

**House Bill 1243**  
Senate Amendments  
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SECTION 1. Section 31.002(6), Utilities Code, is amended to read as follows:

(6) "Electric utility" means a person or river authority that owns or operates for compensation in this state equipment or facilities to produce, generate, transmit, distribute, sell, or furnish electricity in this state. The term includes a lessee, trustee, or receiver of an electric utility and a recreational vehicle park owner who does not comply with Subchapter C, Chapter 184, with regard to the metered sale of electricity at the recreational vehicle park. The term does not include:

- (A) a municipal corporation;
- (B) a qualifying facility;
- (C) a power generation company;
- (D) an exempt wholesale generator;
- (E) a power marketer;
- (F) a corporation described by Section 32.053 to the extent the corporation sells electricity exclusively at wholesale and not to the ultimate consumer;
- (G) an electric cooperative;
- (H) a retail electric provider;
- (I) this state or an agency of this state; ~~[or]~~
- (J) a person not otherwise an electric utility who:
  - (i) furnishes an electric service or commodity only to itself, its employees, or its tenants as an incident of employment or tenancy, if that service or commodity is not resold to or used by others;
  - (ii) owns or operates in this state equipment or facilities to produce, generate, transmit, distribute, sell, or furnish electric energy to an electric utility, if the equipment or

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facilities are used primarily to produce and generate electric energy for consumption by that person; or  
(iii) owns or operates in this state a recreational vehicle park that provides metered electric service in accordance with Subchapter C, Chapter 184; or  
(K) a distributed renewable generation owner, as defined by Section 39.916.

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 to an electric cooperative. Sections 39.157(e), 39.203, and 39.904~~[-however,]~~ apply only to a municipally owned utility or an electric cooperative that is offering customer choice. Section 39.916 applies to an electric cooperative. Section 39.9161 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.

Same as House version.

SECTION 3. The heading to Section 39.916, Utilities Code, is amended to read as follows:

Sec. 39.916. ~~[INTERCONNECTION — OF]~~  
DISTRIBUTED RENEWABLE GENERATION.

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SECTION 4. Section 39.916, Utilities Code, is amended by amending Subsections (a), (b), (c), (e), (f), (h), and (j) and adding Subsections (d-1), (k), (l), (m), (n), (o), (p), and (r) to read as follows:

(a) In this section:

(1) "Distributed renewable generation" means electric generation with a capacity of not more than 2,000 kilowatts provided by a renewable energy technology, as defined by Section 39.904, that is installed on a retail electric customer's side of the meter.

(2) "Distributed renewable generation owner" means:

(A) the owner of distributed renewable generation;

(B) a retail electric customer who contracts with another person to finance, install, or maintain distributed renewable generation on the customer's side of the meter, regardless of whether the customer takes ownership of the installed distributed renewable generation; or

(C) a person who by contract is assigned ownership rights to distributed renewable generation located at the premises of a customer on the customer's side of the meter.

(3) "Interconnection" means the right of a distributed renewable generation owner to physically connect distributed renewable generation to an electricity distribution system, and the technical requirements, rules, or processes for the connection.

(b) A transmission and distribution utility, electric cooperative, or electric utility shall allow interconnection

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SECTION 4. Section 39.916, Utilities Code, is amended by amending Subsections (a), (b), (c), (e), (f), (h), and (j) and adding Subsections (d-1), (k), (l), (m), (n), (o), (p), and (r) to read as follows:

(a) In this section:

(1) "Distributed renewable generation" means electric generation with a capacity of not more than 2,000 kilowatts provided by a renewable energy technology, as defined by Section 39.904, that is installed on a retail electric customer's side of the meter.

(2) "Distributed renewable generation owner" means:

(A) the owner of distributed renewable generation;

(B) a retail electric customer who contracts with another person to finance, install, or maintain distributed renewable generation on the customer's side of the meter, regardless of whether the customer takes ownership of the installed distributed renewable generation; or

(C) a person who by contract is assigned ownership rights to distributed renewable generation located at the premises of a customer on the customer's side of the meter.

(3) "Interconnection" means the right of a distributed renewable generation owner to physically connect distributed renewable generation to an electricity distribution system, and the technical requirements, rules, or processes for the connection.

(b) A transmission and distribution utility, electric cooperative, or electric utility shall allow interconnection

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if:

(1) the distributed renewable generation to be interconnected has a five-year warranty against breakdown or undue degradation; and

(2) the rated capacity of the distributed renewable generation does not exceed the transmission and distribution utility, electric cooperative, or electric utility service capacity.

(c) A customer may request interconnection by filing an application for interconnection with the transmission and distribution utility, electric cooperative, or electric utility. Procedures of a transmission and distribution utility, electric cooperative, or electric utility for the submission and processing of a customer's application for interconnection shall be consistent with rules adopted by the commission regarding interconnection.

(d-1) If, at the time distributed renewable generation is installed on a retail electric customer's side of the meter, the estimated annual amount of electric energy to be produced by the distributed renewable generation is less than or equal to the customer's estimated annual electric energy consumption, the commission may not consider the distributed renewable generation owner to be a power generation company or require the distributed renewable generation owner to register as a power generation company.

(e) A transmission and distribution utility, electric cooperative, electric utility, or retail electric provider may not require a distributed renewable generation owner whose distributed renewable generation meets the

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if:

(1) the distributed renewable generation to be interconnected has a five-year warranty against breakdown or undue degradation; and

(2) the rated capacity of the distributed renewable generation does not exceed the transmission and distribution utility, electric cooperative, or electric utility service capacity.

(c) A customer may request interconnection by filing an application for interconnection with the transmission and distribution utility, electric cooperative, or electric utility. Procedures of a transmission and distribution utility, electric cooperative, or electric utility for the submission and processing of a customer's application for interconnection shall be consistent with rules adopted by the commission regarding interconnection.

(d-1) If, at the time distributed renewable generation is installed on a retail electric customer's side of the meter, the estimated annual amount of electric energy to be produced by the distributed renewable generation is less than or equal to the customer's estimated annual electric energy consumption, the commission may not consider the distributed renewable generation owner to be a power generation company or require the distributed renewable generation owner to register as a power generation company.

(e) A transmission and distribution utility, electric cooperative, electric utility, or retail electric provider may not require a distributed renewable generation owner whose distributed renewable generation meets the

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standards established by rule under Subsection (d) to purchase an amount, type, or classification of liability insurance the distributed renewable generation owner would not have in the absence of the distributed renewable generation.

