

SENATE AMENDMENTS

2nd Printing

By: King of Parker

H.B. No. 1386

A BILL TO BE ENTITLED

AN ACT

relating to regulation of the decommissioning costs of certain nuclear-powered commercial electric generating units.

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

SECTION 1. Subchapter E, Chapter 39, Utilities Code, is amended by adding Section 39.206 to read as follows:

Sec. 39.206. NUCLEAR-POWERED ELECTRIC GENERATING UNIT DECOMMISSIONING COSTS. (a) In this section:

(1) "Decommissioning" includes decommissioning and decontamination of a nuclear generating unit consistent with federal Nuclear Regulatory Commission requirements.

(2) "Nuclear decommissioning trust" means an external and irrevocable trust created for the purpose of funding decommissioning obligations for a nuclear generating unit.

(3) "Nuclear generating unit" means an electric generating facility that uses nuclear energy to generate power for sale.

(4) "Retail electric customer" means a retail electric customer:

(A) in a geographic area of this state in which retail customer choice has been implemented; or

(B) of a municipally owned utility or electric cooperative that has an agreement to purchase power from a nuclear generating unit.

1 (b) This section applies only to a nuclear generating unit
2 that is:

3 (1) constructed in this state after January 1, 2002;
4 and

5 (2) owned by a power generation company.

6 (c) A power generation company that owns a nuclear
7 generating unit shall fund out of operating revenues on an annual
8 basis:

9 (1) the costs associated with funding the
10 decommissioning obligations for the nuclear generating unit; or

11 (2) the power generation company's portion of the
12 decommissioning costs for the nuclear generating unit in proportion
13 to the company's ownership interest in the nuclear generating unit
14 if the unit is owned by more than one person.

15 (d) The power generation company shall establish a nuclear
16 decommissioning trust for a nuclear generating unit it owns or for
17 the proportionate share of a nuclear generating unit of which it
18 owns a part. The funding obligations for the trust must begin
19 before the nuclear generating unit receives its initial fuel load
20 and begins commercial operation to generate power for sale. The
21 terms of the trust must be consistent with trust terms and
22 conditions the federal Nuclear Regulatory Commission requires for
23 providing financial assurance for decommissioning.

24 (e) The commission by order shall establish for a nuclear
25 generating unit the amount of annual decommissioning funding
26 necessary to meet the decommissioning obligations for the nuclear
27 generating unit over the unit's operating license period as

1 established by the federal Nuclear Regulatory Commission. The
2 power generation company shall conduct a study of the costs of
3 decommissioning to establish the decommissioning obligations
4 before the nuclear generating unit begins commercial operation to
5 generate power for sale. The power generation company shall
6 conduct the study at least once in each three-year period during the
7 term of the nuclear generating unit's operating license using the
8 most current reasonably available information on the costs of
9 decommissioning. At least once in each three-year period, the
10 commission shall conduct a proceeding to review the most recent
11 study for each power generation company, consider other reasonably
12 available current information on the costs of decommissioning, and
13 determine whether the study's conclusions are reasonable.

14 (f) The power generation company annually shall file a
15 report on the status of the decommissioning trust fund. At least
16 once in each three-year period, the commission shall conduct a
17 proceeding to review the balance of each nuclear decommissioning
18 trust and the projected amount of annual decommissioning funding
19 for the associated nuclear generating unit. On the conclusion of
20 the review proceeding, the commission by order shall revise the
21 amount of annual funding for the nuclear generating unit as
22 necessary.

23 (g) A power generation company that owns all or part of a
24 nuclear generating unit shall remit the appropriate amount of
25 annual decommissioning funding to the nuclear decommissioning
26 trust created for its proportionate ownership position in a nuclear
27 generating unit in accordance with the commission's funding order

1 issued under Subsection (e) or (f). The commission may terminate
2 the power generation company's registration to operate if the
3 company violates this subsection.

4 (h) A power generation company that owns a nuclear
5 generating unit is the funds administrator of the nuclear
6 decommissioning trust for the associated nuclear generating unit.
7 The company as funds administrator shall invest the trust funds in
8 accordance with guidelines established by commission rule and
9 consistent with the federal Nuclear Regulatory Commission
10 guidelines so that the decommissioning funds, plus the amounts
11 earned from investment of the funds, will be available at the time
12 of decommissioning. The commission shall adopt rules to define the
13 company's specific duties as funds administrator and requirements
14 regarding prudent management and investment of nuclear
15 decommissioning trust funds.

