

Amend CSHB 1243 (committee printing version) by inserting the following new SECTIONS and renumbering subsequent SECTIONS accordingly:

"SECTION __. Subchapter Z, Chapter 39, Utilities Code, is amended by adding Section 39.9155 to read as follows:

Sec. 39.9155. DISTRIBUTED SOLAR GENERATION INCENTIVE PROGRAM. (a) It is the goal of the legislature that electric utilities administer incentive programs for residential and commercial customers to increase the amount of distributed solar generation, utility scale solar generation, and energy storage installed within the state in a cost-effective, market-neutral, and nondiscriminatory manner.

(b) The commission by rule shall:

(1) establish a distributed solar generation incentive program, to be implemented by electric utilities;

(2) oversee the implementation of the program required by Subdivision (1); and

(3) establish procedures to achieve the goal described by Subsection (a).

(c) The rules adopted under Subsection (b) must include provisions for:

(1) recovery of the cost of electric utility programs authorized by this section through nonbypassable fees, which may not exceed:

(A) 20 cents per month for residential customers;

(B) \$2 per month for commercial customers; and

(C) \$20 per month for industrial customers;

(2) rebates to customers to defray the cost of installing distributed solar generation as provided by Subsection (e); and

(3) the utility scale solar and energy storage program provided by Subsection (f).

(d) Electric utilities may not assess the fees authorized by this section after the fifth anniversary of the date the program required by this section is established by commission rule, except as provided by Subsection (k). The commission shall ensure that all fees collected under this section are used for the programs

authorized by this section, except that utilities may not use more than 2.5 percent of the funds collected for administrative expenses related to this section, as approved by the commission.

(e) The commission shall set a rebate amount for the installation of solar generation. The commission shall periodically adjust the rebate amount such that the quantity of solar generation installed under this section is maximized, but shall reduce rebate amounts by not less than five percent per year. The commission may set a higher rebate amount for solar generation manufactured wholly or substantially in this state, provided that the higher amount is not more than 20 percent higher than the rebate applicable to all other solar generation. The commission may provide for rebates to be provided directly to customers or to qualified installers of solar generation. Unless otherwise adjusted by the commission, the initial rebates shall be:

(1) \$2.40 per watt for installations on residential buildings;

(2) \$1.50 per watt for installations on commercial buildings; and

(3) \$1 per watt for installations at industrial facilities.

(f) The commission may direct not more than 70 percent of the funds collected by the fees authorized by this section to utility scale solar generation and energy storage projects if the commission determines such projects are more cost-effective than distributed solar generation or will provide a greater benefit to the reliability of the electric grid. The commission may establish rebate amounts not to exceed \$1 per watt for such projects or may consider other methods to award funds in order to maximize the quantity of generation installed under this section. If the demand for funds under this section exceeds the available funds, the commission shall consider the following in determining which projects receive subsidies:

(1) projects that require the lowest amount of subsidy to be commercially viable;

(2) projects that use the transmission capacity built under Section 39.904(g) and require minimal additional

transmission facilities;

(3) projects that enhance the reliability of the transmission and distribution grid or defer the need for additional transmission and distribution infrastructure;

(4) projects that provide maximum output during periods when electricity demand is highest in this state; and

(5) projects that can provide ancillary services to the electric grid.

(g) The commission shall develop a "Made in Texas" certification program for energy products that include distributed solar generation. The commission shall post a list of energy products that are wholly or substantially produced in Texas and shall conduct education efforts to inform customers of the availability of Texas-manufactured energy products. The commission may partner or contract with third parties or nonprofit organizations to achieve this goal.

(h) The commission, in consultation with the Electric Reliability Council of Texas, shall prepare and make available a study indicating geographic areas where utility scale non-wind renewable energy can be located with minimal additional transmission facilities.

(i) Selection of projects by the commission under Subsection (f) is not required to be conducted as a contested case proceeding. The commission may appoint an advisory committee to assist the commission in evaluating proposals made under Subsection (f), provided, however, that members of the committee may not have a financial interest in any of the proposals. After conclusion of a process authorized by Subsection (f), the commission shall release a complete record of the proposals and the evaluation of the factors required to be considered under Subsection (f).

(j) The commission may extend the fees and program authorized by this section for an additional five years if the commission finds that a substantial amount of manufacturing of solar generation products has located in Texas after the initial five-year program and that the extension of the fees does not present an undue burden to customers.

SECTION _____. Subchapter Z, Chapter 39, Utilities Code, is

amended by adding Section 39.9156 to read as follows:

Sec. 39.9156. SOLAR GENERATION INCENTIVE PROGRAMS. (a) It is the goal of the legislature that:

(1) electric cooperatives and municipally owned utilities administer incentive programs that increase the amount of solar generation installed within the state in a cost-effective, market-neutral, and nondiscriminatory manner;

(2) customers of electric cooperatives and municipally owned utilities will have a choice of and access to incentives for the installation of distributed solar generation; and

(3) electric cooperatives and municipally owned utilities with retail sales of more than 500,000 megawatt hours in 2007 expend funds to increase the amount of solar generation and other renewable energy and energy storage projects consistent with the requirements for electric utilities in this state.

