-65 information networks be deployed as rapidly as possible to allow
7-66 customers to better manage energy use and control costs, and to
7-67 facilitate demand response initiatives.

7-68 SECTION 21. Subchapter Z, Chapter 39, Utilities Code, is
7-69 amended by adding Section 39.9025 to read as follows:

8-1 Sec. 39.9025. HOME ELECTRIC ENERGY REPORTS. The commission
 8-2 may encourage retail electric providers to deliver individualized
 8-3 home electric energy reports to educate consumers about electric
 8-4 energy use and energy efficiency to assist consumers to use energy
 8-5 more efficiently.

8-6 SECTION 22. Section 39.905, Utilities Code, is amended by
 8-7 amending Subsections (a), (b), (d), (e), and (f), and adding
 8-8 Subsections (b-1), (b-2), (b-3), (b-4), and (g) to read as follows:

8-9 (a) It is the goal of the legislature that:

8-10 (1) electric utilities will administer energy
 8-11 efficiency [savings] incentive programs in a market-neutral,
 8-12 nondiscriminatory manner but will not offer underlying competitive
 8-13 services;

8-14 (2) all customers, in all customer classes, will have
 8-15 a choice of and access to energy efficiency alternatives and other
 8-16 choices from the market that allow each customer to reduce energy
 8-17 consumption, peak demand, or energy costs; ~~and~~

8-18 (3) each electric utility will provide, through
 8-19 market-based standard offer programs or limited, targeted,
 8-20 market-transformation programs, incentives sufficient for retail
 8-21 electric providers and competitive energy service providers to
 8-22 acquire additional cost-effective energy efficiency for
 8-23 residential and commercial customers equivalent to at least:

8-24 (A) 10 percent of the electric utility's annual
 8-25 growth in demand of residential and commercial customers by
 8-26 December 31, 2007;

8-27 (B) 15 percent of the electric utility's annual
 8-28 growth in demand of residential and commercial customers by
 8-29 December 31, 2008, provided that the electric utility's program
 8-30 expenditures for 2008 funding may not be greater than 75 percent
 8-31 above the utility's program budget for 2007 for residential and
 8-32 commercial customers, as included in the April 1, 2006, filing; and

8-33 (C) 20 percent of the electric utility's annual
 8-34 growth in demand of residential and commercial customers by
 8-35 December 31, 2009, provided that the electric utility's program
 8-36 expenditures for 2009 funding may not be greater than 150 percent
 8-37 above the utility's program budget for 2007 for residential and
 8-38 commercial customers, as included in the April 1, 2006, filing;

8-39 (4) each electric utility in the ERCOT region shall
 8-40 use its best efforts to encourage and facilitate the involvement of
 8-41 the region's retail electric providers in the delivery of
 8-42 efficiency programs and demand response programs under this
 8-43 section;

8-44 (5) retail electric providers in the ERCOT region, and
 8-45 electric utilities outside of the ERCOT region, shall provide
 8-46 customers with energy efficiency educational materials; and

8-47 (6) notwithstanding Subsection (a)(3), electric
 8-48 utilities shall continue to make available, at 2007 funding and
 8-49 participation levels, any load management standard offer programs
 8-50 developed for industrial customers and implemented prior to May 1,
 8-51 2007.

8-52 (b) The commission shall provide oversight and adopt rules
 8-53 and procedures ~~[, as necessary,]~~ to ensure that the utilities can
 8-54 achieve the goal of this section, including:

8-55 (1) establishing an energy efficiency cost recovery
 8-56 factor for ensuring timely and reasonable cost recovery for utility
 8-57 expenditures made to satisfy the goal of this section;

8-58 (2) establishing an incentive under Section 36.204 to
 8-59 reward utilities administering programs under this section that
 8-60 exceed the minimum goals established by this section;

8-61 (3) providing a utility that is unable to establish an
 8-62 energy efficiency cost recovery factor in a timely manner due to a
 8-63 rate freeze with a mechanism to enable the utility to:

8-64 (A) defer the costs of complying with this
 8-65 section; and

8-66 (B) recover the deferred costs through an energy
 8-67 efficiency cost recovery factor on the expiration of the rate
 8-68 freeze period;

8-69 (4) ensuring that the costs associated with programs

9-1 provided under this section are borne by the customer classes that
 9-2 receive the services under the programs; and

9-3 (5) ensuring the program rules encourage the value of
 9-4 the incentives to be passed on to the end-use customer.