16 (i) The commission shall adopt rules necessary to ensure
17 that:

18 (1) sufficient funds are remitted to a nuclear
19 decommissioning trust on an annual basis to cover the cost of
20 decommissioning a nuclear generating unit at the end of its
21 operating license period in accordance with applicable state and
22 federal laws and regulations;

23 (2) the periodic cost studies and reviews described by
24 Subsections (e) and (f) include all current reasonably available
25 information the commission determines is necessary and
26 appropriate;

27 (3) all funds remitted to a nuclear decommissioning

1 trust are prudently managed and spent for their intended purpose;
2 and

3 (4) the funds remitted to a nuclear decommissioning
4 trust and the amounts earned from investing the funds, will be
5 available for, and restricted to the purpose of decommissioning of
6 the associated nuclear generating unit, including if the trust or
7 nuclear generating unit is transferred to another person.

8 (j) The commission shall determine the manner in which any
9 shortfall in the actual cost of decommissioning a nuclear
10 generating unit shall be recovered from retail electric customers
11 in this state, consistent with law. Subject to Subsection (k), the
12 retail electric customers in this state are responsible for funding
13 any shortfall in the cost of decommissioning the nuclear generating
14 unit if:

15 (1) the nuclear generating unit is being
16 decommissioned and the balance of the nuclear decommissioning trust
17 is not sufficient to fund the cost of decommissioning; or

18 (2) the power generation company does not remit the
19 required amount of funding and the company's registration to
20 operate is terminated under Subsection (g).

21 (k) For retail electric customers of a municipally owned
22 utility or an electric cooperative that has an agreement to
23 purchase power from a nuclear generating unit, the amount of the
24 shortfall in the cost of decommissioning the nuclear generating
25 unit that the customers are responsible for is limited to a portion
26 of that shortfall that bears the same proportion to the total
27 shortfall as the amount of electric power generated by the nuclear

1 generating unit and purchased by the municipally owned utility or
2 electric cooperative bears to the total amount of power the nuclear
3 generating unit generated.

4 (1) If retail electric customers in this state become
5 responsible for the costs of decommissioning a nuclear generating
6 unit and incur costs under Subsection (j) or (k) and the nuclear
7 generating unit is recommissioned by the power generation company
8 whose registration to operate was terminated under Subsection (g)
9 or by a new owner, as a condition of operating the generating unit,
10 the power generation company or new owner shall repay the costs the
11 retail electric customers in this state incurred in the manner
12 determined by the commission. The commission may authorize the
13 repayment to occur over a period established by the commission if
14 the nuclear decommissioning trust is adequately funded on an annual
15 basis as determined by the commission in Subsection (e) or (f).

16 (m) The commission by rule may ensure that:

17 (1) money for decommissioning a nuclear generating
18 unit is prudently collected, managed, and spent for its intended
19 purposes; and

20 (2) decommissioning money that remains unspent after
21 decommissioning of the nuclear generating unit is complete is
22 returned to the appropriate retail electric customers.

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

ADOPTED

MAY 22 2007

Atay Shaw
Secretary of the Senate

By: King/Fraser

H.B. No. 1380

Substitute the following for H.B. No. 1380:

By: Fran

C.S. H.B. No. 1380

A BILL TO BE ENTITLED

AN ACT

relating to regulation of the decommissioning costs of certain nuclear-powered commercial electric generation units.

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

SECTION 1. Subchapter E, Chapter 39, Utilities Code, is amended by adding Section 39.206 to read as follows:

Sec. 39.206. NUCLEAR-POWERED ELECTRIC GENERATION UNIT DECOMMISSIONING COSTS. (a) In this section:

(1) "Decommissioning" includes decommissioning and decontamination of a nuclear generating unit consistent with federal Nuclear Regulatory Commission requirements.

(2) "Nuclear decommissioning trust" means an external and irrevocable trust created for the purpose of funding decommissioning obligations for a nuclear generating unit, consistent with federal Nuclear Regulatory Commission requirements.

(3) "Nuclear generating unit" means an electric generating facility that uses nuclear energy to generate electricity for sale and is licensed by the Nuclear Regulatory

1 Commission.

2 (4) "Power generation company" means a power
3 generation company as that term is defined in Section
4 31.002(10), that is licensed by the Nuclear Regulatory
5 Commission to operate a nuclear generating unit, and includes
6 its parent and affiliates.

7 (b) This section applies only to a nuclear generating unit
8 that:

9 (1) is constructed in this state after January 1,
10 2007 and before December 31, 2020; and

11 (2) is owned by a power generation company.

12 (c) A power generation company shall have the
13 responsibility to fund:

14 (1) the costs associated with funding the
15 decommissioning obligations for the nuclear generating unit; or

16 (2) the power generation company's portion of the
17 decommissioning costs for the nuclear generating unit in
18 proportion to the company's ownership interest in the nuclear
19 generating unit if the unit is owned by more than one person.

20 (3) The obligation to fund a nuclear decommissioning
21 trust fund is not dischargeable in bankruptcy.