(b) Not later than September 1, 2015, a municipally owned utility or electric cooperative with retail sales of more than 500,000 megawatt hours in 2007 must report to the state energy conservation office, in a form and manner determined by the office, information regarding the efforts of the municipally owned utility or electric cooperative related to this section.

SECTION _____. Chapter 202, Property Code, is amended by adding Section 202.010 to read as follows:

Sec. 202.010. REGULATION OF SOLAR ENERGY DEVICES. (a) In this section, "solar energy device" has the meaning assigned by Section 171.107, Tax Code.

(b) Except as otherwise provided by this section, a property owners' association may not include or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner from installing a solar energy device.

(c) A provision that violates Subsection (b) is void.

(d) This section does not prohibit the inclusion or enforcement of a provision in a dedicatory instrument that prohibits a solar energy device that:

(1) threatens the public health or safety;

(2) violates a law;

(3) is located on property owned or maintained by the property owners' association;

(4) is located on property owned in common by the members of the property owners' association;

(5) is located in an area on the property owner's property other than:

(A) on the roof of the home; or

(B) in a fenced yard or patio maintained by the property owner; or

(6) is mounted on a device that is taller or more visually obtrusive than is necessary for the solar energy device to operate at not less than 90 percent of its rated efficiency.

SECTION _____. The heading to Subtitle F, Title 16, Property Code, is amended to read as follows:

SUBTITLE F. REGULATION [~~INSPECTION~~] OF [~~NEW~~] RESIDENTIAL
CONSTRUCTION GENERALLY

SECTION _____. The heading to Chapter 446, Property Code, is amended to read as follows:

CHAPTER 446. INSPECTION OF RESIDENTIAL CONSTRUCTION IN
UNINCORPORATED AREAS AND OTHER AREAS NOT SUBJECT TO MUNICIPAL
INSPECTIONS

SECTION _____. Subtitle F, Title 16, Property Code, is amended by adding Chapter 447 to read as follows:

CHAPTER 447. REQUIREMENTS FOR NEW CONSTRUCTION CONTRACTS

Sec. 447.001. SOLAR PANEL OPTION REQUIRED IN CERTAIN SUBDIVISIONS. (a) In this section, "solar energy device" means a system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power by collecting and transferring solar-generated energy. The term includes a mechanical or chemical device that has the ability to store solar-generated energy for use in heating or cooling or in the production of power.

(b) This chapter applies only to a contract for construction of a new home in a subdivision that contains more than 50 lots on which the builder has built or is offering to build new homes.

(c) A builder who enters into a contract to which this chapter applies shall offer the homebuyer an option to install a

solar energy device on the home for heating or cooling or for the production of power.

SECTION _____. Subchapter D, Chapter 2305, Government Code, is amended by adding Section 2305.0321 to read as follows:

Sec. 2305.0321. PILOT REVOLVING LOAN PROGRAM FOR SOLAR ENERGY FOR SCHOOL BUILDINGS. (a) The energy office shall establish a pilot program under the loanstar revolving loan program to provide loans to pay the cost of installing photovoltaic solar panels on public school buildings and the cost of associated energy efficiency improvements to the buildings. The energy office shall allocate to the pilot program at least \$4 million from the funds available to the loanstar revolving loan program.

(b) The energy office by rule shall establish the terms under which a loan may be made under the pilot program, including the interest rate for repayment of pilot program loans.

(c) Through the pilot program, the energy office shall offer to each school district the opportunity to apply for a loan to pay the cost of installing photovoltaic solar panels on at least one school building of the school district's choice and the cost of associated energy efficiency improvements to that building. The energy office by rule shall establish a procedure for determining which school districts qualify for a loan under the pilot program, including rules for selecting the school districts that will receive a loan if there is not sufficient money set aside for pilot program improvements at all school districts.

(d) Each school district that receives a loan shall pay for the principal of and interest on the loan for each school building improvement primarily from the amount budgeted for the energy costs of the school at which the solar panels are installed. The school district may make additional payments of the principal of or interest on a loan from money rebated to it as compensation for electric energy generated by the solar panels or money received as a gift or grant for the purpose of paying the loan.

(e) This section expires September 1, 2011, and the pilot program established under this section is abolished on that date.

SECTION _____. The Public Utility Commission of Texas shall adopt rules establishing the programs required under Section

39.9155, Utilities Code, as added by this Act, as soon as practicable.

SECTION _____. Section 202.010, Property Code, as added by this Act, applies to a deed restriction enacted before, on, or after the effective date of this Act.

SECTION _____. Chapter 447, Property Code, as added by this Act, applies only to a contract for new home construction entered into on or after the effective date of this Act. A contract entered into before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION _____. The state energy conservation office shall establish a program under Section 2305.0321, Government Code, as added by this Act, not later than January 1, 2010."