9-5 (b-1) The energy efficiency cost recovery factor under
 9-6 Subsection (b)(1) may not result in an over-recovery of costs but
 9-7 may be adjusted each year to change rates to enable utilities to
 9-8 match revenues against energy efficiency costs and any incentives
 9-9 to which they are granted. The factor shall be adjusted to reflect
 9-10 any over-collection or under-collection of energy efficiency cost
 9-11 recovery revenues in previous years.

9-12 (b-2) The commission shall conduct a study, to be funded by
 9-13 electric utilities, regarding cost-effective energy efficiency in
 9-14 this state. Not later than January 15, 2009, the commission shall
 9-15 submit to the legislature a report regarding the commission's
 9-16 findings that:

9-17 (1) considers the technical, economic, and achievable
 9-18 potential, and natural occurrence of energy efficiency in this
 9-19 state in terms of kilowatts and kilowatt hours for each element;

9-20 (2) determines the amount of savings that is
 9-21 achievable through utility programs in compliance with commission
 9-22 rules;

9-23 (3) recommends whether:

9-24 (A) utility funding of energy efficiency in areas
 9-25 of the state with competitive retail electric service should
 9-26 continue;

9-27 (B) energy efficiency in areas with competitive
 9-28 retail electric service is best provided by the competitive market;
 9-29 and

9-30 (C) utilities should fund education programs to
 9-31 be conducted by the commission regarding the provision of energy
 9-32 efficiency service from the competitive market;

9-33 (4) provides estimates of achievable savings specific
 9-34 to each utility service area and each customer class;

9-35 (5) quantifies the costs and rate impacts associated
 9-36 with meeting energy efficiency goals;

9-37 (6) determines whether an increase in the goal to 30
 9-38 percent of the growth in demand for each utility is achievable by
 9-39 December 31, 2010, and whether an increase in the goal to 50 percent
 9-40 of the growth in demand for electricity is achievable by December
 9-41 31, 2015, by each utility in the service area served through the
 9-42 energy efficiency programs described by this section;

9-43 (7) recommends policies designed to promote energy
 9-44 efficiency in the areas of the state that are not served by the
 9-45 utilities which administer programs under this section; and

9-46 (8) identifies potential barriers to the increased
 9-47 participation by retail electric providers in the delivery of
 9-48 energy efficiency services to ERCOT customers, and to the increased
 9-49 potential for energy efficiency in ERCOT or in this state
 9-50 generally, including any recommended regulatory or statutory
 9-51 changes to eliminate such barriers or facilitate greater
 9-52 efficiency.

9-53 (b-3) Beginning not later than January 1, 2008, the
 9-54 commission, in consultation with the State Energy Conservation
 9-55 Office, annually for a period of five years shall compute and report
 9-56 to ERCOT the projected energy savings and demand impacts for each
 9-57 entity in the ERCOT region that administers standard offer
 9-58 programs, market transformation programs, combined heating and
 9-59 power technology, demand response programs, solar incentive
 9-60 programs, appliance efficiency standards, energy efficiency
 9-61 programs in public buildings, and any other relevant programs that
 9-62 are reasonably anticipated to reduce electricity energy or peak
 9-63 demand or that serve as substitutes for electric supply.

9-64 (b-4) The commission and ERCOT shall develop a method to
 9-65 account for the projected efficiency impacts under Subsection (b-3)
 9-66 in ERCOT's annual forecasts of future capacity, demand, and
 9-67 reserves.

