

1-1 By: Watson, Van de Putte S.B. No. 541
1-2 (In the Senate - Filed January 26, 2009; February 17, 2009,
1-3 read first time and referred to Committee on Business and Commerce;
1-4 April 30, 2009, reported adversely, with favorable Committee
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1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 541 By: Watson

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to incentives for Texas renewable energy jobs and
1-11 manufacturing.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. The purpose of this Act is to continue Texas'
1-14 leadership in installing clean, renewable energy in Texas in a
1-15 market-based manner that drives manufacturing jobs and provides
1-16 price protection for businesses and consumers.

1-17 SECTION 2. Section 39.904, Utilities Code, is amended by
1-18 amending Subsections (a), (b), (c), (d), (n), and (o), and adding
1-19 Subsections (a-1), (c-1), and (c-2), and (p), to read as follows:

1-20 (a) It is the intent of the legislature that by January 1,
1-21 2015, an additional 5,000 megawatts of generating capacity from
1-22 tier 1 renewable energy technologies will have been installed in
1-23 this state. The cumulative installed renewable capacity in this
1-24 state shall total 5,880 megawatts by January 1, 2015, and the
1-25 commission shall establish a target of 10,000 megawatts of
1-26 installed renewable capacity by January 1, 2025. The cumulative
1-27 installed tier 1 renewable capacity in this state shall total 2,280
1-28 megawatts by January 1, 2007, 3,272 megawatts by January 1, 2009,
1-29 4,264 megawatts by January 1, 2011, 5,256 megawatts by January 1,
1-30 2013, and 5,880 megawatts by January 1, 2015. [~~Of the renewable
1-31 energy technology generating capacity installed to meet the goal of
1-32 this subsection after September 1, 2005, the commission shall
1-33 establish a target of having at least 500 megawatts of capacity from
1-34 a renewable energy technology other than a source using wind
1-35 energy.~~]

1-36 (a-1) It is the goal of the legislature that by January 1,
1-37 2020, an additional 3,000 megawatts of tier 2 renewable energy will
1-38 have been installed in this state. Of the renewable energy
1-39 generating capacity installed to meet the goal of this subsection,
1-40 up to 1,000 megawatts of renewable energy storage may qualify to
1-41 meet the tier 2 goal. The cumulative installed tier 2 renewable
1-42 energy resource capacity in this state shall total 150 megawatts by
1-43 January 1, 2011; 300 megawatts by January 1, 2012; 700 megawatts by
1-44 January 1, 2013; 800 megawatts by January 1, 2014; 1,000 megawatts
1-45 by January 1, 2015; 1,300 megawatts by January 1, 2016; 1,500
1-46 megawatts by January 1, 2017; 1,800 megawatts by January 1, 2018;
1-47 2,400 megawatts by January 1, 2019; and 3,000 megawatts by January
1-48 1, 2020.

1-49 (b) The commission shall establish a tier 1 renewable energy
1-50 credits trading program and a tier 2 renewable energy credits
1-51 trading program. Any retail electric provider, municipally owned
1-52 utility, or electric cooperative that does not satisfy the
1-53 requirements of Subsection (a) by directly owning or purchasing
1-54 capacity using renewable energy technologies shall purchase
1-55 sufficient renewable energy credits to satisfy the requirements by
1-56 holding renewable energy credits in lieu of capacity from renewable
1-57 energy technologies. In calculating capacity factors for tier 2
1-58 renewable energy credits, the commission shall encourage a diverse
1-59 portfolio of tier 2 renewable energy technologies.

1-60 (c) Not later than January 1, 2000, the commission shall
1-61 adopt rules necessary to administer and enforce this section. At a
1-62 minimum, the rules shall:

1-63 (1) establish the minimum annual renewable energy

2-1 requirement for each retail electric provider, municipally owned
 2-2 utility, and electric cooperative operating in this state in a
 2-3 manner reasonably calculated by the commission to produce, on a
 2-4 statewide basis, compliance with the requirement prescribed by
 2-5 Subsections (a) and (a-1) [~~Subsection (a)~~]; and

2-6 (2) specify reasonable performance standards that all
 2-7 renewable capacity additions must meet to count against the
 2-8 requirement prescribed by Subsections (a) and (a-1) [~~Subsection~~
 2-9 ~~(a)]~~ and that:

2-10 (A) are designed and operated so as to maximize
 2-11 the energy output from the capacity additions in accordance with
 2-12 then-current industry standards; and

2-13 (B) encourage the development, construction, and
 2-14 operation of new renewable energy projects at those sites in this
 2-15 state that have the greatest economic potential for capture and
 2-16 development of this state's environmentally beneficial renewable
 2-17 resources.