(f) A transmission and distribution utility, electric cooperative, or electric utility shall make available to a distributed renewable generation owner for purposes of this section metering required for services provided under this section, including separate meters that measure the load and generator output or a single meter capable of measuring in-flow and out-flow at the point of common coupling meter point. The distributed renewable generation owner must pay the differential cost of the metering unless the meters are provided at no additional cost. Except as provided by this section, Section 39.107 applies to metering under this section.

(h) On the request of a distributed renewable generation owner and in accordance with this section, an ~~[A#]~~ electric utility, electric cooperative, or retail electric provider shall ~~[may]~~ contract with a distributed renewable generation owner so that:

(1) surplus electricity produced by distributed renewable generation is made available for sale to the transmission grid and distribution system; and

(2) the fair market ~~[net]~~ value of that surplus electricity is credited to the distributed renewable generation owner.

(j) For a distributed renewable generation owner who chooses to sell the owner's surplus electricity in an area ~~[owners in areas]~~ in which customer choice has been

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standards established by rule under Subsection (d) to purchase an amount, type, or classification of liability insurance the distributed renewable generation owner would not have in the absence of the distributed renewable generation.

(f) A transmission and distribution utility, electric cooperative, or electric utility shall make available to a distributed renewable generation owner for purposes of this section metering required for services provided under this section, including separate meters that measure the load and generator output or a single meter capable of measuring in-flow and out-flow at the point of common coupling meter point. The distributed renewable generation owner must pay the differential cost of the metering unless the meters are provided at no additional cost. Except as provided by this section, Section 39.107 applies to metering under this section.

(h) On the request of a distributed renewable generation owner and in accordance with this section, an ~~[A#]~~ electric utility, electric cooperative, or retail electric provider shall ~~[may]~~ contract with a distributed renewable generation owner so that:

(1) surplus electricity produced by distributed renewable generation is made available for sale to the transmission grid and distribution system; and

(2) the fair market ~~[net]~~ value of that surplus electricity is credited to the distributed renewable generation owner.

(j) For a distributed renewable generation owner who chooses to sell the owner's surplus electricity in an area ~~[owners in areas]~~ in which customer choice has been

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introduced, the distributed renewable generation owner must sell the owner's surplus electricity produced to the retail electric provider that serves the ~~[distributed renewable generation]~~ owner's load. For a distributed renewable generation owner who chooses to sell the owner's surplus electricity in an area in which customer choice has not been introduced, the owner must sell the owner's surplus electricity to the electric utility or electric cooperative that serves the owner's load at a value that is greater than or equal to the avoided cost of the electric utility or electric cooperative, as determined in accordance with commission rules, and, for an electric cooperative, that is at least 4.5 cents per kilowatt hour regardless of the electric cooperative's avoided cost.

~~A distributed generation owner who chooses to sell the owner's surplus electricity in an area in which customer choice has been introduced must sell the owner's surplus electricity at a fair market value, determined in accordance with this section, [agreed to between the distributed renewable generation owner and the provider that serves the owner's load which may include, but is not limited to, an agreed value based on the clearing price of energy at the time of day that the electricity is made available to the grid] or the owner's surplus~~

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introduced, the distributed renewable generation owner must sell the owner's surplus electricity produced to the retail electric provider that serves the ~~[distributed renewable generation]~~ owner's load. For a distributed renewable generation owner who chooses to sell the owner's surplus electricity in an area in which customer choice has not been introduced, the owner must sell the owner's surplus electricity to the electric utility or electric cooperative that serves the owner's load at a value that is greater than or equal to the avoided cost of the electric utility or electric cooperative, as determined in accordance with commission rules.

An electric cooperative may calculate avoided cost in accordance with commission rules or, at the option of the electric cooperative, as the sum of the average wholesale fuel and energy costs, expressed in cents per kilowatt hour, on the wholesale power bill for the applicable billing period.

~~A distributed generation owner who chooses to sell the owner's surplus electricity in an area in which customer choice has been introduced must sell the owner's surplus electricity at a fair market value, determined in accordance with this section, [agreed to between the distributed renewable generation owner and the provider that serves the owner's load which may include, but is not limited to, an agreed value based on the clearing price of energy at the time of day that the electricity is made available to the grid] or the owner's surplus~~

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electricity may be exchanged for [it may be] a credit applied at a fair market value, determined in accordance with this section, to an account during a billing period that may be carried over to subsequent billing periods until the credit has been redeemed. The independent organization identified in Section 39.151 shall develop procedures so that the amount of electricity purchased from a distributed renewable generation owner under this section is accounted for in settling the total load served by the provider that serves that owner's load [by January 1, 2009]. A distributed renewable generation owner requesting [net] metering services for purposes of this section must have metering devices capable of providing measurements consistent with the independent organization's settlement requirements.

(k) In areas in which customer choice has been introduced, the commission by rule shall provide a methodology for determining a fair market value price for surplus electricity generated by distributed renewable generation that provides a monthly or longer periodic proxy for the market clearing price.

The methodology must not allow the aggregate fair market value of surplus electricity in any billing period to be less than zero.

The commission shall review the methodology periodically. The commission shall post on its Internet website the fair market value prices derived from the methodology provided under this subsection.

(l) In an area in which customer choice has been introduced, a retail electric provider shall pay a

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electricity may be exchanged for [it may be] a credit applied at a fair market value, determined in accordance with this section, to an account during a billing period that may be carried over to subsequent billing periods until the credit has been redeemed. The independent organization identified in Section 39.151 shall develop procedures so that the amount of electricity purchased from a distributed renewable generation owner under this section is accounted for in settling the total load served by the provider that serves that owner's load [by January 1, 2009]. A distributed renewable generation owner requesting [net] metering services for purposes of this section must have metering devices capable of providing measurements consistent with the independent organization's settlement requirements.

(k) In areas in which customer choice has been introduced, the commission by rule shall provide a methodology for determining a fair market value price for surplus electricity generated by distributed renewable generation that provides a proxy for the market clearing price.

The commission shall review the methodology periodically. The commission shall post on its Internet website the fair market value prices derived from the methodology provided under this subsection.

(l) In an area in which customer choice has been introduced, a retail electric provider shall pay a

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distributed renewable generation owner for surplus electricity generated by the owner's distributed renewable generation the local market clearing price for energy at the time of day the surplus electricity is made available to the grid or a price that is not less than the fair market value price determined in accordance with the methodology provided under Subsection (k).

