

By: Fraser

S.B. No. 546

A BILL TO BE ENTITLED

AN ACT

relating to the state goal for energy efficiency.

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

SECTION 1. Section 39.905, Utilities Code, is amended by amending Subsection (a) and adding Subsections (h), (i), and (j) to read as follows:

(a) It is the goal of the legislature that:

(1) electric utilities will administer energy efficiency incentive programs in a market-neutral, nondiscriminatory manner but will not offer underlying competitive services;

(2) all customers, in all customer classes, will have a choice of and access to energy efficiency alternatives and other choices from the market that allow each customer to reduce energy consumption, peak demand, or energy costs;

(3) each electric utility will provide, through market-based standard offer programs, ~~or~~ limited, targeted, market-transformation programs, or programs that address the major barriers to energy efficiency, incentives sufficient for retail electric providers and competitive energy service providers to acquire additional cost-effective energy efficiency for residential and commercial customers equivalent to at least:

(A) 10 percent of the electric utility's annual growth in demand of residential and commercial customers by

1 December 31, 2007;

2 (B) 15 percent of the electric utility's annual
3 growth in demand of residential and commercial customers by
4 December 31, 2008, provided that the electric utility's program
5 expenditures for 2008 funding may not be greater than 75 percent
6 above the utility's program budget for 2007 for residential and
7 commercial customers, as included in the April 1, 2006, filing;
8 ~~and~~

9 (C) 20 percent of the electric utility's annual
10 growth in demand of residential and commercial customers by
11 December 31, 2009, provided that the electric utility's program
12 expenditures for 2009 funding may not be greater than 150 percent
13 above the utility's program budget for 2007 for residential and
14 commercial customers, as included in the April 1, 2006, filing;

15 (D) the lower of 30 percent of the electric
16 utility's annual growth in demand or 0.3 percent of the total peak
17 demand of residential and commercial customers by December 31,
18 2012, provided that the average cost of the programs charged by the
19 electric utility to residential and commercial customers is not
20 more than 25 cents per megawatt hour; and

21 (E) the lower of 50 percent of the electric
22 utility's annual growth in demand or 0.7 percent of the total peak
23 demand of residential and commercial customers by December 31,
24 2016, provided that the average cost of the programs charged by the
25 electric utility to residential and commercial customers is not
26 more than 35 cents per megawatt hour;

27 (4) each electric utility in the ERCOT region shall

1 use its best efforts to encourage and facilitate the involvement of
2 the region's retail electric providers in the delivery of
3 efficiency programs and demand response programs under this
4 section;

5 (5) retail electric providers in the ERCOT region, and
6 electric utilities outside of the ERCOT region, shall provide
7 customers with energy efficiency educational materials; ~~and~~

8 (6) notwithstanding Subdivision (3) ~~[Subsection~~
9 ~~(a)(3)]~~, electric utilities shall continue to make available, at
10 2007 funding and participation levels, any load management standard
11 offer programs developed for industrial customers and implemented
12 prior to May 1, 2007; and

13 (7) for an electric utility operating outside of ERCOT
14 in areas of this state that were included in the Western Electricity
15 Coordinating Council on January 1, 2009, the utility may continue
16 to provide standard offer programs, limited, targeted
17 market-transformation programs, or programs that address the major
18 barriers to energy efficiency as required by Subdivision (3) or may
19 provide energy efficiency programs and measures directly to a
20 customer class.

21 (h) If the commission finds that an electric utility is
22 unable to meet the goals specified in this section due to the
23 establishment of new building energy codes; new appliance
24 standards; federal funding of conservation, weatherization, and
25 energy efficiency programs; or other factors unique to a particular
26 utility, the commission may establish alternative goals for the
27 utility, subject to the average rate impact limitations listed in

1 Subsection (a)(3).

2 (i) In the event the federal government establishes
3 national mandates, requirements, or goals for energy efficiency,
4 the commission may suspend the goals in this section if it finds
5 that the maintenance of a separate state requirement is duplicative
6 or more costly than the suspension of the requirement.

7 (j) In the event funding is not provided for customer
8 education efforts under Section 39.903(e)(2) at a level sufficient
9 to allow the commission to adequately inform customers of the
10 programs authorized by this section, electric utilities may conduct
11 advertising or other outreach activities to retail customers if
12 insufficient demand for incentives exists in the utility's service
13 area. Outreach funds shall not be included in the average rate
14 impact cap provided by this section. The commission shall approve
15 the amount of funds to be expended in outreach efforts and the
16 electric utility's plan for the activities to ensure that the
17 activities are coordinated with other customer education
18 initiatives of the commission.

19 SECTION 2. Section 39.905, Utilities Code, is amended by
20 adding Subsections (k) and (l) to read as follows:

21 (k) An electric utility that was not subject to this section
22 on January 1, 2009, shall be subject to the energy efficiency goals
23 established in this section on a phased-in basis, as prescribed by
24 the commission, starting from the effective date of the final rates
25 from the first rate case filed by the electric utility with the
26 commission after January 1, 2010.

27 (l) Notwithstanding any other law, this section shall apply

1 to every electric utility as defined by Section 31.002.

2 SECTION 3. Subdivision (1), Subsection (a), Section
3 388.005, Health and Safety Code, is amended to read as follows:

4 (1) "Institution of higher education" includes an
5 institution of higher education as defined by Section 61.003,
6 Education Code, and a private institution of higher education that
7 receives direct funding from the state for general operating
8 purposes.

9 SECTION 4. Section 388.005, Health and Safety Code, is
10 amended by adding Subsection (g) to read as follows:

11 (g) A private or independent institution of higher
12 education as defined by Section 61.003, Education Code, that does
13 not receive direct funding from the state for general operating
14 purposes may seek and receive advice and assistance from the State
15 Energy Conservation Office concerning energy conservation measures
16 to reduce electricity consumption by the existing facilities of the
17 institution.

18 SECTION 5. The following provisions of the Utilities Code
19 are repealed:

20 (1) Subsection (b-2), Section 39.905; and

21 (2) Section 39.913.

22 SECTION 6. This Act takes effect immediately if it receives
23 a vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution. If this
25 Act does not receive the vote necessary for immediate effect, this
26 Act takes effect September 1, 2009.