By: Gonzalez Toureilles H.B. No. 3145

A BILL TO BE ENTITLED

AN ACT

relating to the goal for renewable energy capacity derived from renewable energy technologies other than sources using wind energy.

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

SECTION 1. Section 39.904, Utilities Code, is amended by amending Subsections (a), (b), (c), (d), and (o) and adding Subsection (a-1) 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 goal [~~target~~] of 10,000 megawatts of installed renewable capacity by January 1, 2020 [~~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.

(a-1) It is the intent of the legislature that by January 1, 2020, the commission shall establish a goal of an additional 4,000 megawatts [~~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 combination of renewable energy

technology other than a source using wind energy and small-scale wind-powered generating installations with a capacity of less than 150 kilowatts each. The cumulative installed capacity to comply with this subsection in this state shall total 500 megawatts by January 1, 2012, 2,000 megawatts by January 1, 2015, and 4,000 megawatts by January 1, 2020.

(b) The commission shall establish a renewable energy credits trading program. Any retail electric provider, municipally owned utility, or electric cooperative that does not satisfy the requirements of Subsections [~~Subsection~~] (a) and (a-1) by directly owning or purchasing capacity using renewable energy technologies shall purchase sufficient renewable energy credits to satisfy the requirements by holding renewable energy credits in lieu of capacity from renewable energy technologies.

(c) Not later than January 1, 2000, the commission shall adopt rules necessary to administer and enforce Subsection (a), and not later than January 1, 2010, the commission shall adopt rules necessary to administer and enforce Subsection (a-1) [~~this section~~]. At a minimum, the rules shall:

(1) establish the minimum annual renewable energy requirement for each retail electric provider, 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 (a) and the requirement prescribed by Subsection (a-1); and

(2) specify reasonable performance standards that all

renewable capacity additions must meet to count against the requirement prescribed by Subsection (a) and the requirement prescribed by Subsection (a-1) 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 renewable energy projects at those sites in this state that have the greatest economic potential for capture and development of this state's environmentally beneficial renewable resources.

(d) In this section:

(1) "Renewable energy technology" [~~, "renewable energy technology"~~] means 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. Renewable energy technologies include those that rely on energy derived directly from the sun, on wind, geothermal, hydroelectric, wave, or tidal energy, or on renewable biomass or renewable biomass-based waste products, including landfill gas. A renewable energy technology does not rely on energy resources derived from fossil fuels, waste products from fossil fuels, or waste products from inorganic sources.

(2) "Renewable biomass or renewable biomass-based waste product" means:

(A) planted crops and crop residue harvested from

agricultural land cleared or cultivated at any time before the enactment of this subsection that is either actively managed or fallow, and non-forested;

(B) planted trees and tree residue from actively managed tree plantations on nonfederal land cleared at any time before the enactment of this subsection, including land belonging to an Indian tribe or Indian individual, that is held in trust by the United States or subject to a restriction against alienation imposed by the United States;

(C) animal waste material and animal byproducts;

(D) slash and pre-commercial thinning of nonfederal forestlands, including forestlands belonging to an Indian tribe or an Indian individual that are held in trust by the United States or subject to a restriction against alienation imposed by the United States, but not forests or forestlands that are ecological communities with a global or state ranking of critically imperiled, imperiled, or rare pursuant to a state natural heritage program, old-growth forest, or late successional forest;

(E) biomass obtained from the immediate vicinity of buildings and other areas regularly occupied by people or public infrastructures at risk from wildfire;

(F) algae; and

(G) separated yard or food waste including recycled cooking and trap grease.

(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 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this

Act takes effect September 1, 2009.