

BILL ANALYSIS

S.B. 541
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State Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, Texas is a world leader in wind energy production. However, Texas has not realized manufacturing jobs from the production of wind turbines and other renewable energy equipment. Current law provides no renewable energy credit incentive for electric generation equipment manufactured in Texas and sets the goals for renewable electricity generated from sources other than wind at 500 megawatts.

S.B. 541 revises the state's goals for the installation of electric generating capacity from renewable energy technologies to seek to create additional incentives for Texas renewable energy jobs and manufacturing.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTION 3 of this bill.

ANALYSIS

S.B. 541 amends provisions of the Utilities Code, relating to the electric power industry and the state's goals for renewable energy, to replace the current definition of "renewable energy technology" with an identical definition of "Tier 1 renewable energy technology," meaning any technology that exclusively relies on an energy source that is naturally regenerated over a short time and derived directly from the sun, indirectly from the sun, or from moving water or other natural movements and mechanisms of the environment, including technologies that rely on energy derived directly from the sun, on wind, geothermal, hydroelectric, wave, or tidal energy, or on biomass or biomass-based waste products, including landfill gas, but excluding technologies that rely on energy resources derived from fossil fuels, waste products from fossil fuels, or waste products from inorganic sources. The bill defines "tier 2 renewable energy" to mean tier 1 renewable energy technology excluding energy derived from wind with a capacity of more than 150 kilowatts. The bill defines "renewable energy storage" to mean energy storage technology that stores for later release energy derived from tier 1 or tier 2 renewable energy.

S.B. 541 applies the existing statutory goal of an additional 5,000 megawatts of generating capacity from renewable energy technologies, to be reached by 2015, to mean an additional 5,000 megawatts of generating capacity from tier 1 renewable energy technologies, and to apply the existing intermediate goals for cumulative installed renewable capacity to be reached by 2007, 2009, 2011, and 2015, ultimately totaling a cumulative 5,880 megawatts by 2015, to mean tier 1 renewable capacity. The bill removes a provision requiring the Public Utility Commission of Texas (PUC) to establish a target of installing at least 500 megawatts of capacity, of the renewable energy technology generating capacity installed after September 1, 2005, from a renewable energy technology other than a source using wind energy.

S.B. 541 establishes that it is the goal of the legislature that by January 1, 2020, an additional 1,500 megawatts of tier 2 renewable energy will have been installed in Texas. The bill provides

that, of the renewable energy generating capacity installed to meet such goal, up to 500 megawatts of renewable energy storage may qualify to meet the tier 2 goal. The bill requires the cumulative installed tier 2 renewable energy resource capacity in Texas to total:

- 50 megawatts by January 1, 2011;
- 100 megawatts by January 1, 2012;
- 200 megawatts by January 1, 2013;
- 350 megawatts by January 1, 2014;
- 500 megawatts by January 1, 2015;
- 750 megawatts by January 1, 2016;
- 900 megawatts by January 1, 2017;
- 1,000 megawatts by January 1, 2018;
- 1,250 megawatts by January 1, 2019; and
- 1,500 megawatts by January 1, 2020.

S.B. 541 authorizes the PUC, if it determines the state has not made significant progress toward the tier 2 goals, to take action on January 1, 2016, to suspend such future obligations. The bill authorizes the PUC, if it determines that complying with the tier 2 goals, and a federal renewable portfolio standard that is more stringent than those goals, would cause an undue burden to ratepayers in Texas, to suspend any requirement relating to meeting those goals. The bill authorizes the PUC, also to suspend the tier 2 goal if such suspension is necessary to protect the reliability and operation of the grid.

S.B. 541 requires the PUC to establish separate tier 1 and tier 2 renewable energy credits trading programs in place of the existing renewable energy credits trading program. The bill requires the PUC, in calculating capacity factors for tier 2 renewable energy credits, to encourage a diverse portfolio of tier 2 renewable energy technologies.