9-68 (d) The commission shall establish a procedure for
 9-69 reviewing and evaluating market-transformation program options

10-1 described by this subsection and other options. In evaluating
 10-2 program options, the commission may consider the ability of a
 10-3 program option to reduce costs to customers through reduced demand,
 10-4 energy savings, and relief of congestion. Utilities ~~adopt the~~
 10-5 following market-transformation program options that the
 10-6 utilities] may choose to implement any program option approved by
 10-7 the commission after its evaluation in order to satisfy the goal in
 10-8 Subsection (a), including ~~[(a)(3)]~~:

- 10-9 (1) energy-smart schools;
- 10-10 (2) appliance retirement and recycling;
- 10-11 (3) air conditioning system tune-ups; ~~and]~~
- 10-12 (4) the use of trees or other landscaping for energy
- 10-13 efficiency;
- 10-14 (5) customer energy management and demand response
- 10-15 programs;
- 10-16 (6) high performance residential and commercial
- 10-17 buildings that will achieve the levels of energy efficiency
- 10-18 sufficient to qualify those buildings for federal tax incentives;
- 10-19 (7) programs for customers who rent or lease their
- 10-20 residence or commercial space;
- 10-21 (8) programs providing energy monitoring equipment to
- 10-22 customers that enable a customer to better understand the amount,
- 10-23 price, and time of the customer's energy use;
- 10-24 (9) energy audit programs for owners and other
- 10-25 residents of single-family or multifamily residences and for small
- 10-26 commercial customers;
- 10-27 (10) net-zero energy new home programs;
- 10-28 (11) solar thermal or solar electric programs; and
- 10-29 (12) programs for using windows and other glazing
- 10-30 systems, glass doors, and skylights in residential and commercial
- 10-31 buildings that reduce solar gain by at least 30 percent from the
- 10-32 level established for the federal Energy Star windows program.

10-33 (e) An electric utility may use money approved by the
 10-34 commission for energy efficiency programs to perform necessary
 10-35 energy efficiency research and development to foster continuous
 10-36 improvement and innovation in the application of energy efficiency
 10-37 technology and energy efficiency program design and
 10-38 implementation. Money the utility uses under this subsection may
 10-39 not exceed 10 percent of the greater of:

- 10-40 (1) the amount the commission approved for energy
- 10-41 efficiency programs in the utility's most recent full rate
- 10-42 proceeding; or
- 10-43 (2) the commission-approved expenditures by the
- 10-44 utility for energy efficiency in the previous year.

10-45 (f) Unless funding is provided under Section 39.903,
 10-46 ~~[beginning January 1, 2006,]~~ each unbundled transmission and
 10-47 distribution utility shall include in its energy efficiency plan a
 10-48 targeted low-income energy efficiency program as described by
 10-49 Section 39.903(f)(2), and the savings achieved by the program shall
 10-50 count toward the transmission and distribution utility's energy
 10-51 efficiency goal. The commission shall determine the appropriate
 10-52 level of funding to be allocated to both targeted and standard offer
 10-53 low-income energy efficiency programs in each unbundled
 10-54 transmission and distribution utility service area. The total
 10-55 expenditures for both targeted and standard offer low-income energy
 10-56 efficiency programs will be based on the amount spent by the
 10-57 transmission and distribution utility on the commission's
 10-58 hard-to-reach program in calendar year 2003. This level of funding
 10-59 for low-income energy efficiency programs shall be provided from
 10-60 money approved by the commission for the transmission and
 10-61 distribution utility's energy efficiency programs. The state
 10-62 agency that administers the federal weatherization assistance
 10-63 program shall provide reports as required by the commission to
 10-64 provide the most current information available on energy and peak
 10-65 demand savings achieved in each transmission and distribution
 10-66 utility service area.

10-67 (g) The commission may provide for a good cause exemption to
 10-68 a utility's liability for an administrative penalty or other
 10-69 sanction if the utility fails to meet a goal for energy efficiency

11-1 under this section and the utility's failure to meet the goal is
11-2 caused by one or more factors outside of the utility's control,
11-3 including:

11-4 (1) insufficient demand by retail electric providers
11-5 and competitive energy service providers for program incentive
11-6 funds made available by the utility through its programs;

11-7 (2) changes in building energy codes; and

11-8 (3) changes in government-imposed appliance or
11-9 equipment efficiency standards.

