BILL ANALYSIS

C.S.H.B. 4261
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State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Energy efficiency is an approach to reducing energy use that applies new technologies in effective ways. The application of energy efficiency measures has the potential to be the quickest and most inexpensive and environmentally responsible means for Texas to meet its power needs. Applied correctly, energy efficiency technology results in using less energy while getting the same results.

The American Reinvestment and Recovery Act includes billions of dollars for energy efficiency measures and initiatives. In Texas, the State Energy Conservation Office is projected to receive $218 million to be used to address energy priorities and for program funding for emerging renewable energy and energy efficiency.

Texas homeowners and small businesses can benefit from applying energy efficiency strategies because, after an up-front investment, these strategies offer a long-term reduction in their utility bills. The up-front costs, however, are often prohibitive for homeowners and small businesses. It is appropriate for the state to offer multiple strategies to increase the availability and accessibility of energy efficiency measures for homeowners and small businesses. Texas currently has some utility programs that are an important strategy in achieving energy efficiency. The addition of a no-interest loan program through the office to promote energy efficiency and the use of renewable technology in residential dwellings and commercial properties owned or operated by small businesses would offer a new strategy and would provide an opportunity for Texans to invest in their own properties to achieve long-term savings and, at the same time, assist in the reduction of electricity demand and emissions in Texas.

C.S.H.B. 4261 creates a no-interest loan program through the State Energy Conservation Office to promote the use of energy efficiency and the use of renewable energy technology in residential dwellings and in buildings owned or operated by places of worship or small businesses.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the State Energy Conservation Office in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 4261 amends the Government Code to require the State Energy Conservation Office to establish and administer, subject to the availability of funds under the American Recovery and Reinvestment Act of 2009, or other legislative appropriation, a revolving loan program to make no-interest loans to individuals, places of worship, and small businesses to promote the use of energy efficiency measures and renewable energy technology in the residential dwellings owned by the individuals and buildings owned or operated by the places of worship or small businesses. The bill requires the office to ensure that the program is designed and administered in accordance with the applicable provisions of the American Recovery and Reinvestment Act of 2009 and any other applicable federal law. The bill requires the office to establish the loan program not later than December 1, 2009.

C.S.H.B. 4261 prohibits a loan made under the program from having a term that exceeds the earlier of 20 years after the date the energy efficiency measure or renewable energy technology is installed, or the average useful life of the energy efficiency measure or renewable energy technology to be implemented by the loan recipient. The bill authorizes such a loan to be secured by a lien on the real property and to be made with respect to a new or existing structure. The bill prohibits such a loan from being made to fund a renewable energy technology that has an electric generating capacity of more than 10 kilowatts if the loan is related to a residential dwelling and more than 30 kilowatts if the loan is related to a building owned or operated by a place of worship or small business.

C.S.H.B. 4261 requires a person, to be eligible to receive a loan under the program, to apply to the office on a form prescribed by the office and to meet any additional eligibility requirements established by rule by the office. The bill authorizes the office to contract with one or more lending institutions to assist the office with qualifying applicants and servicing loans under the program, and to charge applicants a reasonable fee in an amount necessary to recover the costs associated with processing applications, qualifying applicants, and servicing loans under the program.

C.S.H.B. 4261 requires the office to adopt rules as necessary to implement its provisions, including rules regarding the types of renewable energy technologies or energy efficiency measures that are eligible for a loan; the maximum amount of any loan; the manner in which loans are to be repaid; the terms that are required to be included in a contract entered into with a lending institution, including the fees payable to and duties imposed on a lending institution under the contract; the types of energy efficiency measures or renewable energy technologies that will require a loan applicant to undergo an energy efficiency audit or other energy assessment before the making of a loan under the program; and the creation of a registry of providers that lists providers who are eligible to provide installation services under the loan program and is routinely reviewed and updated by the office to assess provider performance and customer satisfaction and to ensure that providers meet required standards. The bill requires a provider, to be eligible to provide installation services under the loan program, to meet standards established by the office that may be based on the types of certification held by the provider.

C.S.H.B. 4261 requires the office to retain outside of the state treasury and use the proceeds of any loan payments received under the program to administer and make loans without the necessity of a legislative appropriation. The bill requires the office to submit a report to the legislature, not later than January 1 of each year, and prescribes the information to be contained in the report. The bill requires the office, for purposes of preparing such a report, or for purposes of meeting any federal reporting requirement, to monitor a statistically relevant percentage of residential dwellings or buildings for which a loan is made using a device that is installed on the structure and that transmits, in real time, energy consumption and production data into a centralized database to be accessed by the office and, in a more limited and relevant format, over an Internet website, by applicable loan recipients.

C.S.H.B. 4261 defines "energy efficiency," "lending institution," "program," "renewable energy technology," and "small business."

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 4261 adds a definition of "lending institution" not included in the original.

C.S.H.B. 4261 adds a provision not in the original characterizing the no-interest loan program as a revolving loan program. The substitute, rather than requiring the State Energy Conservation Office to establish and administer the program from money expressly appropriated for the purpose or money obtained from received loan payments as in the original, specifies that the establishment and administration of the revolving loan program are subject to the availability of federal funding under the American Recovery and Reinvestment Act of 2009 or other legislative appropriation. The substitute adds a provision not included in the original that includes places of worship among the entities eligible to receive such a loan. The substitute adds a provision not included in the original to require the office to ensure that the program is designed and administered in accordance with provisions of federal law.

C.S.H.B. 4261 differs from the original by prohibiting a loan from having a term that exceeds the earlier of 20 years after the date the energy efficiency measure or renewable energy technology is installed, or the average life of the measure or technology to be implemented, rather than prohibiting a loan from having a term that exceeds 20 years as in the original. The substitute adds provisions not included in the original prohibiting a loan from being made to fund a renewable energy project that does not fall within prescribed kilowatt requirements. The substitute adds provisions not included in the original authorizing the office to contract with one or more lending institutions to assist the office with administration of the program, and to charge applicants a reasonable fee to cover the costs of administering the program.

C.S.H.B. 4261 adds provisions not included in the original specifying additional issues the rules adopted by the office must address, and requiring a provider to meet certain standards established by the office to be eligible to provide installation services under the program.

C.S.H.B. 4261 adds a provision not included in the original, relating to the office's retention of proceeds from received loan payments, to require such proceeds to be retained outside the state treasury. The substitute adds provisions not included in the original requiring the office to use those proceeds not only for program administration but also to make further loans and to do so without the necessity of a legislative appropriation.

C.S.H.B. 4261 adds provisions not in the original requiring the office to submit an annual report containing specified information to the legislature within a specified time period, and to monitor a statistically relevant percentage of residential dwellings or buildings for which a loan is made, for database access by the office and more limited Internet access by applicable loan recipients.