(m) In areas in which customer choice has been introduced, a distributed renewable generation owner is qualified to be paid for surplus electricity under Subsection (h), (j), (k), or (l) only if:

(1) the owner's distributed renewable generation is:

(A) rated to produce an amount of electricity that is less than or equal to the amount of electricity the retail electric customer for whom the distributed renewable generation is installed is reasonably expected to consume; and

(B) installed on the customer's side of the meter for a residential retail electric customer or a retail electric customer who is a public school or a church; and

(2) the generating capacity of the distributed renewable generation does not exceed:

(A) 10 kilowatts for a residential retail electric customer;

(B) 150 kilowatts for a church retail electric customer;

or

(C) 250 kilowatts for a public school retail electric customer.

(n) A distributed renewable generation owner who does not meet the qualifications prescribed by Subsection (m) will be paid for the owner's surplus electricity or will

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distributed renewable generation owner for surplus electricity generated by the owner's distributed renewable generation the local market clearing price for energy at the time of day the surplus electricity is made available to the grid or a price that is not less than the fair market value price determined in accordance with the methodology provided under Subsection (k).

(m) In areas in which customer choice has been introduced, a distributed renewable generation owner is qualified to be paid for surplus electricity under Subsection (h), (j), (k), or (l) only if:

(1) the owner's distributed renewable generation is:

(A) rated to produce an amount of electricity that is less than or equal to the amount of electricity the retail electric customer for whom the distributed renewable generation is installed is reasonably expected to consume; and

(B) installed on the customer's side of the meter for a residential retail electric customer or a retail electric customer who is a public school or a church; and

(2) the generating capacity of the distributed renewable generation does not exceed:

(A) 10 kilowatts for a residential retail electric customer;

(B) 150 kilowatts for a church retail electric customer;

or

(C) 250 kilowatts for a public school retail electric customer.

(n) A distributed renewable generation owner who does not meet the qualifications prescribed by Subsection (m) will be paid for the owner's surplus electricity or will

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have the owner's surplus electricity exchanged for a credit to the owner's electric service account at a value to which the owner and the provider that serves the owner's load agree.

(o) The commission by rule may establish standards distributed renewable generation must meet to be eligible for compensation under this section, including interconnection standards and standards for the generating equipment. The standards must be designed so that small-scale distributed renewable generation at residential addresses is eligible for compensation.

(p) The commission by rule shall require an electric utility, retail electric provider, or electric cooperative that purchases surplus electricity from distributed renewable generation to include on each bill or separate statement to the distributed renewable generation owner line items to inform the owner of:

(1) the amount of surplus electricity from the distributed renewable generation, in terms of kilowatt hours;

(2) the price credited to or the payment made to the owner for each kilowatt hour; and

(3) the amount of any credit for surplus electricity applied or carried forward from the previous billing period.

(r) Until the commission provides the methodology under Subsection (k) for determining a fair market value price in an area open to competition, a retail electric provider shall pay a price for surplus electricity that is not less than five cents per kilowatt hour for electricity generated by a solar energy technology or not less than

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have the owner's surplus electricity exchanged for a credit to the owner's electric service account at a value to which the owner and the provider that serves the owner's load agree.

(o) The commission by rule may establish standards distributed renewable generation must meet to be eligible for compensation under this section, including interconnection standards and standards for the generating equipment. The standards must be designed so that small-scale distributed renewable generation at residential addresses is eligible for compensation.

(p) The commission by rule shall require an electric utility, retail electric provider, or electric cooperative that purchases surplus electricity from distributed renewable generation to include on each bill or separate statement to the distributed renewable generation owner line items to inform the owner of:

(1) the amount of surplus electricity from the distributed renewable generation, in terms of kilowatt hours;

(2) the price credited to or the payment made to the owner for each kilowatt hour; and

(3) the amount of any credit for surplus electricity applied or carried forward from the previous billing period.

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four cents per kilowatt hour for electricity generated by another renewable energy technology.

SECTION 5. Subchapter Z, Chapter 39, Utilities Code, is amended by adding Section 39.9161 to read as follows:

Sec. 39.9161. DISTRIBUTED RENEWABLE GENERATION WITHIN MUNICIPALLY OWNED UTILITIES. (a) In this section "distributed renewable generation," "distributed renewable generation owner," and "interconnection" have the meanings assigned by Section 39.916.

(b) It is the goal of the legislature that municipally owned utilities shall allow interconnection and net metering by distributed renewable generation owners.

(c) A municipally owned utility shall provide its customers access to the interconnection and net metering of distributed renewable generation.

(d) The governing body of a municipally owned utility shall provide oversight and adopt rates, rules, and procedures to allow interconnection and provide net metering consistent with the goals of Section 39.916. This section does not prevent the governing body of a municipally owned utility from adopting rates, rules, and procedures for interconnection and net metering that are more favorable to a distributed renewable generation owner than those established by Section 39.916 or rules of the commission.

(e) If a municipally owned utility implements customer

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choice under Chapter 40, the commission:

(1) has jurisdiction over the municipally owned utility's distributed renewable generation interconnection and net metering; and

(2) by rule shall establish minimum standards and procedures for interconnection and net metering by the municipally owned utility.

(f) A municipally owned utility that had retail sales of 500,000 megawatt hours or greater in 2008 shall file its interconnection and net metering rates, rules, and procedures with the State Energy Conservation Office not later than January 1, 2010, and shall make timely updates to the utility's filed rates, rules, and procedures.

(g) A municipally owned utility that has adopted rules and procedures related to interconnection and net metering shall make available, on a publicly accessible Internet website or at the customary location for publicly posted notices:

(1) information on the purchase price offered per kilowatt hour for surplus electricity produced by distributed renewable generation; and

(2) information instructing customers with distributed renewable generation how to request and obtain the purchase rates offered.

(h) The governing body of a municipally owned utility that had retail sales of less than 500,000 megawatt hours in 2008 shall provide oversight and adopt rules and procedures related to interconnection and net metering of distributed renewable generation systems sized with a generating capacity deemed appropriate by the

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municipally owned utility on or before the 120th day after the date the governing body receives a bona fide request for interconnection.

SECTION 6. Subchapter Z, Chapter 39, Utilities Code, is amended by adding Section 39.926 to read as follows:

Sec. 39.926. INFORMATION ON INTERNET REGARDING PURCHASE OF SURPLUS ELECTRICITY PRODUCED BY DISTRIBUTED RENEWABLE GENERATION. (a) On the Internet website found at <http://www.powertochoose.org>, the commission shall provide for access to easily comparable information regarding retail electric providers' offers to residential distributed renewable generation owners for their surplus electricity, including information regarding their contract terms, for each retail electric provider using that website.