11-10 SECTION 23. Subchapter Z, Chapter 39, Utilities Code, is
11-11 amended by adding Sections 39.9051, 39.9052, 39.911, 39.912, and
11-12 39.913 to read as follows:

11-13 Sec. 39.9051. ENERGY EFFICIENCY FOR MUNICIPALLY OWNED
11-14 UTILITIES. (a) In this section, "municipally owned utility" has
11-15 the meaning assigned by Section 11.003.

11-16 (b) This section applies only to a municipally owned utility
11-17 that had retail sales of more than 500,000 megawatt hours in 2005.

11-18 (c) It is the goal of the legislature that:

11-19 (1) municipally owned utilities will administer
11-20 energy savings incentive programs;

11-21 (2) customers of a municipally owned utility will have
11-22 a choice of and access to energy efficiency alternatives that allow
11-23 customers to reduce energy consumption, peak demand, or energy
11-24 costs; and

11-25 (3) each municipally owned utility will provide
11-26 incentives sufficient for municipally owned utilities to acquire
11-27 additional cost-effective energy efficiency.

11-28 (d) The governing body of a municipally owned utility shall
11-29 provide oversight and adopt rules and procedures, as necessary, to
11-30 ensure that the utility can achieve the goal of this section.

11-31 (e) If a municipally owned utility adopts customer choice by
11-32 decision of the governing body under Chapter 40, the commission
11-33 shall provide oversight and adopt rules and procedures, as
11-34 necessary, to ensure that the municipally owned utility can achieve
11-35 the goal in this section in a market-neutral, nondiscriminatory
11-36 manner. The commission shall, to the extent possible, include
11-37 existing energy efficiency programs already adopted by the
11-38 municipally owned utility.

11-39 (f) Not later than September 1, 2009, a municipally owned
11-40 utility must report to the State Energy Conservation Office, in a
11-41 form and manner determined by the utility in consultation with the
11-42 office, information regarding the combined effects of the energy
11-43 efficiency activities of the utility.

11-44 Sec. 39.9052. ENERGY EFFICIENCY FOR ELECTRIC COOPERATIVES.

11-45 (a) An electric cooperative shall consider adopting and
11-46 implementing energy efficiency programs that reduce the
11-47 cooperative's annual growth in demand in a manner consistent with
11-48 standards established in the state for other utilities.

11-49 (b) Not later than September 1, 2009, an electric
11-50 cooperative that had retail sales of more than 500,000 megawatt
11-51 hours in 2005 must report to the State Energy Conservation Office,
11-52 in a form and manner determined by the electric cooperative in
11-53 consultation with the office, information regarding the combined
11-54 effects of the energy efficiency activities of the electric
11-55 cooperative.

11-56 Sec. 39.911. ALTERNATIVE FUNDING FOR ENERGY EFFICIENCY AND

11-57 RENEWABLE ENERGY SYSTEMS. (a) The State Energy Conservation
11-58 Office, in coordination with the governor, the Department of
11-59 Agriculture, the Texas Commission on Environmental Quality, the
11-60 Texas Education Agency, the commission, and other appropriate state
11-61 agencies, shall solicit gifts, grants, and other financial
11-62 resources available to fund energy efficiency improvements and
11-63 renewable energy systems for public and private facilities in this
11-64 state.

11-65 (b) The State Energy Conservation Office, in coordination
11-66 with the Texas Commission on Environmental Quality, and other
11-67 appropriate state agencies, shall adopt rules and develop
11-68 procedures to require that a developer of renewable energy that is
11-69 comprised primarily of a wind turbine power generation facility

12-1 located on an upland site make a determination that the facility
 12-2 will contribute to meeting the renewable energy goals set forth in
 12-3 Section 39.904(a) and that the location or operation of the
 12-4 facility will not present an unacceptable risk to the natural
 12-5 resources of this state. The Public Utility Commission may not
 12-6 register a company under Section 39.351 unless the company has made
 12-7 both determinations, and the determinations have been certified as
 12-8 accurate by the State Energy Conservation Office, and filed with
 12-9 the commission. The determination procedures developed by the
 12-10 office under this section shall be based on and be similar to the
 12-11 procedures in 47 CFR Subpart 1, Chapter 1, Sections 1.1301-1.1319.