22 (d) The power generation company shall establish a nuclear
23 decommissioning trust for a nuclear generating unit it owns or
24 for the proportionate share of a nuclear generating unit of

1 which it owns a part. The funding obligations for the trust
2 must begin before the nuclear generating unit commences its
3 initial fuel load and begins commercial operation to generate
4 power for sale. The terms of the trust must be consistent with
5 trust terms and conditions the federal Nuclear Regulatory
6 Commission requires for providing financial assurance for
7 decommissioning.

8 (e) The commission by order shall establish for a nuclear
9 generating unit the amount of annual decommissioning funding
10 necessary to meet the decommissioning obligations for the
11 nuclear generating unit over the unit's operating license period
12 as established by the federal Nuclear Regulatory Commission.
13 The power generation company shall perform a study on the cost
14 of decommissioning to establish the decommissioning obligations
15 before the nuclear generating unit begins commercial operation
16 to generate power for sale. The study shall be performed by the
17 power generation company at least once in each three year period
18 during the unit's operating license period using the most
19 current reasonably available information on the cost of
20 decommissioning. The commission shall conduct a proceeding at
21 least once in each three-year period to review the study and
22 other current reasonably available information on the cost of
23 decommissioning and determine the reasonableness of the study.

24 (f) The power generation company shall file an annual

1 report to provide the status of the decommissioning trust fund
2 and to update the commission as to its ability to fund the
3 decommissioning trust fund. In determining the amount of the
4 annual decommissioning funding under this subsection, at least
5 once in each three-year period, the commission shall conduct a
6 proceeding to review the balance of each nuclear decommissioning
7 trust and the projected amount of annual decommissioning funding
8 for the associated nuclear generating unit. On the conclusion
9 of the review proceeding, the commission by order shall revise
10 the amount of annual funding for the nuclear generating unit in
11 order to ensure that the nuclear decommissioning trust fund is
12 adequately funded.

13 (g) A power generation company shall remit the appropriate
14 amount of annual decommissioning funding to the nuclear
15 decommissioning trust created for its proportionate ownership
16 position in a nuclear generating unit in accordance with the
17 commission's funding order issued under Subsection (e) or (f).
18 The commission shall take appropriate actions to ensure proper
19 funding of the nuclear decommissioning trust, including possibly
20 terminating the power generation company's registration to
21 operate, if the company violates this subsection.

22 (h) A power generation company that owns a nuclear
23 generating unit is the funds administrator of the nuclear
24 decommissioning trust for the associated nuclear generating

1 unit. The company as funds administrator shall invest the trust
2 funds in accordance with guidelines established by commission
3 rule and consistent with the federal Nuclear Regulatory
4 Commission guidelines so that the decommissioning funds, plus
5 the amounts earned from investment of the funds, will be
6 available at the time of decommissioning. The commission shall
7 adopt rules to define the company's specific duties as funds
8 administrator and requirements regarding prudent management and
9 investment of nuclear decommissioning trust funds.

10 (i) The commission shall adopt rules necessary to ensure
11 that:

12 (1) sufficient funds are remitted to a nuclear
13 decommissioning trust on an annual basis to cover the cost of
14 decommissioning a nuclear generating unit at the end of its
15 operating license period in accordance with applicable state and
16 federal laws and regulations;

17 (2) the periodic cost studies and reviews described
18 in Subsections (e) and (f) include all current reasonably
19 available information as determined necessary and appropriate by
20 the commission;

21 (3) all funds remitted to a nuclear decommissioning
22 trust are prudently managed and spent for their intended
23 purpose;

24 (4) the funds remitted to a nuclear decommissioning

1 trust and the amounts earned from investing the funds, will be
2 available for, and restricted to the purpose of decommissioning
3 of the associated nuclear generating unit, including if the
4 trust or nuclear generating unit is transferred to another
5 person.

6 Sec. 39.207. NUCLEAR DECOMMISSIONING FUNDING ASSURANCE.

7 (a) In this section, "decommissioning", "nuclear
8 decommissioning trust", "nuclear generating unit", and "power
9 generation company" have the same meaning as defined in Section
10 39.206.

11 (b) In addition to the obligations set forth in Section
12 39.206, upon petition by a power generation company subject to
13 this section, to the extent that it is necessary in order to
14 develop nuclear-powered electric generation in this state, the
15 commission shall consider mechanisms to allow a power generation
16 company to provide assurances to satisfy the Nuclear Regulatory
17 Commission's decommissioning requirements. The mechanisms may
18 include:

19 (1) prepayment by the power generation company of a
20 portion of the amount necessary to assure decommissioning;

21 (2) surety, insurance or other financial guarantees;

22 (3) parental or other corporate guarantees;

23 (4) assurances through contractual obligations;

24 (5) the accelerated payment of amounts required under

1 Section 39.206;

2 (6) periodic reporting of financial information
3 associated with a nuclear generating unit; and,

4 (7) a customer recourse mechanism whereby electric
5 customers provide assurance of decommissioning, pursuant to
6 Subsections (e) and (f).

