By: Swinford H.B. No. 2520

A BILL TO BE ENTITLED

AN ACT

relating to the state's goal for electric generating capacity derived from emerging renewable energy resources.

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

SECTION 1. Section 39.002, Utilities Code, is amended to read as follows:

Sec. 39.002. APPLICABILITY. This chapter, other than Sections 39.155, 39.157(e), 39.203, 39.903, 39.904, 39.9041, 39.9051, 39.9052, and 39.914(e), does not apply to a municipally owned utility or an electric cooperative. Sections 39.157(e), 39.203, [~~and~~] 39.904, and 39.9041, however, apply only to a municipally owned utility or an electric cooperative that is offering customer choice. If there is a conflict between the specific provisions of this chapter and any other provisions of this title, except for Chapters 40 and 41, the provisions of this chapter control.

SECTION 2. Sections 39.904(a) and (o), Utilities Code, are amended to read as follows:

(a) It is the intent of the legislature that by January 1, 2015, an additional 5,000 megawatts of generating capacity from renewable energy technologies will have been installed in this state. The cumulative installed renewable capacity in this state shall total 5,880 megawatts by January 1, 2015, and the commission shall establish a target of 10,000 megawatts of installed renewable

capacity by January 1, 2025. The cumulative installed renewable capacity in this state shall total 2,280 megawatts by January 1, 2007, 3,272 megawatts by January 1, 2009, 4,264 megawatts by January 1, 2011, 5,256 megawatts by January 1, 2013, and 5,880 megawatts by January 1, 2015. [~~Of the renewable energy technology generating capacity installed to meet the goal of this subsection after September 1, 2005, the commission shall establish a target of having at least 500 megawatts of capacity from a renewable energy technology other than a source using wind energy.~~]

(o) The commission may establish an alternative compliance payment. An entity that has a renewable energy purchase requirement under this section may elect to pay the alternative compliance payment instead of applying renewable energy credits toward the satisfaction of the entity's obligation under this section. [~~The commission may establish a separate alternative compliance payment for the goal of 500 megawatts of capacity from renewable energy technologies other than wind energy.~~] The alternative compliance payment for a renewable energy purchase requirement that could be satisfied with a renewable energy credit from wind energy may not be less than $2.50 per credit or greater than $20 per credit. Prior to September 1, 2009, an alternative compliance payment under this subsection may not be set above $5 per credit. In implementing this subsection, the commission shall consider:

(1) the effect of renewable energy credit prices on retail competition;

(2) the effect of renewable energy credit prices on

electric rates;

(3) the effect of the alternative compliance payment level on the renewable energy credit market; and

(4) any other factors necessary to ensure the continued development of the renewable energy industry in this state while protecting ratepayers from unnecessary rate increases.

SECTION 3. Subchapter Z, Chapter 39, Utilities Code, is amended by adding Section 39.9041 to read as follows:

Sec. 39.9041. GOAL FOR EMERGING RENEWABLE ENERGY RESOURCES. (a) In this section:

(1) "Emerging renewable energy resource" means a facility that produces energy derived from a renewable energy technology, including generation offset technology, other than a wind generation facility that produces more than 10 megawatts of capacity.

(2) "Generation offset technology" means any renewable energy technology that reduces the demand for electricity at a site where a customer consumes electricity.

(3) "New emerging renewable energy resource" means a facility first placed into service on or after September 1, 2009.

(4) "Renewable energy resource" means a facility that produces energy derived from a renewable energy technology.

(5) "Renewable energy technology" has the meaning assigned by Section 39.904.

(b) It is the intent of the legislature that by January 1, 2020, an additional 3,000 megawatts of generating capacity from emerging renewable energy resources will have been installed in

this state. The cumulative installed new emerging renewable energy resource generating capacity in this state shall total 150 megawatts by January 1, 2011, 300 megawatts by January 1, 2012, 450 megawatts by January 1, 2013, 600 megawatts by January 1, 2014, 900 megawatts by January 1, 2015, 1,200 megawatts by January 1, 2016, 1,500 megawatts by January 1, 2017, 1,800 megawatts by January 1, 2018, 2,400 megawatts by January 1, 2019, and 3,000 megawatts by January 1, 2020.

(c) Not later than January 1, 2010, in addition to the renewable energy credits trading program established by Section 39.904(b) or any other renewable energy credits trading program established by the commission, the commission shall establish an emerging renewable energy credits trading program. Any retail electric provider, investor-owned electric utility operating solely outside of ERCOT, municipally owned utility, or electric cooperative that does not satisfy the requirements of Subsection (b) by directly owning or purchasing new emerging renewable energy resource generating capacity shall purchase sufficient emerging renewable energy credits to satisfy the requirements by holding emerging renewable energy credits in lieu of emerging renewable energy resource generating capacity.

