

By: Watson, et al.

S.B. No. 541

A BILL TO BE ENTITLED

AN ACT

relating to renewable energy and to incentives for Texas renewable energy jobs and manufacturing.

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

SECTION 1. The purpose of this Act is to continue Texas' leadership in installing clean, renewable energy in Texas in a market-based manner that drives manufacturing jobs and provides price protection for businesses and consumers.

SECTION 2. Section 39.002, Utilities Code, is amended to read as follows:

Sec. 39.002. APPLICABILITY. Except as provided by this section, this [~~This~~] chapter, other than Sections 39.155, 39.157(e), 39.203, 39.903, 39.904, 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[~~7~~ ~~however,~~] apply only to a municipally owned utility or an electric cooperative that is offering customer choice. Section 39.9041 applies to a municipally owned utility. 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 3. Section 39.904, Utilities Code, is amended by amending Subsections (a), (b), (c), (d), (n), and (o), and adding Subsections (a-1), (c-1), (c-2), (c-3), (n-1), and (p) to read as

1 follows:

2 (a) It is the intent of the legislature that by January 1,
3 2015, an additional 5,000 megawatts of generating capacity from
4 tier 1 renewable energy technologies will have been installed in
5 this state. The cumulative installed renewable capacity in this
6 state shall total 5,880 megawatts by January 1, 2015, and the
7 commission shall establish a target of 10,000 megawatts of
8 installed renewable capacity by January 1, 2025. The cumulative
9 installed tier 1 renewable capacity in this state shall total 2,280
10 megawatts by January 1, 2007, 3,272 megawatts by January 1, 2009,
11 4,264 megawatts by January 1, 2011, 5,256 megawatts by January 1,
12 2013, and 5,880 megawatts by January 1, 2015. [~~Of the renewable
13 energy technology generating capacity installed to meet the goal of
14 this subsection after September 1, 2005, the commission shall
15 establish a target of having at least 500 megawatts of capacity from
16 a renewable energy technology other than a source using wind
17 energy.~~]

18 (a-1) It is the goal of the legislature that by January 1,
19 2020, an additional 1,500 megawatts of tier 2 renewable energy will
20 have been installed in this state. Of the renewable energy
21 generating capacity installed to meet the goal of this subsection,
22 up to 500 megawatts of renewable energy storage may qualify to meet
23 the tier 2 goal. The cumulative installed tier 2 renewable energy
24 resource capacity in this state shall total 50 megawatts by January
25 1, 2011; 100 megawatts by January 1, 2012; 200 megawatts by January
26 1, 2013; 350 megawatts by January 1, 2014; 500 megawatts by January
27 1, 2015; 750 megawatts by January 1, 2016; 900 megawatts by January

1 1, 2017; 1,000 megawatts by January 1, 2018; 1,250 megawatts by
2 January 1, 2019; and 1,500 megawatts by January 1, 2020. On January
3 1, 2016, if the commission determines the state has not made
4 significant progress toward the goals of this subsection, then the
5 commission may take action to suspend future obligations under this
6 subsection.

7 (b) The commission shall establish a tier 1 renewable energy
8 credits trading program and a tier 2 renewable energy credits
9 trading program. Any retail electric provider, municipally owned
10 utility, or electric cooperative that does not satisfy the
11 requirements of Subsection (a) by directly owning or purchasing
12 capacity using renewable energy technologies shall purchase
13 sufficient renewable energy credits to satisfy the requirements by
14 holding renewable energy credits in lieu of capacity from renewable
15 energy technologies. In calculating capacity factors for tier 2
16 renewable energy credits, the commission shall encourage a diverse
17 portfolio of tier 2 renewable energy technologies.

18 (c) Not later than January 1, 2000, the commission shall
19 adopt rules necessary to administer and enforce this section. At a
20 minimum, the rules shall:

21 (1) establish the minimum annual renewable energy
22 requirement for each retail electric provider, municipally owned
23 utility, and electric cooperative operating in this state in a
24 manner reasonably calculated by the commission to produce, on a
25 statewide basis, compliance with the requirement prescribed by
26 Subsections (a) and (a-1) [~~Subsection (a)~~]; and

27 (2) specify reasonable performance standards that all

1 renewable capacity additions must meet to count against the
2 requirement prescribed by Subsections (a) and (a-1) [~~Subsection~~
3 ~~(a)~~] and that:

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

7 (B) encourage the development, construction, and
8 operation of new renewable energy projects at those sites in this
9 state that have the greatest economic potential for capture and
10 development of this state's environmentally beneficial renewable
11 resources.

12 (c-1) Not later than January 1, 2011, the commission shall
13 adopt rules necessary to provide a "Made in Texas" incentive for
14 tier 1 and tier 2 renewable energy credits generated by generation
15 equipment that is wholly produced or substantially transformed by a
16 Texas workforce, as determined by the commission. The incentive
17 under this subsection shall be available for the first three years
18 after the renewable energy equipment first produces electricity on
19 a commercial basis.

20 (c-2) Not later than January 1, 2010, the commission shall
21 adopt rules necessary to track and account for renewable energy
22 credits earned from electric generating capacity derived from
23 renewable energy storage. The rules shall:

24 (1) allow for the renewable energy storage to be
25 located on the same or on a different site as the renewable
26 generation being stored;

27 (2) ensure that only one renewable energy credit is

1 retired for every megawatt hour of renewable energy generated prior
2 to being stored for later release onto the electricity grid; and

3 (3) account for any loss in energy resulting from
4 storage for later use.