7 (c) A proceeding under Subsection (b) shall be concluded
8 within 180 days of filing. An order adopted under Subsection
9 (b) shall be competitively neutral and minimize the
10 decommissioning risk to electric customers, consistent with the
11 development of nuclear power in this state.

12 (d) The commission shall, in conjunction with the Nuclear
13 Regulatory Commission, investigate the development of a
14 mechanism whereby the State of Texas could ensure that funds for
15 decommissioning will be obtained when necessary in the same
16 manner as if the State of Texas were the licensee under federal
17 law. The commission shall file legislative recommendations
18 regarding any changes in law that may be necessary to carry out
19 the purposes of this subsection prior to January 15, 2009, which
20 may be combined with the report required by Section 31.003.

21 (e) Prior to allowing a power generation company to
22 utilize the mechanism in Subsection (b)(7), the commission shall
23 determine the creditworthiness of the power generation company
24 and may, as a condition of granting a petition to utilize the

1 mechanism in Subsection (b)(7), require a percentage of the cost
2 of decommissioning a nuclear generating unit at the end of its
3 operating license period to be paid into a nuclear
4 decommissioning trust before the nuclear generating unit
5 commences its initial fuel load and begins commercial operation.

6 (f) In considering a petition seeking electric customer
7 recourse under Subsection (b)(7), the commission shall:

8 (1) require electric customers to be at risk for
9 nuclear decommissioning expense to the minimum extent necessary
10 in order to allow for the development of a nuclear generating
11 unit;

12 (2) adopt a payment period for a power generation
13 company subject to this subsection that is designed to achieve
14 full funding of the decommissioning trust in a reasonable and
15 expeditious manner, as necessary to allow for the development of
16 a nuclear generating unit; and

17 (g) The commission shall determine the manner in which any
18 shortfall in the actual cost of decommissioning a nuclear
19 generating unit shall be recovered. In making the determination,
20 the commission shall look first to a power generation company
21 subject to this section. To the extent that no recourse exists
22 to the power generation company or any other entity subject to
23 this section, electric customers may be responsible for funding
24 any shortfall in the cost of decommissioning the nuclear

1 generating unit if the nuclear generating unit is being
2 decommissioned and the balance of the nuclear decommissioning
3 trust is not sufficient to fund the cost of decommissioning.

4 (h) If electric customers become responsible for the costs
5 of decommissioning a nuclear generating unit and incur costs
6 under this section and the nuclear generating unit is
7 operational, as a condition of operating the generating unit,
8 the power generation company or any new owner or operator shall
9 repay the costs the electric customers incurred in the manner
10 determined by the commission. The commission may authorize the
11 repayment to occur over a period established by the commission.

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

ADOPTED

as amended

MAY 22 2007

Lotay Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *Fraser*
(Fraser)

1 Amend C.S.H.B. 1386 by striking all below the enacting
2 clause and substitute the following:

3 SECTION 1. Subchapter E, Chapter 39, Utilities Code, is
4 amended by adding Section 39.206, Section 39.207, and Section
5 39.208 to read as follows:

6 Sec. 39.206. NUCLEAR-POWERED ELECTRIC GENERATION UNIT
7 DECOMMISSIONING COST PLAN. (a) For purposes of this section,
8 Section 39.207, and Section 39.208:

9 (1) "Decommissioning" includes decommissioning and
10 decontamination of a nuclear generating unit consistent with
11 federal Nuclear Regulatory Commission requirements.

12 (2) "Nuclear decommissioning trust" means an external
13 and irrevocable trust created for the purpose of funding
14 decommissioning obligations for a nuclear generating unit,
15 consistent with federal Nuclear Regulatory Commission
16 requirements.

17 (3) "Nuclear generating unit" means an electric
18 generating facility that uses nuclear energy to generate
19 electricity for sale and is licensed by the Nuclear Regulatory
20 Commission and was built in this state after January 1, 2007 but
21 before December 31, 2020.

22 (4) "Power generation company" means a power
23 generation company as that term is defined in Section
24 31.002(10), that is licensed by the Nuclear Regulatory
25 Commission to operate a nuclear generating unit, and includes

1 its parent and affiliates.

2 (b) A power generation company that intends to own or
3 operate a nuclear generating unit shall submit to the commission
4 a plan for funding a nuclear decommissioning trust, in
5 accordance with Sections 39.207 and 39.208. The plan shall
6 detail the power generation company's proposal for funding a
7 nuclear decommissioning trust, consistent with the requirements
8 of the Nuclear Regulatory Commission.