(b) On the Internet website found at <http://www.powertochoose.org>, the commission shall provide for access to easily comparable information regarding offers of renewable energy credit marketers to residential distributed renewable generation owners, for each renewable energy credit marketer using that website.

(c) The commission by rule shall require electric utilities, electric cooperatives, and retail electric providers to provide on publicly accessible Internet websites information on purchase price offers per kilowatt hour for surplus electricity produced by

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residential distributed renewable generation and information instructing customers with distributed renewable generation on how to request and obtain the purchase rates offered.

SECTION 7. Not later than January 1, 2010, the Public Utility Commission of Texas shall provide the methodology for determining a fair market value price for surplus electricity generated by distributed renewable generation, as required by Section 39.916(k), Utilities Code, as added by this Act.

Same as House version.

SECTION 8. (a) Section 39.916, Utilities Code, as amended by this Act, expires September 2, 2011.

SECTION 8. Section 39.916, Utilities Code, as amended by this Act, expires September 2, 2011.

(b) The Public Utility Commission of Texas shall conduct a study to determine the effect of the pricing methodology the commission provides under Section 39.916(k), Utilities Code, as added by this Act, and shall report its findings and recommendations to the 82nd Legislature not later than January 15, 2011. The study must include assessments of:

**No equivalent provision.**

(1) the development of the market in ERCOT for the sale of surplus electricity, including the prices that retail electric providers and electric utilities, municipal electric utilities, and electric cooperatives in areas in which customer choice has not been introduced pay for surplus

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electricity, and the amount of surplus electricity such entities have purchased;

(2) the rate of adoption by customers in this state of distributed renewable generation, including generation by solar and other on-site renewable technologies, including a comparison of adoption rates in this state compared to the adoption rates in other states, the extent to which adoption rates vary by retail market structure, the amount of direct installation incentives, the pricing for purchasing of surplus electricity, and the extent to which adoption rates are affected by the cost of other electric supplies;

(3) a comparison of the default fair market value price for surplus electricity to:

(A) the local market clearing prices of energy at the time of day surplus electricity has been made available to the grid; and

(B) the avoided costs of electric utilities as determined in accordance with commission rules; and

(4) the extent to which electric service customers with distributed renewable generation help avoid transmission and distribution upgrades and reduce pollution, including an estimation of the value of those benefits regionally.

(c) The study report must include any recommendations for improvements in policies necessary to appropriately encourage the development of distributed renewable generation technologies on customer premises.

**No equivalent provision.**

SECTION 9. Section 39.914, Utilities Code, is repealed.

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SECTION 9. 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.

SECTION 10. Same as House version.

The following rows were presented as identical to the engrossed version of Senate Bill 2349, relating to distributed generation of electric power by natural gas powered generation facilities.

No equivalent provision.

SECTION \_\_. Section 31.002, Utilities Code, is amended by adding Subdivision (4-a) and amending Subdivision (10) to read as follows:

(4-a) "Distributed natural gas generation facility" means a facility installed on the customer's side of the meter that is used for the generation of not more than 2,000 kilowatts of electricity.

(10) "Power generation company" means a person, including a person who owns or operates a distributed natural gas generation facility, that:

(A) generates electricity that is intended to be sold at wholesale;

(B) does not own a transmission or distribution facility in this state other than an essential interconnecting facility, a facility not dedicated to public use, or a facility

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otherwise excluded from the definition of "electric utility" under this section; and  
(C) does not have a certificated service area, although its affiliated electric utility or transmission and distribution utility may have a certificated service area.

No equivalent provision.

SECTION \_\_. The heading to Subchapter B, Chapter 35, Utilities Code, is amended to read as follows:  
SUBCHAPTER B. EXEMPT WHOLESALE GENERATORS, DISTRIBUTED NATURAL GAS GENERATION FACILITIES, AND POWER MARKETERS

No equivalent provision.

SECTION \_\_. Subchapter B, Chapter 35, Utilities Code, is amended by adding Section 35.036 to read as follows:  
Sec. 35.036. DISTRIBUTED NATURAL GAS GENERATION FACILITIES. (a)(1) A person who owns or operates a distributed natural gas generation facility may sell electric power generated by the facility.  
(2) The electric utility, electric cooperative, or retail electric provider that provides retail electricity service to the facility may purchase electric power tendered to it by the owner or operator of the facility at a value agreed to by the electric utility, electric cooperative, or retail electric provider and the owner or operator of the facility, which may include a value based on the clearing price of energy at the time of day and location that the electricity is made available to the electric grid.



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(3) At the request of the owner or operator of the facility, the electric utility or electric cooperative shall allow the owner or operator of the facility to use the transmission and distribution facilities to transmit the electric power to another entity that is acceptable to the owner or operator in accordance with commission rules or a tariff approved by the Federal Energy Regulatory Commission.

(b) If the owner or operator of a distributed natural gas generation facility requests to be interconnected to an electric utility or electric cooperative that does not have a transmission tariff approved by the Federal Energy Regulatory Commission, the electric utility or electric cooperative may recover from the owner or operator of the facility the reasonable costs of interconnecting the facility with the electric utility or electric cooperative that are necessary for and directly attributable to the interconnection of the facility. If the rated capacity of the distributed natural gas generation exceeds the capacity of the electric utility or electric cooperative and the owner or operator of the facility requests that such an electric utility or electric cooperative make upgrades to accommodate the distributed natural generation capacity, the electric utility or electric cooperative may recover from the owner or operator of the facility the reasonable cost of electric facility upgrades and improvements that are necessary for and directly attributable to the requested accommodation of the distributed natural gas generation capacity.

(c) In order to recover costs under Subsection (b), an

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electric utility or electric cooperative must have provided a good-faith cost estimate in writing to the owner or operator of the distributed natural gas generation facility and the owner or operator must have, prior to the incurring of any cost by the electric utility or electric cooperative, agreed in writing to pay the reasonable and necessary cost of interconnection or capacity accommodation requested by the owner or operator and described in the cost estimate. If an electric utility or electric cooperative seeks to recover from the owner or operator of the facility an amount that exceeds the good-faith estimate by more than five percent and the owner or operator of the facility disputes the amount that exceeds the good-faith estimate, the commission shall resolve the dispute at the request of the owner or operator of the facility.

(d) A distributed natural gas generation facility must comply with emissions limitations established by the Texas Commission on Environmental Quality for a standard emissions permit for an electric generation facility unit installed after January 1, 1995.

SECTION \_\_. Subsection (c), Section 39.351, Utilities Code, is amended to read as follows:

(c) The commission may establish simplified filing requirements for distributed natural gas generation facilities [~~A power generation company may register any time after September 1, 2000~~].

