

1-1 By: Turner of Harris, et al. H.B. No. 1182  
1-2 (Senate Sponsor - Fraser)  
1-3 (In the Senate - Received from the House May 13, 2009;  
1-4 May 14, 2009, read first time and referred to Committee on Business  
1-5 and Commerce; May 23, 2009, reported adversely, with favorable  
1-6 Committee Substitute by the following vote: Yeas 9, Nays 0;  
1-7 May 23, 2009, sent to printer.)

1-8 COMMITTEE SUBSTITUTE FOR H.B. No. 1182 By: Fraser

1-9 A BILL TO BE ENTITLED  
1-10 AN ACT

1-11 relating to the administration and purposes of the system benefit  
1-12 fund and the eligibility of customers for benefits under certain  
1-13 programs financed by the system benefit fund and other programs.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Sections 39.903(a), (b), (c), (d), (e), (f),  
1-16 (g), (h), (i), (j), and (j-1), Utilities Code, are amended to read  
1-17 as follows:

1-18 (a) The system benefit fund is a trust fund held by the  
1-19 commission outside of the state treasury as trustee solely for the  
1-20 benefit of programs and [an account in the general revenue  
1-21 fund. Money in the account may be appropriated only for the]  
1-22 purposes provided by this section [or other law]. Interest earned  
1-23 on the system benefit fund shall be credited to the fund. The  
1-24 commission shall undertake to spend for the purposes of the system  
1-25 benefit fund programs and purposes all system benefit fund money  
1-26 available. The commission may spend the money from the system  
1-27 benefit fund as provided by this section without additional  
1-28 legislative action, including an appropriation. The commission  
1-29 shall adopt and enforce rules requiring retail electric providers  
1-30 and transmission and distribution utilities to finance  
1-31 the [Section 403.095, Government Code, does not apply to the system  
1-32 benefit fund.

1-33 ~~[(b) The]~~ system benefit fund ~~[is financed]~~ by a  
1-34 nonbypassable fee set by the commission in an amount not to exceed  
1-35 65 cents per megawatt hour and ~~[. The system benefit fund fee is]~~  
1-36 allocated to customers based on the amount of kilowatt hours used.

1-37 (b) ~~[(e)]~~ The commission shall provide for the  
1-38 nonbypassable fee to [may not] be imposed also on the retail  
1-39 electric customers of a municipally owned utility or electric  
1-40 cooperative beginning on the first day of [before] the sixth month  
1-41 preceding the date on which the utility or cooperative implements  
1-42 customer choice. Money distributed from the system benefit fund to  
1-43 a municipally owned utility or an electric cooperative shall be  
1-44 proportional to the nonbypassable fee paid by the municipally owned  
1-45 utility or the electric cooperative, subject to the reimbursement  
1-46 provided by Subsection (h) [(i)]. On request by a municipally owned  
1-47 utility or electric cooperative, the commission shall reduce the  
1-48 nonbypassable fee imposed on retail electric customers served by  
1-49 the municipally owned utility or electric cooperative by an amount  
1-50 equal to the amount provided by the municipally owned utility or  
1-51 electric cooperative or its ratepayers for local low-income  
1-52 programs and local programs that educate customers about the retail  
1-53 electric market in a neutral and nonpromotional manner.

1-54 (c) ~~[(d)]~~ The commission shall annually review and approve  
1-55 system benefit fund accounts, projected revenue requirements, and  
1-56 proposed nonbypassable fees. The commission shall report to the  
1-57 electric utility restructuring legislative oversight committee if  
1-58 the system benefit fund fee is insufficient to fund the purposes set  
1-59 forth in Subsection (d) ~~[(e)]~~ to the extent required by this  
1-60 section.

