

By: Hernandez

H.B. No. 634

A BILL TO BE ENTITLED

AN ACT

relating to establishing a carbon dioxide "cap and trade" program to enable participation in the Regional Greenhouse Gas Initiative.

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

SECTION 1. Subtitle C, Title 5, Health and Safety Code, is amended by adding Chapter 391 to read as follows:

CHAPTER 391. "CAP AND TRADE" PROGRAM FOR CARBON DIOXIDE EMISSIONS FROM CERTAIN ELECTRIC GENERATING FACILITIES; REGIONAL GREENHOUSE GAS INITIATIVE

Sec. 391.001. DEFINITIONS. In this chapter:

(1) "Allowance" means an authorization to emit a certain amount of carbon dioxide.

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "Regional Greenhouse Gas Initiative" means a memorandum of understanding dated December 20, 2005, as may be amended, and the corresponding model rule, as may be amended, that establishes a "cap and trade" program in the northeast region of the United States.

Sec. 391.002. "CAP AND TRADE" PROGRAM. (a) The commission in consultation with the Public Utility Commission of Texas by rule shall establish a carbon dioxide "cap and trade" program that will limit and then reduce the total carbon dioxide emissions released by fossil fuel-fired electric generating facilities in this state.

1 (b) The commission's rules establishing the carbon dioxide
2 "cap and trade" program shall be designed to:

3 (1) fully comply with the Regional Greenhouse Gas
4 Initiative or with another similar initiative as the commission
5 determines is best suited for this state; and

6 (2) permit the holders of carbon dioxide allowances to
7 trade them in a market to be established through the Regional
8 Greenhouse Gas Initiative or other entity as determined by the
9 commission.

10 (c) The commission and any other relevant state agency or
11 official shall take the steps necessary to allow electric
12 generating facilities in this state to participate in a market to
13 trade carbon dioxide allowances allocated under the program.

14 Sec. 391.003. AUCTION OF ALLOWANCES. (a) Rules adopted
15 under the "cap and trade" program must require that in 2010 at least
16 50 percent of all allowances issued under the program be sold
17 through an auction open to any person in this state who wishes to
18 participate. In the years after 2010, the percentage of allowances
19 sold through auction shall be as follows:

20 (1) in 2011, at least 60 percent;

21 (2) in 2012, at least 70 percent;

22 (3) in 2013, at least 80 percent;

23 (4) in 2014, at least 90 percent; and

24 (5) in 2015 and all following years, 100 percent.

25 (b) The proceeds recovered from the allowance auction must
26 be used to benefit consumers, balancing short-term and long-term
27 benefits. The proceeds may be used only for the following purposes,

1 in proportions to be determined by the commission:

2 (1) to promote energy efficiency and conservation;

3 (2) to directly mitigate the adverse effects of the
4 program on consumers of electricity; and

5 (3) to promote renewable energy technologies that do
6 not produce carbon dioxide emissions.

7 (c) The commission shall determine and specify details for
8 implementing the auction of carbon dioxide emission allowances,
9 including:

10 (1) the auction's design;

11 (2) the person to conduct and manage the auction; and

12 (3) the timing of the auction in any year relative to
13 the dates of the compliance period in the Regional Greenhouse Gas
14 Initiative or other market.

15 Sec. 391.004. AUCTION MANAGER. (a) The commission shall:

16 (1) engage a person to serve as auction manager that is
17 experienced in auction design and management; or

18 (2) contract with a person to serve as auction manager
19 that is determined by the commission to be qualified to design,
20 manage, and conduct the auction in a manner that assures the
21 efficiency of the auction.

22 (b) The selection process for choosing an auction manager to
23 design, manage, and conduct the auction shall include an open and
24 public request for proposals. Proposals submitted in response to a
25 request under this subsection must include a summary of
26 qualifications and experience relevant to designing, managing, and
27 conducting the auction.

1 (c) An auction manager selected by the commission may be
2 reimbursed only for reasonable costs incurred by the auction
3 manager in administering the auction as determined by the
4 commission.

5 Sec. 391.005. ALLOWANCES HELD BY AUCTION MANAGER;
6 DISTRIBUTION OF AUCTION PROCEEDS. (a) The auction manager selected
7 under Section 391.004 shall be authorized to receive, hold, and
8 sell carbon dioxide emission allowances.

9 (b) The commission shall convey all allowances to the
10 auction manager, who shall collect the auction proceeds and,
11 without further appropriation, distribute the proceeds in
12 accordance with Section 391.003(b) under commission oversight.

13 (c) The auction manager annually shall submit to the
14 commission, not less than six months before the start of the
15 auction, a draft proposal on how to allocate the proceeds from the
16 auction. The commission shall hold a public hearing, accept public
17 comment, and approve, modify, or reject the draft proposal. If the
18 commission rejects the proposal, the commission shall work with the
19 auction manager to draft an acceptable proposal.

20 (d) The office shall require an annual report from the
21 auction manager describing the auction and its results. The
22 commission shall make the report public and shall submit the report
23 to the appropriate legislative committees.

24 Sec. 391.006. OTHER COMMISSION POWERS AND DUTIES RELATED TO
25 CLIMATE-CHANGING SUBSTANCES. The responsibilities created by
26 establishing a carbon dioxide "cap and trade" program are in
27 addition to all other responsibilities imposed by any other law or

1 rule and do not reduce any authority of the commission, including
2 the authority to adopt standards and regulations necessary for this
3 state to join and participate in a multistate program, at any stage
4 in the development and implementation of the program, intended to
5 control emissions of carbon dioxide or other substances that are
6 determined by the commission to be damaging or altering the
7 climate.

8 SECTION 2. Subchapter Z, Chapter 39, Utilities Code, is
9 amended by adding Section 39.927 to read as follows:

10 Sec. 39.927. CARBON DIOXIDE "CAP AND TRADE" PROGRAM. The
11 commission, in consultation with the Texas Commission on
12 Environmental Quality and the attorney general, through the
13 commission's authority under this chapter, including the authority
14 to review rates, prices, and schedules, shall adopt rules that
15 fully implement the carbon dioxide "cap and trade" program
16 prescribed by Chapter 391, Health and Safety Code. The commission
17 may adopt rules and enter any orders that ensure that the carbon
18 dioxide emissions associated with the generation of electric power
19 serving the customer load of this state are treated on a
20 commercially comparable basis regardless of the location of the
21 power stations operating to serve that load.

22 SECTION 3. Not later than January 1, 2010, the Texas
23 Commission on Environmental Quality and the Public Utility
24 Commission of Texas shall adopt rules to implement Chapter 391,
25 Health and Safety Code, as added by this Act.

26 SECTION 4. This Act takes effect September 1, 2009.