9 (c) The commission shall approve, modify, or reject a plan
10 within 180 days after the date of a filing under Subsection (b).
11 An order approved under this subsection shall be competitively
12 neutral and minimize the decommissioning risk to electric
13 customers, consistent with Sections 39.207 and 39.208.

14 Sec. 39.207. NUCLEAR-POWERED ELECTRIC GENERATION UNIT
15 DECOMMISSIONING TRUST AND RESPONSIBILITY. (a) A power
16 generation company shall have the responsibility to fund:

17 (1) the costs associated with funding the
18 decommissioning obligations for the nuclear generating unit; or

19 (2) the power generation company's portion of the
20 decommissioning costs for the nuclear generating unit in
21 proportion to the company's ownership interest in the nuclear
22 generating unit if the unit is owned by more than one person.

23 (3) The obligation to fund a nuclear decommissioning
24 trust fund is not dischargeable in bankruptcy.

25 (b) The power generation company shall establish a nuclear
26 decommissioning trust for a nuclear generating unit it owns or
27 for the proportionate share of a nuclear generating unit of

1 which it owns a part. The funding obligations for the trust
2 must begin before the nuclear generating unit commences its
3 initial fuel load and begins commercial operation to generate
4 power for sale. The terms of the trust must be consistent with
5 trust terms and conditions the federal Nuclear Regulatory
6 Commission requires for providing financial assurance for
7 decommissioning.

8 (c) The commission by order shall establish for a nuclear
9 generating unit the amount of annual decommissioning funding
10 necessary to meet the decommissioning obligations for the
11 nuclear generating unit as established by the federal Nuclear
12 Regulatory Commission. The power generation company shall
13 perform a study on the cost of decommissioning to establish the
14 decommissioning obligations before the nuclear generating unit
15 begins commercial operation to generate power for sale. The
16 study shall be performed by the power generation company at
17 least once in each three year period during the unit's operating
18 license period using the most current reasonably available
19 information on the cost of decommissioning. The commission
20 shall conduct a proceeding at least once in each three-year
21 period to review the study and other current reasonably
22 available information on the cost of decommissioning and
23 determine the reasonableness of the study.

24 (d) The power generation company shall file an annual
25 report to provide the status of the decommissioning trust fund
26 and to update the commission as to its ability to fund the
27 decommissioning trust fund. In determining the amount of the

1 annual decommissioning funding under this subsection, at least
2 once in each three-year period, the commission shall conduct a
3 proceeding to review the balance of each nuclear decommissioning
4 trust and the projected amount of annual decommissioning funding
5 for the associated nuclear generating unit. On the conclusion
6 of the review proceeding, the commission by order shall revise
7 the amount of annual funding for the nuclear generating unit in
8 order to ensure that the nuclear decommissioning trust fund is
9 adequately funded.

10 (e) A power generation company shall remit the appropriate
11 amount of annual decommissioning funding to the nuclear
12 decommissioning trust created for its proportionate ownership
13 position in a nuclear generating unit in accordance with the
14 commission's funding order issued under Subsection (c) or (d).
15 The commission shall take appropriate actions to ensure proper
16 funding of the nuclear decommissioning trust, including possibly
17 terminating the power generation company's registration to
18 operate, if the company violates this subsection.

19 (f) A power generation company that owns a nuclear
20 generating unit is the funds administrator of the nuclear
21 decommissioning trust for the associated nuclear generating
22 unit. The company as funds administrator shall invest the trust
23 funds in accordance with guidelines established by commission
24 rule and consistent with the federal Nuclear Regulatory
25 Commission guidelines so that the decommissioning funds, plus
26 the amounts earned from investment of the funds, will be
27 available at the time of decommissioning. The commission shall

1 adopt rules to define the company's specific duties as funds
2 administrator and requirements regarding prudent management and
3 investment of nuclear decommissioning trust funds.

4 (g) The commission shall adopt rules necessary to ensure
5 that:

6 (1) a power generation company remits sufficient funds
7 to a nuclear decommissioning trust on an annual basis to cover
8 the cost of decommissioning a nuclear generating unit at the end
9 of its operating license period in accordance with applicable
10 state and federal laws and regulations;

11 (2) the periodic cost studies and reviews described in
12 Subsections (c) and (d) include all current reasonably available
13 information as determined necessary and appropriate by the
14 commission;

15 (3) all funds remitted to a nuclear decommissioning
16 trust are prudently managed and spent for their intended
17 purpose;

18 (4) the funds remitted to a nuclear decommissioning
19 trust and the amounts earned from investing the funds, will be
20 available for, and restricted to the purpose of decommissioning
21 of the associated nuclear generating unit, including if the
22 trust or nuclear generating unit is transferred to another
23 person.