1-61 (d) Rules of the commission must provide that  
1-62 money [(e) Money] in the system benefit fund may be used only  
1-63 [appropriated to provide funding solely] for the following

2-1 regulatory purposes, in the following order of priority:

2-2 (1) programs to:

2-3 (A) assist low-income electric customers by  
2-4 providing the 10-20 [~~10~~] percent reduced rate prescribed by  
2-5 Subsection (g) [~~(h)~~]; and

2-6 (B) provide [~~one-time~~] bill payment assistance  
2-7 to electric customers who are or who have in their households one or  
2-8 more seriously ill or disabled low-income persons and who have been  
2-9 threatened with disconnection for nonpayment;

2-10 (2) [~~customer education programs, administrative~~  
2-11 ~~expenses incurred by the commission in implementing and~~  
2-12 ~~administering this chapter, and expenses incurred by the office~~  
2-13 ~~under this chapter,~~

2-14 [~~(3)~~] programs to assist low-income electric  
2-15 customers by providing the targeted energy efficiency programs  
2-16 described by Subsection (e)(2) [~~(f)(2)~~]; and

2-17 (3) customer education programs, administrative  
2-18 expenses incurred by the commission in implementing and  
2-19 administering this chapter, and expenses incurred by the office  
2-20 under this chapter.

2-21 (e) [~~(4)~~] programs to assist low-income electric customers  
2-22 by providing the 20 percent reduced rate prescribed by Subsection  
2-23 (h), and

2-24 [~~(5)~~] reimbursement to the commission and the Health  
2-25 and Human Services Commission for expenses incurred in the  
2-26 implementation and administration of an integrated eligibility  
2-27 process created under Section 17.007 for customer service discounts  
2-28 relating to retail electric service, including outreach expenses  
2-29 the commission determines are reasonable and necessary.

2-30 [~~(f)~~] Notwithstanding Section 39.106(b), the commission  
2-31 shall adopt rules regarding programs to assist low-income electric  
2-32 customers on the introduction of customer choice. The programs may  
2-33 not be targeted to areas served by municipally owned utilities or  
2-34 electric cooperatives that have not adopted customer choice. The  
2-35 programs shall include:

2-36 (1) reduced electric rates as provided by Subsections  
2-37 (g)-(1) [~~(h)-(1)~~]; and

2-38 (2) targeted energy efficiency programs to be  
2-39 administered by the Texas Department of Housing and Community  
2-40 Affairs in coordination with existing weatherization programs.

2-41 (f) [~~(g)~~] Until customer choice is introduced in a power  
2-42 region, an electric utility may not reduce, in any manner, programs  
2-43 already offered to assist low-income electric customers.

2-44 (g) [~~(h)~~] The commission shall adopt rules for a retail  
2-45 electric provider to determine a reduced rate for eligible  
2-46 customers to be discounted off the standard retail service package  
2-47 as approved by the commission under Section 39.106, or the price to  
2-48 beat established by Section 39.202, whichever is  
2-49 lower. Municipally owned utilities and electric cooperatives  
2-50 shall establish a reduced rate for eligible customers to be  
2-51 discounted off the standard retail service package established  
2-52 under Section 40.053 or 41.053, as appropriate. The reduced rate  
2-53 for a retail electric provider shall result in a total charge that  
2-54 is at least 10 percent and, if sufficient money in the system  
2-55 benefit fund is available, up to 20 percent, lower than the amount  
2-56 the customer would otherwise be charged. To the extent the system  
2-57 benefit fund is insufficient to fund the initial 10 percent rate  
2-58 reduction, the commission may increase the fee to an amount not more  
2-59 than 65 cents per megawatt hour, as provided by Subsection (a)  
2-60 [~~(b)~~]. If the fee is set at 65 cents per megawatt hour or if the  
2-61 commission determines that appropriations are insufficient to fund  
2-62 the 10 percent rate reduction, the commission may reduce the rate  
2-63 reduction to less than 10 percent. For a municipally owned utility  
2-64 or electric cooperative, the reduced rate shall be equal to an  
2-65 amount that can be fully funded by that portion of the nonbypassable  
2-66 fee proceeds paid by the municipally owned utility or electric  
2-67 cooperative that is allocated to the utility or cooperative by the  
2-68 commission under Subsection (d) [~~(e)~~] for programs for low-income  
2-69 customers of the utility or cooperative. The reduced rate for

3-1 municipally owned utilities and electric cooperatives under this  
 3-2 section is in addition to any rate reduction that may result from  
 3-3 local programs for low-income customers of the municipally owned  
 3-4 utilities or electric cooperatives.