S.B. 541 revises certain PUC rulemaking provisions, relating to the PUC's establishment of minimum annual renewable energy requirements for each retail electric provider, municipally owned utility, and electric cooperative, to conform to the addition of the new tier 2 requirements. The bill requires the PUC, not later than January 1, 2011, to adopt rules necessary to provide a "Made in Texas" incentive for tier 1 and tier 2 renewable energy credits generated by generation equipment that is wholly produced or substantially transformed by a Texas workforce, as determined by the PUC. The bill requires such incentive to be available for the first three years after the renewable energy equipment first produces electricity on a commercial basis.

S.B. 541 requires the PUC, not later than January 1, 2010, to adopt rules necessary to track and account for renewable energy credits earned from electric generating capacity derived from renewable energy storage. The bill requires the rules to allow for the renewable energy storage to be located on the same or on a different site as the renewable generation being stored, to ensure that only one renewable energy credit is retired for every megawatt hour of renewable energy generated prior to being stored for later release onto the electricity grid, and to account for any loss in energy resulting from storage for later use.

S.B. 541 requires the PUC, not later than January 1, 2010, to adopt rules necessary to allow generators of tier 2 renewable energy installed before September 1, 1999, to qualify annually for not more than 40 megawatts of tier 2 renewable energy credits.

S.B. 541 authorizes the PUC to establish separate tier 1 and tier 2 alternative compliance payments in place of the existing alternative compliance payment. The bill makes a conforming change removing the PUC's authority to establish an alternative compliance payment for the goal of non-wind capacity. The bill revises the existing statute, specifying an alternative compliance

payment of not less than \$2.50 per credit or greater than \$20 per credit for a requirement that could be satisfied with a renewable energy credit from wind energy, to apply that specified dollar range to the tier 1 alternative compliance payment. The bill prohibits the tier 2 alternative compliance payment that could be satisfied with a tier 2 renewable energy credit from exceeding:

- \$90 per renewable energy credit before December 31, 2014;
- \$80 per renewable energy credit before December 31, 2015;
- \$65 per renewable energy credit before December 31, 2016;
- \$45 per renewable energy credit before December 31, 2017;
- \$40 per renewable energy credit before December 31, 2018;
- \$35 per renewable energy credit before December 31, 2019; and
- \$30 per renewable energy credit before December 31, 2020.

S.B. 541 requires, if the PUC suspends the tier 2 renewable energy goal, that all alternative compliance payment funds collected be refunded by the retail electric providers, under the guidance of the PUC, to applicable residential and commercial electric customers. The bill requires the alternative compliance payment funds collected by the PUC, if the PUC does not suspend the tier 2 renewable energy goal, to be used for the purpose of a solar rebate program established by the PUC.

S.B. 541 establishes a legislative goal relating to installed capacity from tier 2 renewable energy or from renewable energy storage applicable only to a municipally owned utility with retail sales of more than 500,000 megawatt hours for the year beginning January 1, 2007. The bill establishes that it is the goal of the legislature that such municipally owned utilities increase the installed capacity in Texas from tier 2 renewable energy or from renewable energy storage in a cost-effective, market neutral, and nondiscriminatory manner, and install capacity from tier 2 renewable energy or from renewable energy storage in proportion to and at a level consistent with the requirements for electric utilities as established under the other tier 2 provisions of the bill. The bill requires an affected municipally owned utility, beginning not later than September 1, 2012, to annually report to the State Energy Conservation Office, in a form determined by that office, information regarding such efforts of the utility. The bill establishes that its provisions relating to such a utility do not prevent the governing body of the utility from adopting rules, programs, and incentives that encourage or provide for the installation of capacity from tier 2 renewable energy or renewable energy storage in addition to the tier 2 capacity goals established by the bill. The bill requires the PUC to count capacity from tier 2 renewable energy or renewable energy storage installed on or after May 1, 2007, toward such a utility's compliance with the applicable requirements. The bill authorizes such a utility to satisfy such requirements by owning or purchasing capacity from tier 2 renewable energy or renewable energy storage, or by purchasing renewable energy credits in lieu of capacity from tier 2 renewable energy technologies.

EFFECTIVE DATE

September 1, 2009.