24 Sec. 39.208. NUCLEAR-POWERED ELECTRIC GENERATION UNIT
25 DECOMMISSIONING TRUST FUNDING ASSURANCES. (a) A plan filed
26 under Section 39.206 may include the following mechanisms to
27 allow a power generation company to provide added assurances to

1 satisfy the Nuclear Regulatory Commission's nuclear
2 decommissioning trust requirements:

3 (1) prepayment by the power generation company of a
4 portion of the amount necessary to assure decommissioning;

5 (2) surety, insurance or other financial guarantees;

6 (3) parental or other corporate guarantees;

7 (4) assurances through contractual obligations;

8 (5) the accelerated payment of amounts required under
9 Section 39.207;

10 (6) periodic reporting of financial information
11 associated with a nuclear generating unit; and,

12 (7) a customer recourse mechanism whereby electric
13 customers provide assurance of decommissioning, pursuant to
14 Subsections (b) and (c).

15 (b) Prior to allowing a power generation company to utilize
16 the mechanism in Subsection (a)(7), the commission shall
17 determine the creditworthiness of the power generation company
18 and may, as a condition of granting a petition to utilize the
19 mechanism in Subsection (a)(7), require a percentage of the cost
20 of decommissioning a nuclear generating unit at the end of its
21 operating license period to be paid into a nuclear
22 decommissioning trust before the nuclear generating unit
23 commences its initial fuel load and begins commercial operation.

24 (c) In considering a plan seeking electric customer
25 recourse under Subsection (a)(7), the commission shall:

26 (1) require electric customers to be at risk for
27 nuclear decommissioning expense to the minimum extent necessary

1 in order to allow for the development of a nuclear generating
2 unit; and

3 (2) adopt a payment period for a power generation
4 company subject to this subsection that is designed to achieve
5 full funding of the decommissioning trust in a reasonable and
6 expeditious manner, as necessary to allow for the development of
7 a nuclear generating unit.

8 (d) The commission shall determine the manner in which any
9 shortfall in the actual cost of decommissioning a nuclear
10 generating unit shall be recovered. In making the determination,
11 the commission shall look first to a power generation company.
12 To the extent that no recourse exists to a power generation
13 company or any other entity subject to this section, electric
14 customers may be responsible for funding any shortfall in the
15 cost of decommissioning the nuclear generating unit if the
16 nuclear generating unit is being decommissioned and the balance
17 of the nuclear decommissioning trust is not sufficient to fund
18 the cost of decommissioning.

19 (e) If electric customers become responsible for the costs
20 of decommissioning a nuclear generating unit and incur costs
21 under this section and the nuclear generating unit is
22 operational, as a condition of operating the generating unit,
23 the power generation company or any new owner or operator shall
24 repay the costs the electric customers incurred in the manner
25 determined by the commission. The commission may authorize the
26 repayment to occur over a period established by the commission.

27 (f) The commission shall, in conjunction with the Nuclear

1 Regulatory Commission, investigate the development of a
2 mechanism whereby the State of Texas could ensure that funds for
3 decommissioning will be obtained when necessary in the same
4 manner as if the State of Texas were the licensee under federal
5 law. The commission shall file legislative recommendations
6 regarding any changes in law that may be necessary to carry out
7 the purposes of this subsection prior to January 15, 2009, which
8 may be combined with the report required by Section 31.003.

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

FLOOR AMENDMENT NO. 2

BY: Hoyer

1 Amend proposed floor amendment 1 in Section 39.206 by
2 inserting a new subsection (d) to read as follows:

3 (d) Nothing in this section shall be construed to require
4 a power generation company to use a nuclear decommissioning
5 trust as a method to provide funds for decommissioning, if the
6 power generation company can otherwise satisfy the
7 decommissioning financial assurance requirements of the federal
8 Nuclear Regulatory Commission.

ADOPTED

MAY 22 2007

Lotay Spaw
Secretary of the Senate

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 18, 2007

TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB1386** by King, Phil (Relating to regulation of the decommissioning costs of certain nuclear-powered commercial electric generation units.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Utilities Code relating to regulation of the decommissioning costs of certain nuclear-powered commercial electric generation units. The bill would require the Public Utility Commission (PUC) to establish the annual decommissioning funding for each nuclear generating unit over the span of the unit's operating license period, as established by the National Regulatory Commission (NRC).

The bill would require the PUC to conduct a proceeding to review the balance of each nuclear decommissioning trust and the projected amount of annual decommissioning funding at least once every three years, and at the conclusion of the proceeding, require the PUC to revise the annual decommissioning funding for a particular nuclear power plant. The bill would require the PUC to revoke a power generation company's registration if it fails to remit the balance of the annual decommissioning funding to the nuclear decommissioning trust and require the PUC, by rule, to provide guidelines for fund administrators and to ensure compliance with the requirements of the NRC.