No equivalent provision.

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The following rows were presented as containing language in the engrossed version of Senate Bill 545, relating to the creation of a distributed solar generation incentive program and to encouraging the use of solar energy devices, except that language relating to net metering has been removed and language relating to energy storage as a renewable energy that can receive rebates has been included.

No equivalent provision.

SECTION \_\_. Subchapter Z, Chapter 39, Utilities Code, is amended by adding Section 39.9155 to read as follows:

Sec. 39.9155. DISTRIBUTED SOLAR GENERATION INCENTIVE PROGRAM. (a) It is the goal of the legislature that electric utilities administer incentive programs for residential and commercial customers to increase the amount of distributed solar generation, utility scale solar generation, and energy storage installed within the state in a cost-effective, market-neutral, and nondiscriminatory manner.

(b) The commission by rule shall:

- (1) establish a distributed solar generation incentive program, to be implemented by electric utilities;
- (2) oversee the implementation of the program required by Subdivision (1); and
- (3) establish procedures to achieve the goal described by Subsection (a).

(c) The rules adopted under Subsection (b) must include provisions for:

- (1) recovery of the cost of electric utility programs

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authorized by this section through nonbypassable fees, which may not exceed:

(A) 20 cents per month for residential customers;

(B) \$2 per month for commercial customers; and

(C) \$20 per month for industrial customers;

(2) rebates to customers to defray the cost of installing distributed solar generation as provided by Subsection (e); and

(3) the utility scale solar and energy storage program provided by Subsection (f).

(d) Electric utilities may not assess the fees authorized by this section after the fifth anniversary of the date the program required by this section is established by commission rule, except as provided by Subsection (k). The commission shall ensure that all fees collected under this section are used for the programs authorized by this section, except that utilities may not use more than 2.5 percent of the funds collected for administrative expenses related to this section, as approved by the commission.

(e) The commission shall set a rebate amount for the installation of solar generation. The commission shall periodically adjust the rebate amount such that the quantity of solar generation installed under this section is maximized, but shall reduce rebate amounts by not less than five percent per year. The commission may set a higher rebate amount for solar generation manufactured wholly or substantially in this state, provided that the higher amount is not more than 20 percent higher than the rebate applicable to all other solar generation. The

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commission may provide for rebates to be provided directly to customers or to qualified installers of solar generation. Unless otherwise adjusted by the commission, the initial rebates shall be:

(1) \$2.40 per watt for installations on residential buildings;

(2) \$1.50 per watt for installations on commercial buildings; and

(3) \$1 per watt for installations at industrial facilities.

(f) The commission may direct not more than 70 percent of the funds collected by the fees authorized by this section to utility scale solar generation and energy storage projects if the commission determines such projects are more cost-effective than distributed solar generation or will provide a greater benefit to the reliability of the electric grid. The commission may establish rebate amounts not to exceed \$1 per watt for such projects or may consider other methods to award funds in order to maximize the quantity of generation installed under this section. If the demand for funds under this section exceeds the available funds, the commission shall consider the following in determining which projects receive subsidies:

(1) projects that require the lowest amount of subsidy to be commercially viable;

(2) projects that use the transmission capacity built under Section 39.904(g) and require minimal additional transmission facilities;

(3) projects that enhance the reliability of the transmission and distribution grid or defer the need for

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additional transmission and distribution infrastructure;  
(4) projects that provide maximum output during  
periods when electricity demand is highest in this state;  
and  
(5) projects that can provide ancillary services to the  
electric grid.  
(g) The commission shall develop a "Made in Texas"  
certification program for energy products that include  
distributed solar generation. The commission shall post  
a list of energy products that are wholly or substantially  
produced in Texas and shall conduct education efforts to  
inform customers of the availability of Texas-  
manufactured energy products. The commission may  
partner or contract with third parties or nonprofit  
organizations to achieve this goal.  
(h) The commission, in consultation with the Electric  
Reliability Council of Texas, shall prepare and make  
available a study indicating geographic areas where  
utility scale non-wind renewable energy can be located  
with minimal additional transmission facilities.  
(i) Selection of projects by the commission under  
Subsection (f) is not required to be conducted as a  
contested case proceeding. The commission may  
appoint an advisory committee to assist the commission  
in evaluating proposals made under Subsection (f),  
provided, however, that members of the committee may  
not have a financial interest in any of the proposals.  
After conclusion of a process authorized by Subsection  
(f), the commission shall release a complete record of the  
proposals and the evaluation of the factors required to be

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considered under Subsection (f).

(j) The commission may extend the fees and program authorized by this section for an additional five years if the commission finds that a substantial amount of manufacturing of solar generation products has located in Texas after the initial five-year program and that the extension of the fees does not present an undue burden to customers.

No equivalent provision.

SECTION \_\_. Subchapter Z, Chapter 39, Utilities Code, is amended by adding Section 39.9156 to read as follows:

Sec. 39.9156. SOLAR GENERATION INCENTIVE PROGRAMS. (a) It is the goal of the legislature that:

(1) electric cooperatives and municipally owned utilities administer incentive programs that increase the amount of solar generation installed within the state in a cost-effective, market-neutral, and nondiscriminatory manner;

(2) customers of electric cooperatives and municipally owned utilities will have a choice of and access to incentives for the installation of distributed solar generation; and

(3) electric cooperatives and municipally owned utilities with retail sales of more than 500,000 megawatt hours in 2007 expend funds to increase the amount of solar generation and other renewable energy and energy storage projects consistent with the requirements for electric utilities in this state.

(b) Not later than September 1, 2015, a municipally

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owned utility or electric cooperative with retail sales of more than 500,000 megawatt hours in 2007 must report to the state energy conservation office, in a form and manner determined by the office, information regarding the efforts of the municipally owned utility or electric cooperative related to this section.

No equivalent provision.

SECTION \_\_. Chapter 202, Property Code, is amended by adding Section 202.010 to read as follows:

Sec. 202.010. REGULATION OF SOLAR ENERGY DEVICES. (a) In this section, "solar energy device" has the meaning assigned by Section 171.107, Tax Code.

(b) Except as otherwise provided by this section, a property owners' association may not include or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner from installing a solar energy device.

(c) A provision that violates Subsection (b) is void.

(d) This section does not prohibit the inclusion or enforcement of a provision in a dedicatory instrument that prohibits a solar energy device that:

(1) threatens the public health or safety;

(2) violates a law;

(3) is located on property owned or maintained by the property owners' association;

(4) is located on property owned in common by the members of the property owners' association;

(5) is located in an area on the property owner's property other than:



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(A) on the roof of the home; or  
(B) in a fenced yard or patio maintained by the property owner; or  
(6) is mounted on a device that is taller or more visually obtrusive than is necessary for the solar energy device to operate at not less than 90 percent of its rated efficiency.