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

12-17 (1) an explanation describing combined heating and
 12-18 power technology and its use; and

12-19 (2) an explanation of how combined heating and power
 12-20 technology can be implemented in this state to meet energy
 12-21 efficiency goals.

12-22 Sec. 39.913. COMBINING CERTAIN REPORTS. The commission may
 12-23 combine the reports required under Sections 39.905(b-2) and 39.912.

12-24 SECTION 24. Subchapter Z, Chapter 39, Utilities Code, is
 12-25 amended by adding Section 39.914 to read as follows:

12-26 Sec. 39.914. CREDIT FOR SURPLUS SOLAR GENERATION BY PUBLIC
 12-27 SCHOOLS. (a) An electric utility or retail electric provider
 12-28 shall provide for net metering and contract with an independent
 12-29 school district so that:

12-30 (1) surplus electricity produced by a school
 12-31 building's solar electric generation panels is made available for
 12-32 sale to the electric transmission grid and distribution system; and

12-33 (2) the net value of that surplus electricity is
 12-34 credited to the district.

12-35 (b) For areas of this state in which customer choice has not
 12-36 been introduced, the commission by rule shall require that credits
 12-37 for electricity produced by a school building's solar electric
 12-38 generation panels reflect the value of the electricity that is made
 12-39 available for sale to the electric utility in accordance with
 12-40 federal regulations.

12-41 (c) For independent school districts in areas in which
 12-42 customer choice has been introduced, the district must sell the
 12-43 school buildings' surplus electricity produced to the retail
 12-44 electric provider that serves the school district's load at a value
 12-45 agreed to between the district and the provider that serves the
 12-46 district's load. The agreed value may be based on the clearing
 12-47 price of energy at the time of day that the electricity is made
 12-48 available to the grid. The independent organization identified in
 12-49 Section 39.151 shall develop procedures so that the amount of
 12-50 electricity purchased from a district under this section is
 12-51 accounted for in settling the total load served by the provider that
 12-52 serves the district's load. A district requesting net metering
 12-53 services for purposes of this section must have metering devices
 12-54 capable of providing measurements consistent with the independent
 12-55 organization's settlement requirements.

12-56 (d) A transmission and distribution utility shall make
 12-57 available to an independent school district for purposes of this
 12-58 section metering required for services provided under this section,
 12-59 including separate meters that measure the load and generator
 12-60 output or a single meter capable of measuring separately in-flow
 12-61 and out-flow at the point of common coupling meter point. The
 12-62 district must pay the differential cost of the metering unless the
 12-63 meters are provided at no additional cost. Except as provided by
 12-64 this section, Section 39.107 applies to metering under this
 12-65 section.

12-66 (e) A municipally owned utility or electric cooperative
 12-67 shall consider and complete the determinations regarding net
 12-68 metering service as provided by the federal Public Utility
 12-69 Regulatory Policies Act of 1978 (16 U.S.C. Section 2601 et seq., as

13-1 amended by the federal Energy Policy Act of 2005 (Pub. L. No.
13-2 109-58)) after proceedings conducted in accordance with that law.
13-3 A municipally owned utility or electric cooperative shall report
13-4 the determinations made under this subsection to the State Energy
13-5 Conservation Office and include in that report information
13-6 regarding metering electricity generated by solar panels on public
13-7 school building rooftops.

13-8 SECTION 25. Subchapter Z, Chapter 39, Utilities Code, is
13-9 amended by adding Section 39.915 to read as follows:

13-10 Sec. 39.915. CONSIDERATION AND APPROVAL OF CERTAIN
13-11 TRANSACTIONS. (a) To protect retail customers in this state,
13-12 notwithstanding any other provision of this title, an electric
13-13 utility or transmission and distribution utility must report to and
13-14 obtain approval of the commission before closing any transaction in
13-15 which:

13-16 (1) the electric utility or transmission and
13-17 distribution utility will be merged or consolidated with another
13-18 electric utility or transmission and distribution utility;

13-19 (2) at least 50 percent of the stock of the electric
13-20 utility or transmission and distribution utility will be
13-21 transferred or sold; or

13-22 (3) a controlling interest or operational control of
13-23 the electric utility or transmission and distribution utility will
13-24 be transferred.