The bill would require the PUC, by rule, to ensure adequate funds are deposited into the nuclear decommissioning trust on an annual basis, deposited funds are used in an appropriate manner, and funds are restricted specifically for the purpose of decommissioning the nuclear generating unit, including if the trust or nuclear generating unit is transferred to another person.

The bill would require the PUC to consider mechanisms to allow a power generation company to provide assurances to satisfy certain decommissioning requirements. The bill would require the PUC to investigate the development of a mechanism to ensure certain funds are obtained in a certain manner and require PUC to file certain legislative recommendations. This bill would also require the PUC to determine the credit worthiness of certain power generation companies, take certain actions in considering a petition seeking electric customer recourse, and determine the manner in which any shortfall in the actual costs of decommissioning a nuclear generating unit shall be recovered.

Based on the analysis of the PUC, it is estimated that duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

This bill would take effect September 1, 2007.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 473 Public Utility Commission of Texas

LBB Staff: JOB, JRO, TGI

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 7, 2007

TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1386 by King, Phil (Relating to regulation of the decommissioning costs of certain nuclear-powered commercial electric generating units.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Utilities Code relating to regulation of the decommissioning costs of certain nuclear-powered commercial electric generation units. The bill would require the Public Utility Commission (PUC) to establish the annual decommissioning funding for each nuclear generating unit over the span of the unit's operating license period, as established by the National Regulatory Commission (NRC).

The bill would require the PUC to conduct a proceeding to review the balance of each nuclear decommissioning trust and the projected amount of annual decommissioning funding at least once every three years, and at the conclusion of the proceeding, require the PUC to revise the annual decommissioning funding for a particular nuclear power plant.

The bill would require the PUC to revoke a power generation company's registration if it fails to remit the balance of the annual decommissioning funding to the nuclear decommissioning trust and require the PUC, by rule, to provide guidelines for fund administrators and to ensure compliance with the requirements of the NRC.

The bill would require the PUC, by rule, to ensure adequate funds are deposited into the nuclear decommissioning trust on an annual basis, deposited funds are used in an appropriate manner, and funds are restricted specifically for the purpose of decommissioning the nuclear generating unit, including if the trust or nuclear generating unit is transferred to another person.

The bill would require the PUC to determine the manner in which a funding shortfall in the cost of decommissioning a nuclear generating plant can be recovered from retail electric customers. This bill would require a power generation company that owns an operational nuclear generation unit to repay the costs incurred by the retail electric customers during the default period and authorize the PUC to determine the time period for the repayment.

It is estimated that duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

This bill would take effect September 1, 2007.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 473 Public Utility Commission of Texas

LBB Staff: JOB, JRO, TGI

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION
Revision 1

April 18, 2007

TO: Honorable Phil King, Chair, House Committee on Regulated Industries

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1386 by King, Phil (relating to regulation of the decommissioning costs of certain nuclear-powered commercial electric generating units.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Utilities Code relating to regulation of the decommissioning costs of certain nuclear-powered commercial electric generation units. The bill would require the Public Utility Commission (PUC) to establish the annual decommissioning funding for each nuclear generating unit over the span of the unit's operating license period, as established by the National Regulatory Commission (NRC).

The bill would require the PUC to conduct a proceeding to review the balance of each nuclear decommissioning trust and the projected amount of annual decommissioning funding at least once every three years, and at the conclusion of the proceeding, require the PUC to revise the annual decommissioning funding for a particular nuclear power plant.

The bill would require the PUC to revoke a power generation company's registration if it fails to remit the balance of the annual decommissioning funding to the nuclear decommissioning trust and require the PUC, by rule, to provide guidelines for fund administrators and to ensure compliance with the requirements of the NRC.

The bill would require the PUC, by rule, to ensure adequate funds are deposited into the nuclear decommissioning trust on an annual basis, deposited funds are used in an appropriate manner, and funds are restricted specifically for the purpose of decommissioning the nuclear generating unit, including if the trust or nuclear generating unit is transferred to another person.

The bill would require the PUC to determine the manner in which a funding shortfall in the cost of decommissioning a nuclear generating plant can be recovered from retail electric customers. This bill would require a power generation company that owns an operational nuclear generation unit to repay the costs incurred by the retail electric customers during the default period and authorize the PUC to determine the time period for the repayment.