No equivalent provision.

SECTION \_\_. The heading to Subtitle F, Title 16, Property Code, is amended to read as follows:  
SUBTITLE F. REGULATION [~~INSPECTION~~] OF  
[~~NEW~~] RESIDENTIAL CONSTRUCTION  
GENERALLY

No equivalent provision.

SECTION \_\_. The heading to Chapter 446, Property Code, is amended to read as follows:  
CHAPTER 446. INSPECTION OF RESIDENTIAL CONSTRUCTION IN UNINCORPORATED AREAS AND OTHER AREAS NOT SUBJECT TO MUNICIPAL INSPECTIONS

No equivalent provision.

SECTION \_\_. Subtitle F, Title 16, Property Code, is amended by adding Chapter 447 to read as follows:  
CHAPTER 447. REQUIREMENTS FOR NEW CONSTRUCTION CONTRACTS  
Sec. 447.001. SOLAR PANEL OPTION REQUIRED IN CERTAIN SUBDIVISIONS. (a) In this section, "solar energy device" means a system or series of

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mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power by collecting and transferring solar-generated energy. The term includes a mechanical or chemical device that has the ability to store solar-generated energy for use in heating or cooling or in the production of power.

(b) This chapter applies only to a contract for construction of a new home in a subdivision that contains more than 50 lots on which the builder has built or is offering to build new homes.

(c) A builder who enters into a contract to which this chapter applies shall offer the homebuyer an option to install a solar energy device on the home for heating or cooling or for the production of power.

No equivalent provision.

SECTION \_\_. Subchapter D, Chapter 2305, Government Code, is amended by adding Section 2305.0321 to read as follows:

Sec. 2305.0321. PILOT REVOLVING LOAN PROGRAM FOR SOLAR ENERGY FOR SCHOOL BUILDINGS. (a) The energy office shall establish a pilot program under the loanstar revolving loan program to provide loans to pay the cost of installing photovoltaic solar panels on public school buildings and the cost of associated energy efficiency improvements to the buildings. The energy office shall allocate to the pilot program at least \$4 million from the funds available to the loanstar revolving loan program.

(b) The energy office by rule shall establish the terms

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under which a loan may be made under the pilot program, including the interest rate for repayment of pilot program loans.

(c) Through the pilot program, the energy office shall offer to each school district the opportunity to apply for a loan to pay the cost of installing photovoltaic solar panels on at least one school building of the school district's choice and the cost of associated energy efficiency improvements to that building. The energy office by rule shall establish a procedure for determining which school districts qualify for a loan under the pilot program, including rules for selecting the school districts that will receive a loan if there is not sufficient money set aside for pilot program improvements at all school districts.

(d) Each school district that receives a loan shall pay for the principal of and interest on the loan for each school building improvement primarily from the amount budgeted for the energy costs of the school at which the solar panels are installed. The school district may make additional payments of the principal of or interest on a loan from money rebated to it as compensation for electric energy generated by the solar panels or money received as a gift or grant for the purpose of paying the loan.

(e) This section expires September 1, 2011, and the pilot program established under this section is abolished on that date.

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No equivalent provision.

SECTION \_\_. The Public Utility Commission of Texas shall adopt rules establishing the programs required under Section 39.9155, Utilities Code, as added by this Act, as soon as practicable.

No equivalent provision.

SECTION \_\_. Section 202.010, Property Code, as added by this Act, applies to a deed restriction enacted before, on, or after the effective date of this Act.

No equivalent provision.

SECTION \_\_. Chapter 447, Property Code, as added by this Act, applies only to a contract for new home construction entered into on or after the effective date of this Act. A contract entered into before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

No equivalent provision.

SECTION \_\_. The state energy conservation office shall establish a program under Section 2305.0321, Government Code, as added by this Act, not later than January 1, 2010.

The following rows were presented as substantially similar in concept to language contained in the engrossed version of Senate Bill 921, relating to access by the members of electric cooperatives to meetings of the

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boards of directors and certain information of the electric cooperatives, except that this amendment contains the language agreed to by the Texas Electric Cooperative Association.

No equivalent provision.

SECTION \_\_. Section 161.002, Utilities Code, is amended by adding Subdivision (2-a) to read as follows:  
(2-a) "Board meeting" means a deliberation between a quorum of the voting board, or between a quorum of the voting board and another person, during which electric cooperative business or policy over which the board has responsibility is discussed or considered, or during which the board takes formal action. The term does not include the gathering of a quorum of the board at a social function unrelated to the business of the cooperative, or the attendance by a quorum of the board at a regional, state, or national convention or workshop, ceremonial event, or press conference, if formal action is not taken and any discussion of cooperative business is incidental to the social function, convention, workshop, ceremonial event, or press conference.

No equivalent provision.

SECTION \_\_. Subchapter A, Chapter 161, Utilities Code, is amended by adding Section 161.006 to read as follows:  
Sec. 161.006. NONAPPLICABILITY. The following sections of this chapter do not apply to an electric cooperative that engages exclusively or primarily in the wholesale sale or transmission of electricity and does not

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have a certificated service area for the retail sale of electricity:

(1) Sections 161.072(d) through (m);

(2) Sections 161.075(a), (d), (e), (f), (g), (h), (i), (j), and (k);

(3) Section 161.0751;

(4) Section 161.077(d);

(5) Section 161.080;

(6) Section 161.081;

(7) Section 161.082;

(8) Section 161.126; and

(9) Section 161.127.

No equivalent provision.

SECTION \_\_. Subsection (b), Section 161.064, Utilities Code, is amended to read as follows:

(b) The bylaws may contain any provision for the regulation and management of the affairs of the electric cooperative that is consistent with the articles of incorporation and this chapter.

No equivalent provision.

SECTION \_\_. Section 161.072, Utilities Code, is amended by adding Subsections (c) through (m) to read as follows:

(c) Director elections shall be conducted in a manner that is fair and open to all members of the electric cooperative.

(d) A board committee of a cooperative with more than 170,000 members may not cast a member's proxy vote in

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a director election.

(e) A director who is standing for reelection to the board of a cooperative with not more than 170,000 members may not serve on a committee established under the bylaws for the purpose of casting, or being authorized to cast, the proxy vote of a member in a director election.