3-5 (h) [(i)] A retail electric provider, municipally owned  
 3-6 utility, or electric cooperative seeking reimbursement from the  
 3-7 system benefit fund may not charge an eligible low-income customer  
 3-8 a rate higher than the appropriate reduced rate determined under  
 3-9 Subsection (g) ~~[(h)]~~. Commission rules must provide for:

3-10 (1) a [A] retail electric provider not subject to the  
 3-11 price to beat, or a municipally owned utility or electric  
 3-12 cooperative subject to the nonbypassable fee under Subsection (b),  
 3-13 to ~~[(c), shall]~~ be reimbursed from the system benefit fund for the  
 3-14 difference between the reduced rate and the rate established under  
 3-15 Section 39.106 or, as appropriate, the rate established under  
 3-16 Section 40.053 or 41.053; and

3-17 (2) a ~~[-A]~~ retail electric provider who is subject to  
 3-18 the price to beat to ~~[shall]~~ be reimbursed from the system benefit  
 3-19 fund for the difference between the reduced rate and the price to  
 3-20 beat~~[-. The commission shall adopt rules providing for the~~  
 3-21 reimbursement].

3-22 (i) [(j)] The commission shall adopt rules providing for  
 3-23 methods of enrolling customers eligible to receive reduced rates  
 3-24 under Subsection (g) ~~[(h)]~~. The rules must provide for automatic  
 3-25 enrollment as one enrollment option. The Texas Department of Human  
 3-26 Services, on request of the commission, shall assist in the  
 3-27 adoption and implementation of these rules. The commission and the  
 3-28 Texas Department of Human Services shall enter into a memorandum of  
 3-29 understanding establishing the respective duties of the commission  
 3-30 and the department in relation to the automatic enrollment.  
 3-31 Commission rules must provide that:

3-32 (1) an electric customer eligible for the reduced rate  
 3-33 determined under Subsection (g) is also eligible for reduced rates  
 3-34 for telecommunications service offered for low-income customers;  
 3-35 and

3-36 (2) a customer eligible for reduced rates for  
 3-37 telecommunications service offered for low-income customers is  
 3-38 also eligible for the reduced rate determined under Subsection (g).

3-39 (j) [(j-1)] The commission shall adopt rules governing the  
 3-40 bill payment assistance program provided under Subsection  
 3-41 (d)(1)(B) ~~[(c)(1)(B)]~~. The rules must provide that a customer is  
 3-42 eligible to receive the assistance only if the assistance is  
 3-43 necessary to prevent the disconnection of service for nonpayment of  
 3-44 bills and the electric customer is or has in the customer's  
 3-45 household one or more seriously ill or disabled low-income persons  
 3-46 whose health or safety may be injured by the disconnection. The  
 3-47 commission may prescribe the documentation necessary to  
 3-48 demonstrate eligibility for the assistance and may establish  
 3-49 additional eligibility criteria. The Health and Human Services  
 3-50 Commission, on request of the commission, shall assist in the  
 3-51 adoption and implementation of these rules.

3-52 SECTION 2. The Public Utility Commission of Texas shall  
 3-53 adopt or revise rules governing the system benefit fund under  
 3-54 Section 39.903, Utilities Code, as amended by this Act, not later  
 3-55 than January 1, 2012.

3-56 SECTION 3. Fees for the system benefit fund collected under  
 3-57 Section 39.903, Utilities Code, before the effective date of this  
 3-58 Act shall be remitted to the comptroller of public accounts for  
 3-59 deposit in the general revenue fund. Fees for the system benefit  
 3-60 fund collected under Section 39.903, Utilities Code, on or after  
 3-61 the effective date of this Act shall be remitted to the Public  
 3-62 Utility Commission of Texas not later than 31 days after the fees  
 3-63 are collected until the commission adopts rules governing the  
 3-64 remittance of the fees to the trust fund established under that  
 3-65 section, as amended by this Act. The Public Utility Commission of  
 3-66 Texas shall hold fees remitted to it under this Act in trust for the  
 3-67 benefit of the system benefit fund until that fund is established as  
 3-68 provided by this Act and shall transfer those fees to the fund on  
 3-69 the date the fund is established.

4-1 SECTION 4. This Act takes effect September 1, 2011.

4-2 \* \* \* \* \*