13-25 (b) The commission shall approve a transaction under
13-26 Subsection (a) if the commission finds that the transaction is in
13-27 the public interest. In making its determination, the commission
13-28 shall consider whether the transaction will adversely affect the
13-29 reliability of service, availability of service, or cost of service
13-30 of the electric utility or transmission and distribution utility.
13-31 The commission shall make the determination concerning a
13-32 transaction under this subsection not later than the 180th day
13-33 after the date the commission receives the relevant report. If the
13-34 commission has not made a determination before the 181st day after
13-35 that date, the transaction is considered approved.

13-36 (c) Subsections (a) and (b) do not apply to a transaction
13-37 described by Subsection (a) for which a definitive agreement was
13-38 executed before April 1, 2007, if an electric utility or
13-39 transmission and distribution utility or a person seeking to
13-40 acquire or merge with an electric utility or transmission and
13-41 distribution utility made a filing for review of the transaction
13-42 under Section 14.101 before May 1, 2007, and the resulting
13-43 proceeding was not withdrawn.

13-44 (d) If an electric utility or transmission and distribution
13-45 utility or a person seeking to acquire or merge with an electric
13-46 utility or transmission and distribution utility files with the
13-47 commission a stipulation, representation, or commitment in advance
13-48 of or as part of a filing under this section or under Section
13-49 14.101, the commission may enforce the stipulation,
13-50 representation, or commitment to the extent that the stipulation,
13-51 representation, or commitment is consistent with the standards
13-52 provided by this section and Section 14.101. The commission may
13-53 reasonably interpret and enforce conditions adopted under this
13-54 section.

13-55 SECTION 26. Section 40.055(a), Utilities Code, is amended
13-56 to read as follows:

13-57 (a) The municipal governing body or a body vested with the
13-58 power to manage and operate a municipally owned utility has
13-59 exclusive jurisdiction to:

13-60 (1) set all terms of access, conditions, and rates
13-61 applicable to services provided by the municipally owned utility,
13-62 subject to Sections 40.054 and 40.056, including nondiscriminatory
13-63 and comparable rates for distribution but excluding wholesale
13-64 transmission rates, terms of access, and conditions for wholesale
13-65 transmission service set by the commission under this subtitle,
13-66 provided that the rates for distribution access established by the
13-67 municipal governing body shall be comparable to the distribution
13-68 access rates that apply to the municipally owned utility and the
13-69 municipally owned utility's affiliates;

14-1 (2) determine whether to unbundle any energy-related
14-2 activities and, if the municipally owned utility chooses to
14-3 unbundle, whether to do so structurally or functionally;

14-4 (3) reasonably determine the amount of the municipally
14-5 owned utility's stranded investment;

14-6 (4) establish nondiscriminatory transition charges
14-7 reasonably designed to recover the stranded investment over an
14-8 appropriate period of time, provided that recovery of retail
14-9 stranded costs shall be from all existing or future retail
14-10 customers, including the facilities, premises, and loads of those
14-11 retail customers, within the utility's geographical certificated
14-12 service area as it existed on May 1, 1999;

14-13 (5) determine the extent to which the municipally
14-14 owned utility will provide various customer services at the
14-15 distribution level, including other services that the municipally
14-16 owned utility is legally authorized to provide, or will accept the
14-17 services from other providers;

14-18 (6) manage and operate the municipality's electric
14-19 utility systems, including exercise of control over resource
14-20 acquisition and any related expansion programs;

14-21 (7) establish and enforce service quality and
14-22 reliability standards and consumer safeguards designed to protect
14-23 retail electric customers, including safeguards that will
14-24 accomplish the objectives of Sections 39.101(a) and (b), consistent
14-25 with this chapter;

14-26 (8) determine whether a base rate reduction is
14-27 appropriate for the municipally owned utility;

14-28 (9) determine any other utility matters that the
14-29 municipal governing body or body vested with power to manage and
14-30 operate the municipally owned utility believes should be included;
14-31 [~~and~~]

14-32 (10) make any other decisions affecting the
14-33 municipally owned utility's participation in customer choice that
14-34 are not inconsistent with this chapter; and

14-35 (11) determine the extent to which the municipally
14-36 owned utility offers energy efficiency programs and how the
14-37 programs are administered by the utility, except as provided by
14-38 Section 39.9051(e).