(f) A member's proxy vote may be cast by a committee established under the bylaws in a director election only if:

(1) a proxy form is sent by regular mail to each member of record not later than the 30th day before the date of the meeting at which proxy votes are counted;

(2) the proxy form designates each candidate who is an incumbent director;

(3) an exact copy of the proxy form is posted on the cooperative's Internet website, if the cooperative maintains a website;

(4) the proxy form includes information describing the process by which proxy votes are authorized and cast, including:

(A) the name of each member of the committee, if any, established under the bylaws for the purpose of casting proxy votes in a director election;

(B) the process prescribed in the bylaws for selecting members to serve on the committee; and

(C) the districts represented by each committee member, if applicable; and

(5) the proxy form contains the following statements, in bold type:

(A) "If you grant the committee your proxy, you are

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giving the committee full authority to vote your proxy for the candidates you selected, or, if you did not select any candidates, to vote your proxy for candidates the committee selects";

(B) "You may rescind your proxy at any time before votes are cast at the meeting to elect directors"; and

(C) "State law prohibits any person from using incentives or other enticements to encourage you to provide your proxy in any board election."

(g) Subsections (d) and (f) may not be construed as limiting the right of an individual member to collect or cast the proxy votes of another member in a director election, if allowed by the bylaws.

(h) This section may not be construed as limiting the use of a proxy as provided by Section 161.069 to establish a quorum to transact business other than the election of a director.

(i) A person may not use an incentive or other enticement to encourage a member to authorize another person to cast the member's proxy vote in a director election.

(j) A cooperative with more than 170,000 members may elect directors only by district. A member may vote for a director to represent a district only if the member resides in that district.

(k) A cooperative with more than 170,000 members may nominate qualified members as candidates in a director election only through a written petition by members. The bylaws must:

(1) specify the number of printed names and dated



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signatures a petition nominating a candidate must contain;

(2) specify a period within which a petition nominating a candidate must be submitted to the cooperative; and

(3) specify that only members residing in a district may sign a petition for the nomination of a candidate to represent that district.

(1) If the bylaws of a cooperative with not more than 170,000 members allow a committee of members to nominate qualified members as candidates in a director election, the bylaws must also:

(1) allow nominations to be made through one or more written petitions by members;

(2) specify the number of printed names and dated signatures a petition nominating a candidate must contain; and

(3) specify a period within which a petition nominating a candidate must be submitted to the cooperative.

(m) A petition submitted under Subsection (l) must provide on the petition the name and address of the member seeking nomination and, if the cooperative nominates or elects directors by district, the district the member seeks to represent.

No equivalent provision.

SECTION \_\_. Section 161.075, Utilities Code, is amended to read as follows:

Sec. 161.075. BOARD MEETINGS. (a) The board shall hold a regular or special board meeting at the place and time specified in [øñ] the notice required by Section

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161.0751 and ~~[prescribed by]~~ the bylaws.

(b) The attendance of a director at a board meeting constitutes a waiver of notice to the director of the meeting unless the director attends the meeting for the express purpose of objecting to the transaction of business at the meeting because the meeting is not lawfully called or convened.

(c) A notice or waiver of notice of a board meeting given to a director is not required to specify the business to be transacted at the meeting or the purpose of the meeting.

(d) Except as provided by this section, each member of the electric cooperative is entitled to attend a regular or special board meeting. A person who is not a member of the cooperative is not entitled to attend a regular or special board meeting.

(e) At the board's discretion, the board may convene an executive session to which the members do not have access to deliberate and take action on sensitive matters, such as matters involving confidential personnel information, contracts, lawsuits, real estate transactions, competitively sensitive information, information related to the security of the electrical system or the cooperative, or other privileged, confidential, or proprietary information.

(f) The board shall reconvene the open session of the regular or special board meeting to announce the final action taken on a matter discussed in executive session, except matters involving confidential personnel information, real estate transactions, competitively

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sensitive information, or security information.

(g) The board secretary or person designated by the secretary shall make and keep written minutes of each regular or special board meeting.

(h) The board shall adopt and comply with procedures for providing a member with access to the entirety of a regular or special board meeting, other than an executive session.

(i) The board secretary or person designated by the secretary shall make and keep a written or audio record of each executive session. The secretary shall preserve the record for at least two years after the session. The record must include:

(1) a statement of the subject matter of each deliberation;

(2) a record of any further action taken; and

(3) an announcement by the presiding director at the beginning and end of the session indicating the date and time.

(j) Subsections (d), (e), (f), (g), (h), and (i) apply to an electric cooperative with more than 170,000 members.

(k) Each electric cooperative with not more than 170,000 members shall hold an election every five years at the electric cooperative's annual meeting on the question of whether to make Subsections (d), (e), (f), (g), (h), and (i) applicable to the electric cooperative.

No equivalent provision.

SECTION \_\_. Subchapter B, Chapter 161, Utilities Code, is amended by adding Section 161.0751 to read as

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follows:

Sec. 161.0751. NOTICE OF BOARD MEETINGS. (a)

The board shall give members notice of the date, hour, place, and planned agenda of a regular or special board meeting. Notice of a board meeting must be given at least three days before the scheduled time of the meeting by:

(1) posting a notice on a bulletin board in a place convenient to members at the electric cooperative's main office and at each district office;

(2) posting a notice on the cooperative's Internet website, if the cooperative maintains a website; and

(3) providing a copy of the notice to a member on a request by the member.

(b) In the event of an emergency or urgent matter, notice may be given in the manner prescribed by Subsection (a) at any time before a regular or special board meeting is convened. An action taken by the board at a meeting for which notice is given under this subsection must be ratified by the board at the next meeting for which notice is given under Subsection (a)

(c) On approval of the Legislative Audit Committee, the state auditor at the cooperative's expense may audit the financial transactions and operations of an electric cooperative with more than 170,000 members if:

(1) a former or current member of the cooperative's board of directors or senior management is the subject of an ongoing criminal investigation by the office of the attorney general on May 1, 2009; and

(2) the cooperative has been the subject of a court-

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ordered independent investigation:  
(A) performed by an independent consulting entity; and  
(B) reviewed by the state auditor.  
(d) This subsection and Subsection (c) expire September 1, 2013.

No equivalent provision.

SECTION \_\_. Section 161.077, Utilities Code, is amended by adding Subsection (d) to read as follows:  
(d) The provisions of this chapter that apply to the board also apply to the executive committee.

No equivalent provision.