5 (c-3) Not later than January 1, 2010, the commission shall
6 adopt rules necessary to allow generators of tier 2 renewable
7 energy installed before September 1, 1999, to qualify annually for
8 not more than 40 megawatts of tier 2 renewable energy credits.

9 (d) For purposes of [In] this section:

10 (1) "Tier 1 renewable energy technology" [~~,"renewable~~
11 energy technology"] means any technology that exclusively relies on
12 an energy source that is naturally regenerated over a short time and
13 derived directly from the sun, indirectly from the sun, or from
14 moving water or other natural movements and mechanisms of the
15 environment. Renewable energy technologies include those that rely
16 on energy derived directly from the sun, on wind, geothermal,
17 hydroelectric, wave, or tidal energy, or on biomass or
18 biomass-based waste products, including landfill gas. A renewable
19 energy technology does not rely on energy resources derived from
20 fossil fuels, waste products from fossil fuels, or waste products
21 from inorganic sources.

22 (2) "Tier 2 renewable energy" means tier 1 renewable
23 energy technology excluding energy derived from wind with a
24 capacity of more than 150 kilowatts.

25 (3) "Renewable energy storage" means energy storage
26 technology that stores for later release energy derived from tier 1
27 or tier 2 renewable energy.

1 (n) Notwithstanding any other provision of law, the
2 commission shall have the authority to cap the price of renewable
3 energy credits and may suspend the goal contained in Subsections
4 (a) and (a-1) [~~Subsection (a)~~] if such suspension is necessary to
5 protect the reliability and operation of the grid.

6 (n-1) If the commission determines that complying with the
7 goals of Subsection (a-1) and a federal renewable portfolio
8 standard that is more stringent than those goals would cause an
9 undue burden to ratepayers in this state, the commission may
10 suspend any requirement relating to meeting those goals.

11 (o) The commission may establish tier 1 and tier 2 [~~an~~]
12 alternative compliance payments [~~payment~~]. An entity that has a
13 renewable energy purchase requirement under this section may elect
14 to pay the alternative compliance payment instead of applying
15 renewable energy credits toward the satisfaction of the entity's
16 obligation under this section. [~~The commission may establish a~~
17 ~~separate alternative compliance payment for the goal of 500~~
18 ~~megawatts of capacity from renewable energy technologies other than~~
19 ~~wind energy.~~] The tier 1 alternative compliance payment for a
20 renewable energy purchase requirement that could be satisfied with
21 a renewable energy credit from wind energy may not be less than
22 \$2.50 per credit or greater than \$20 per credit. Prior to September
23 1, 2009, an alternative compliance payment under this subsection
24 may not be set above \$5 per credit. The tier 2 alternative
25 compliance payment that could be satisfied with a tier 2 renewable
26 energy credit shall not exceed \$90 per renewable energy credit
27 before December 31, 2014; \$80 per renewable energy credit before

1 December 31, 2015; \$65 per renewable energy credit before December
2 31, 2016; \$45 per renewable energy credit before December 31, 2017;
3 \$40 per renewable energy credit before December 31, 2018; \$35 per
4 renewable energy credit before December 31, 2019; \$30 per renewable
5 energy credit before December 31, 2020. In implementing this
6 subsection, the commission shall consider:

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

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

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

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

16 (p) If the commission suspends the tier 2 renewable energy
17 goal under Subsection (a-1), all alternative compliance payment
18 funds collected shall be refunded by the retail electric providers
19 under the guidance of the commission to the residential and
20 commercial electric customers covered by this subchapter. If the
21 commission does not suspend the tier 2 renewable energy goal under
22 Subsection (a-1), the alternative compliance payment funds
23 collected by the commission shall be used for the purpose of a solar
24 rebate program established by the commission.

25 SECTION 4. Subchapter Z, Chapter 39, Utilities Code, is
26 amended by adding Section 39.9041 to read as follows:

27 Sec. 39.9041. RENEWABLE ENERGY FOR MUNICIPALLY OWNED

1 UTILITIES. (a) It is the goal of the legislature that municipally
2 owned utilities:

3 (1) increase the installed capacity in this state from
4 tier 2 renewable energy or from renewable energy storage in a
5 cost-effective, market neutral, and nondiscriminatory manner; and

6 (2) install capacity from tier 2 renewable energy or
7 from renewable energy storage in proportion to and at a level
8 consistent with the requirements for electric utilities under
9 Section 39.904(a-1).

10 (b) This section applies only to a municipally owned utility
11 with retail sales of more than 500,000 megawatt hours for the year
12 beginning January 1, 2007.

13 (c) Beginning not later than September 1, 2012, a
14 municipally owned utility annually shall report to the State Energy
15 Conservation Office, in a form determined by the office,
16 information regarding the efforts of the utility under this
17 section.

18 (d) This section does not prevent the governing body of a
19 municipally owned utility from adopting rules, programs, and
20 incentives that encourage or provide for the installation of
21 capacity from tier 2 renewable energy or renewable energy storage
22 in addition to the goals in Section 39.904(a-1).

23 (e) The commission shall count capacity from tier 2
24 renewable energy or renewable energy storage installed on or after
25 May 1, 2007, toward a municipally owned utility's compliance with
26 this section.

27 (f) A municipally owned utility may satisfy the

1 requirements of this section:

2 (1) by owning or purchasing capacity from tier 2
3 renewable energy or renewable energy storage; or

4 (2) by purchasing renewable energy credits in lieu of
5 capacity from tier 2 renewable energy technologies.

6 SECTION 5. This Act takes effect September 1, 2009.