14-39 SECTION 27. Section 41.055, Utilities Code, is amended to
14-40 read as follows:

14-41 Sec. 41.055. JURISDICTION OF BOARD OF DIRECTORS. A board of
14-42 directors has exclusive jurisdiction to:

14-43 (1) set all terms of access, conditions, and rates
14-44 applicable to services provided by the electric cooperative, except
14-45 as provided by Sections 41.054 and 41.056, including
14-46 nondiscriminatory and comparable rates for distribution but
14-47 excluding wholesale transmission rates, terms of access, and
14-48 conditions for wholesale transmission service set by the commission
14-49 under Subchapter A, Chapter 35, provided that the rates for
14-50 distribution established by the electric cooperative shall be
14-51 comparable to the distribution rates that apply to the electric
14-52 cooperative and its subsidiaries;

14-53 (2) determine whether to unbundle any energy-related
14-54 activities and, if the board of directors chooses to unbundle,
14-55 whether to do so structurally or functionally;

14-56 (3) reasonably determine the amount of the electric
14-57 cooperative's stranded investment;

14-58 (4) establish nondiscriminatory transition charges
14-59 reasonably designed to recover the stranded investment over an
14-60 appropriate period of time;

14-61 (5) determine the extent to which the electric
14-62 cooperative will provide various customer services, including
14-63 nonelectric services, or accept the services from other providers;

14-64 (6) manage and operate the electric cooperative's
14-65 utility systems, including exercise of control over resource
14-66 acquisition and any related expansion programs;

14-67 (7) establish and enforce service quality standards,
14-68 reliability standards, and consumer safeguards designed to protect
14-69 retail electric customers;

15-1 (8) determine whether a base rate reduction is
15-2 appropriate for the electric cooperative;

15-3 (9) determine any other utility matters that the board
15-4 of directors believes should be included;

15-5 (10) sell electric energy and capacity at wholesale,
15-6 regardless of whether the electric cooperative participates in
15-7 customer choice;

15-8 (11) determine the extent to which the electric
15-9 cooperative offers energy efficiency programs and how the programs
15-10 are administered by the electric cooperative; and

15-11 (12) [~~11~~] make any other decisions affecting the
15-12 electric cooperative's method of conducting business that are not
15-13 inconsistent with the provisions of this chapter.

15-14 SECTION 28. The State Energy Conservation Office shall
15-15 adopt rules implementing a procedure for stakeholder participation
15-16 as required under Section 388.003(b-2), Health and Safety Code, as
15-17 added by this Act, as soon as practicable after the effective date
15-18 of this Act.

15-19 SECTION 29. (a) The energy conservation standards for
15-20 equipment and appliances under Section 2158.301, Government Code,
15-21 as added by this Act, apply to a purchase by a state agency on or
15-22 after the effective date of this Act.

15-23 (b) The Texas Building and Procurement Commission shall
15-24 develop a list of equipment and appliances under Section 2155.068,
15-25 Government Code, as amended by this Act, as soon as practicable
15-26 after the effective date of this Act.

15-27 SECTION 30. Section 2165.058(c), Government Code, as added
15-28 by this Act, applies only to an entity that contracts with the Texas
15-29 Building and Procurement Commission or another state agency to
15-30 install or operate a vending machine on or after the effective date
15-31 of this Act.

15-32 SECTION 31. The change in law made by this Act does not
15-33 affect taxes imposed before the effective date of this Act, and the
15-34 law in effect before the effective date of this Act is continued in
15-35 effect for purposes of the liability for and collection of those
15-36 taxes.

15-37 SECTION 32. This Act takes effect September 1, 2007.

15-38 * * * * *