SECTION \_\_. Subchapter B, Chapter 161, Utilities Code, is amended by adding Sections 161.080, 161.081, and 161.082 to read as follows:  
Sec. 161.080. MEMBER'S RIGHT OF ACCESS TO RECORDS. (a) (a) Except as provided by Subsection (c), a member of an electric cooperative may, at any reasonable time and on written request that states a proper purpose for the request, inspect and copy the books and records of the cooperative relevant to that purpose.  
(b) An electric cooperative may charge a member for the cost of providing information under Subsection (a).  
(c) An electric cooperative may limit or deny a member's request to inspect its books and records if the member:  
(1) does not meet the requirements of Subsection (a);  
(2) seeks information the release of which would unduly

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infringe on or invade the privacy of a person;  
(3) seeks information related to a trade secret;  
(4) seeks personnel information the disclosure of which would violate the law or constitute a clearly unwarranted invasion of personal privacy;  
(5) seeks information related to:  
(A) pending or reasonably anticipated litigation;  
(B) a real estate transaction for a project that has not been formally announced or for which contracts have not been formally awarded;  
(C) the cooperative's competitive activity, including commercial information and utility-related matters that would, if disclosed, give an advantage to a competitor or prospective competitor; or  
(D) the security of the cooperative's electrical system; or  
(6) seeks information that is confidential, privileged, or proprietary.  
Sec. 161.081. POLICIES AND AUDIT. (a) The board shall adopt written policies relating to:  
(1) travel expenditures for board members, officers, and employees;  
(2) reimbursement of expenses for board members, officers, and employees;  
(3) conflicts of interest for board members, officers, and employees;  
(4) whistleblower protections;  
(5) criteria and procedures for the selection, monitoring, review, and evaluation of outside vendors or contracted professional services;  
(6) budgets for use in planning and controlling costs;

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and

(7) the creation of a committee that audits the actions of the board.

(b) An electric cooperative shall provide for an independent financial audit, to be performed annually by an unaffiliated entity that is professionally qualified to perform such an audit.

Sec. 161.082. COMPLAINTS BY MEMBERS. (a) A member may file a written complaint with the general manager of the electric cooperative if the member is aggrieved by an action of the board or by an employee of the board or of the cooperative that the member alleges infringes on a right of the member under Sections 161.072, 161.075, 161.0751, 161.080, 161.081, and 161.126.

(b) Not later than the 20th day after the date the general manager receives a complaint under Subsection (a), the general manager shall take corrective action regarding the complaint, if the general manager determines that the action complained of infringed on the member's rights under Sections 161.072, 161.075, 161.0751, 161.080, 161.081, and 161.126.

(c) If the general manager determines that the action complained of did not infringe on the member's rights under Sections 161.072, 161.075, 161.0751, 161.080, 161.081, or 161.126, or if the general manager otherwise fails to resolve the member's complaint to the member's satisfaction before the 21st day after the general manager receives the member's complaint, the member may file a written complaint with the attorney general's consumer

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protection division. A complaint filed with the attorney general under this subsection must:

(1) identify the electric cooperative by name and address;

(2) describe in detail the nature of the member's complaint; and

(3) include copies of documents relevant to the member's complaint, including:

(A) any relevant written request made by the member to the cooperative;

(B) the written complaint made by the member to the general manager under Subsection (a); and

(C) any relevant response from the cooperative regarding a request or complaint.

(d) In reviewing a member's complaint under this section, the consumer protection division may request that the cooperative provide to the division any information relevant to the complaint. The division must give a cooperative a reasonable opportunity to inspect and copy the requested information before providing the information to the division. The division shall designate an employee of the division to be the person responsible for receiving, inspecting, or copying information received under this subsection.

(e) An electric cooperative shall cooperate with a request for information under Subsection (d) and promptly provide the requested information to the consumer protection division's designated employee. The division may not disclose to any person information provided by a cooperative in response to the request



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unless:

(1) the division is required by a court to provide the information to the person;

(2) the person is an authorized employee of the division;

or

(3) the cooperative that provided the information consents to the disclosure.

(f) The consumer protection division shall return to a cooperative any information provided under this section that is confidential or sensitive to the cooperative.

No equivalent provision.

SECTION \_\_. Subchapter C, Chapter 161, Utilities Code, is amended by adding Sections 161.126 and 161.127 to read as follows:

Sec. 161.126. PROHIBITION ON ACQUISITION OF GENERATOR CAPACITY BY CERTAIN ELECTRIC COOPERATIVES. An electric cooperative with more than 170,000 members that provides retail electric service may not acquire equipment capable of generating electricity for sale other than equipment that uses an alternative energy resource unless the Public Utility Commission of Texas first approves of the acquisition. The commission by rule shall establish the standards and procedures by which it will approve an electric cooperative's acquisition of electric generation capacity.

Sec. 161.127. NOTIFICATION OF CERTAIN INVESTMENTS. Not later than the 30th day following the completion of a transaction that results in an electric cooperative or an affiliate of the cooperative creating or

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acquiring an interest in an entity that does not generate, transmit, or distribute electricity, the cooperative shall provide a notice to members that contains:

(1) the name of the entity;

(2) a description of the entity;

(3) the reasons for the decision to enter into the transaction;

(4) a description of the costs associated with the transaction, and the method of financing for those costs;

and

(5) a description of the anticipated effect the transaction will have on the cooperative's electric energy rates or prices.

No equivalent provision.

SECTION \_\_. (a) The changes in law made by Section 161.072, Utilities Code, as amended by this Act, apply only to a director election held on or after the effective date of this Act. A director election held before the effective date of this Act is subject to the law in effect on the date the election is held, and that law is continued in effect for that purpose.

(b) The changes in law made by Section 161.075, Utilities Code, as amended by this Act, and by Section 161.0751, Utilities Code, as added by this Act, apply only to a meeting convened on or after the effective date of this Act. A meeting convened before the effective date of this Act is subject to the law in effect on the date the meeting is held, and that law is continued in effect for that purpose.

**House Bill 1243**  
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HOUSE VERSION

SENATE VERSION

CONFERENCE

(c) The changes in law made by Sections 161.080 and 161.082, Utilities Code, as added by this Act, apply only to a request to inspect records submitted on or after the effective date of this Act. A request submitted before the effective date of this Act is subject to the law in effect on the date of the request, and that law is continued in effect for that purpose.

(d) The changes in law made by Section 161.127, Utilities Code, as added by this Act, apply only to a transaction that is completed on or after the effective date of this Act. A transaction that is completed before the effective date of this Act is subject to the law in effect on the date the transaction is completed, and that law is continued in effect for that purpose.

SECTION \_\_. Not later than December 31, 2010, each electric cooperative with not more than 170,000 members shall hold an election as required by Section 161.075(k), as added by this Act.

No equivalent provision.