2-18 (c-1) Not later than January 1, 2011, the commission shall
 2-19 adopt rules necessary to provide a "Made in Texas" incentive for
 2-20 tier 1 and tier 2 renewable energy credits generated by generation
 2-21 equipment that is wholly produced or substantially transformed by a
 2-22 Texas workforce, as determined by the commission. The incentive
 2-23 under this subsection shall be available for the first three years
 2-24 after the renewable energy equipment first produces electricity on
 2-25 a commercial basis.

2-26 (c-2) Not later than January 1, 2010, the commission shall
 2-27 adopt rules necessary to track and account for renewable energy
 2-28 credits earned from electric generating capacity derived from
 2-29 renewable energy storage. The rules shall:

2-30 (1) allow for the renewable energy storage to be
 2-31 located on the same or on a different site as the renewable
 2-32 generation being stored;

2-33 (2) ensure that only one renewable energy credit is
 2-34 retired for every megawatt hour of renewable energy generated prior
 2-35 to being stored for later release onto the electricity grid; and

2-36 (3) account for any loss in energy resulting from
 2-37 storage for later use.

2-38 (d) For purposes of [~~It~~] this section:

2-39 (1) "Tier 1 renewable energy technology" [~~,"renewable~~
 2-40 energy technology"] means any technology that exclusively relies on
 2-41 an energy source that is naturally regenerated over a short time and
 2-42 derived directly from the sun, indirectly from the sun, or from
 2-43 moving water or other natural movements and mechanisms of the
 2-44 environment. Renewable energy technologies include those that rely
 2-45 on energy derived directly from the sun, on wind, geothermal,
 2-46 hydroelectric, wave, or tidal energy, or on biomass or
 2-47 biomass-based waste products, including landfill gas. A renewable
 2-48 energy technology does not rely on energy resources derived from
 2-49 fossil fuels, waste products from fossil fuels, or waste products
 2-50 from inorganic sources.

2-51 (2) "Tier 2 renewable energy" means tier 1 renewable
 2-52 energy technology excluding energy derived from wind with a
 2-53 capacity of more than 150 kilowatts.

2-54 (3) "Renewable energy storage" means energy storage
 2-55 technology that stores for later release energy derived from tier 1
 2-56 or tier 2 renewable energy.

2-57 (n) Notwithstanding any other provision of law, the
 2-58 commission shall have the authority to cap the price of renewable
 2-59 energy credits and may suspend the goal contained in Subsections
 2-60 (a) and (a-1) [~~Subsection (a)~~] if such suspension is necessary to
 2-61 protect the reliability and operation of the grid.

2-62 (o) The commission may establish tier 1 and tier 2 [~~an~~
 2-63 alternative compliance payments [~~payment~~]. An entity that has a
 2-64 renewable energy purchase requirement under this section may elect
 2-65 to pay the alternative compliance payment instead of applying
 2-66 renewable energy credits toward the satisfaction of the entity's
 2-67 obligation under this section. [~~The commission may establish a~~
 2-68 ~~separate alternative compliance payment for the goal of 500~~
 2-69 ~~megawatts of capacity from renewable energy technologies other than~~

3-1 ~~wind energy.]~~ The tier 1 alternative compliance payment for a
3-2 renewable energy purchase requirement that could be satisfied with
3-3 a renewable energy credit from wind energy may not be less than
3-4 \$2.50 per credit or greater than \$20 per credit. Prior to September
3-5 1, 2009, an alternative compliance payment under this subsection
3-6 may not be set above \$5 per credit. The tier 2 alternative
3-7 compliance payment that could be satisfied with a tier 2 renewable
3-8 energy credit shall not exceed \$90 per renewable energy credit
3-9 before December 31, 2014; \$80 per renewable energy credit before
3-10 December 31, 2015; \$65 per renewable energy credit before December
3-11 31, 2016; \$45 per renewable energy credit before December 31, 2017;
3-12 \$40 per renewable energy credit before December 31, 2018; \$35 per
3-13 renewable energy credit before December 31, 2019; \$30 per renewable
3-14 energy credit before December 31, 2020. In implementing this
3-15 subsection, the commission shall consider:

3-16 (1) the effect of renewable energy credit prices on
3-17 retail competition;

3-18 (2) the effect of renewable energy credit prices on
3-19 electric rates;

3-20 (3) the effect of the alternative compliance payment
3-21 level on the renewable energy credit market; and

3-22 (4) any other factors necessary to ensure the
3-23 continued development of the renewable energy industry in this
3-24 state while protecting ratepayers from unnecessary rate increases.

3-25 (p) Tier 2 alternative compliance payment funds collected
3-26 by the commission shall be deposited into the Texas emerging
3-27 technology fund or other fund and allocated exclusively for the
3-28 research and development of tier 2 renewable energy technologies
3-29 and to renewable energy storage technologies for the purpose of
3-30 making tier 2 renewable energy more affordable for consumers.

3-31 SECTION 3. This Act takes effect September 1, 2009.

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