(d) Not later than January 1, 2010, the commission shall adopt rules necessary to administer and enforce this section. At a minimum, the rules shall:

(1) establish the minimum annual new emerging renewable energy resource requirement for each retail electric provider, investor-owned utility operating solely outside of

ERCOT, municipally owned utility, and electric cooperative operating in this state in a manner reasonably calculated by the commission to produce, on a statewide basis, compliance with the requirement prescribed by Subsection (b);

(2) specify reasonable performance standards that all new emerging renewable energy resource generating capacity additions must meet to count against the requirement prescribed by Subsection (b) and that:

(A) are designed and operated so as to maximize the energy output from the capacity additions in accordance with then-current industry standards; and

(B) encourage the development, construction, and operation of new emerging renewable energy resource generating capacity at those sites in this state that have the greatest economic potential for capture and development of this state's environmentally beneficial renewable resources;

(3) treat all renewable energy technologies equally; and

(4) provide that installed new emerging renewable energy resource generating capacity that receives emerging renewable energy credits under Subsection (c) may not also receive renewable energy credits under the program established by Section 39.904(b) or any other renewable energy credit program established by the commission.

(e) A municipally owned utility operating a gas distribution system may credit toward satisfaction of the requirements of this section any production or acquisition of

landfill gas supplied to the gas distribution system, based on conversion to kilowatt hours of the thermal energy content in British thermal units of the emerging renewable energy resource and using for the conversion factor the annual heat rate of the most efficient gas-fired unit of the combined utility's electric system as measured in British thermal units per kilowatt hour and using the British thermal unit measurement based on the higher heating value measurement.

(f) A municipally owned utility operating a gas distribution system may credit toward satisfaction of the requirements of this section any production or acquisition of landfill gas supplied to the gas distribution system, based on conversion to kilowatt hours of the thermal energy content in British thermal units of the renewable energy resource and using for the conversion factor the systemwide average heat rate of the gas-fired units of the combined utility's electric system as measured in British thermal units per kilowatt hour.

(g) The commission may adopt rules requiring installed emerging renewable energy resource generating capacity to have reactive power control capabilities or any other feasible technology designed to reduce the resources' effects on system reliability.

(h) An emerging renewable energy credit required for purposes other than to meet the requirements of Subsection (d)(1) may not affect the minimum annual renewable energy requirement under Subsection (d)(1) for a retail electric provider, investor-owned electric utility operating solely outside of ERCOT,

municipally owned utility, or electric cooperative.

(i) The commission shall reduce the requirement under Subsection (d)(1) for a retail electric provider, investor-owned utility operating solely outside of ERCOT, municipally owned utility, or electric cooperative that is subject to an emerging renewable energy requirement under this section and that serves a customer receiving electric service at transmission-level voltage if, before any year for which the commission calculates emerging renewable energy requirements under Subsection (d)(1), the customer notifies the commission in writing that the customer chooses not to support the goal for emerging renewable energy technology generation under this section for that year. The commission shall exclude from the calculation of the applicable requirement under Subsection (d)(1) energy sold by the retail electric provider, investor-owned utility operating solely outside of ERCOT, municipally owned utility, or electric cooperative at transmission-level voltage to customers who have submitted the notice to the commission under this subsection for the applicable year.

(j) The commission shall determine the reporting requirements and schedule necessary to implement Subsections (h) and (i).

(k) Subsections (g), (h), and (i) do not affect the goals established by Subsection (b) or reduce the minimum statewide emerging renewable energy requirements of Subsection (d)(1).

(l) Notwithstanding any other provision of law, the commission shall have the authority to cap the price of emerging

renewable energy credits and may suspend the goal contained in Subsection (b) if such suspension is necessary to protect the reliability and operation of the grid.

(m) The commission shall establish an alternative compliance payment. An entity that has a new emerging renewable energy resource capacity requirement under this section may elect to pay the alternative compliance payment instead of applying renewable energy credits toward the satisfaction of the entity's obligation under this section. The alternative compliance payment for an emerging renewable energy capacity requirement that could be satisfied with an emerging renewable energy credit shall not be more than the equivalent of 9 cents per kilowatt hour or $90 per emerging renewable energy credit. The commission may allow an entity that has an emerging renewable energy capacity requirement under this section to pay the alternative compliance payment into a social service fund that benefits the energy needs of low-income retail electric customers. In implementing this subsection, the commission shall consider:

(1) the effect of emerging renewable energy credit prices on retail competition;

(2) the effect of emerging renewable energy credit prices on electric rates;

(3) the effect of the alternative compliance payment level on the renewable energy credit market;

(4) any federal legislation requiring the use of renewable energy or renewable energy credits; and

(5) any other factors necessary to ensure the

continued development of the renewable energy industry in this state while protecting ratepayers from unnecessary rate increases.

(n) This section expires on the third anniversary of the date the commission determines that the final megawatt goal under Subsection (b) has been reached.

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