It is estimated that duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

This bill would take effect September 1, 2007.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 473 Public Utility Commission of Texas



LBB Staff: JOB, JRO, TGI

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 22, 2007

TO: Honorable Phil King, Chair, House Committee on Regulated Industries

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1386 by King, Phil (relating to regulation of the decommissioning costs of certain nuclear-powered commercial electric generating units.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Utilities Code relating to regulation of the decommissioning costs of certain nuclear-powered commercial electric generation units. The bill would require the Public Utility Commission (PUC) to establish the annual decommissioning funding for each nuclear generating unit over the span of the unit's operating license period, as established by the National Regulatory Commission (NRC).

The bill would require the PUC to conduct a proceeding to review the balance of each nuclear decommissioning trust and the projected amount of annual decommissioning funding at least once every three years, and at the conclusion of the proceeding, require the PUC to revise the annual decommissioning funding for a particular nuclear power plant.

The bill would require the PUC to revoke a power generation company's registration if it fails to remit the balance of the annual decommissioning funding to the nuclear decommissioning trust and require the PUC, by rule, to provide guidelines for fund administrators and to ensure compliance with the requirements of the NRC.

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The bill would require the PUC to determine the manner in which a funding shortfall in the cost of decommissioning a nuclear generating plant can be recovered from retail electric customers. This bill would require a power generation company that owns an operational nuclear generation unit to repay the costs incurred by the retail electric customers during the default period and authorize the PUC to determine the time period for the repayment.

It is estimated that duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

This bill would take effect September 1, 2007.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 473 Public Utility Commission of Texas

LBB Staff: JOB, JRO, TGI

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

Revision 1

April 16, 2007

TO: Honorable Phil King, Chair, House Committee on Regulated Industries

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1386 by King, Phil (Relating to regulation of the decommissioning costs of certain nuclear-powered commercial electric generation units.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1386, As Introduced: a negative impact of (\$145,421) through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	(\$145,421)
2009	\$0
2010	\$0
2011	\$0
2012	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from GENERAL REVENUE FUND 1	Change in Number of State Employees from FY 2007
2008	(\$145,421)	1.8
2009	\$0	0.0
2010	\$0	0.0
2011	\$0	0.0
2012	\$0	0.0

Fiscal Analysis

The bill would amend the Utilities Code relating to regulation of the decommissioning costs of certain nuclear-powered commercial electric generation units. The bill would require the Public Utility Commission (PUC) to establish the annual decommissioning funding for each nuclear generating unit over the span of the unit's operating license period, as established by the National Regulatory Commission (NRC).

The bill would require the PUC to conduct a proceeding to review the balance of each nuclear decommissioning trust and the projected amount of annual decommissioning funding at least once every three years, and at the conclusion of the proceeding, require the PUC to revise the annual decommissioning funding for a particular nuclear power plant.

The bill would require the PUC to revoke a power generation company's registration if it fails to remit the balance of the annual decommissioning funding to the nuclear decommissioning trust and require the PUC, by rule, to provide guidelines for fund administrators and to ensure compliance with the requirements of the NRC.

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The bill would require the PUC to determine the manner in which a funding shortfall in the cost of decommissioning a nuclear generating plant can be recovered from retail electric customers. The bill would require a power generation company that owns an operational nuclear generation unit to repay the costs incurred by the retail electric customers during the default period and authorize the PUC to determine the time period for the repayment.

This bill would take effect September 1, 2007.

Methodology

Based on the analysis of the Public Utility Commission (PUC), it is assumed that there would be costs associated with additional rulemaking required in the fiscal year 2008. It is estimated that the PUC would incur General Revenue costs for staff of \$108,612 and 1.8 FTEs in fiscal year 2008. In fiscal year 2008, other operating expenses are estimated at \$6,082 and associated benefit costs are estimated at \$30,727.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 473 Public Utility Commission of Texas

LBB Staff: JOB, JRO, MW, TGI

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

February 26, 2007

TO: Honorable Phil King, Chair, House Committee on Regulated Industries

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1386 by King, Phil (Relating to regulation of the decommissioning costs of certain nuclear-powered commercial electric generation units.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1386, As Introduced: a negative impact of (\$145,421) through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	(\$145,421)
2009	\$0
2010	\$0
2011	\$0
2012	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from <i>GENERAL REVENUE FUND</i> 1	Change in Number of State Employees from FY 2007
2008	(\$145,421)	1.8
2009	\$0	0.0
2010	\$0	0.0
2011	\$0	0.0
2012	\$0	0.0

Fiscal Analysis

The bill would amend the Utilities Code relating to regulation of the decommissioning costs of certain nuclear-powered commercial electric generation units. The bill would require the Public Utility Commission (PUC) to establish the annual decommissioning funding for each nuclear generating unit over the span of the unit's operating license period, as established by the National Regulatory Commission (NRC).

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Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 473 Public Utility Commission of Texas

LBB Staff: JOB, JRO, MW, TGI

