

Amend CSHB 3595 (senate committee printing) on third reading as follows:

(1) Add the following appropriately numbered SECTIONS to the bill and renumber the subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) This section may be cited as the Energy Policy Act.

(b) The Utilities Code is amended by adding Title 6 to read as follows:

TITLE 6. ENERGY POLICY ACT

CHAPTER 300. STRATEGIC ENERGY PLANNING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 300.001. PURPOSE AND FINDINGS. (a) This title is enacted to promote, in accordance with the public interest, the strategic planning of energy development, production, delivery, commercialization, and utilization in this state.

(b) The purpose of this title is to establish a statewide energy policy planning entity and process that recognizes:

(1) public health and general welfare as a critical concern in the development of energy policies;

(2) energy as a valuable and vital commodity in the state's economy;

(3) protection of the environment as a major consideration in the production of energy and utilization of natural resources;

(4) cost-effective, market-based solutions as a preferred policy for energy planning;

(5) utilization of Texas-based resources to help provide energy security, stability, and reliability; and

(6) the importance of portfolio diversity in promoting energy system flexibility, affordability, and efficiency.

Sec. 300.002. DEFINITIONS. In this title:

(1) "Commission" means the Public Utility Commission of Texas.

(2) "Council" means the Texas Energy Policy Council.

(3) "Plan" means the statewide energy policy plan.

Sec. 300.003. TEXAS ENERGY POLICY COUNCIL. (a) The Texas

Energy Policy Council is created to develop and present a statewide energy policy plan to the legislature. The plan must include a 20-year planning horizon and be updated to reflect changing conditions and should be considered a living document.

(b) The council is composed of 13 members as follows:

(1) the chairman of the Public Utility Commission of Texas;

(2) the chairman of the Railroad Commission of Texas;

(3) the chairman of the Texas Commission on Environmental Quality;

(4) the president and chief executive officer of the Electric Reliability Council of Texas;

(5) the commissioner of the General Land Office;

(6) two members of the senate appointed by the lieutenant governor;

(7) two members of the house of representatives appointed by the speaker of the house of representatives;

(8) one member of the academic community with expertise in energy appointed by the governor;

(9) one member of the academic community with expertise in environmental issues related to energy appointed by the governor;

(10) the director of the State Energy Conservation Office; and

(11) one member of the public with expertise in low-income energy issues, including the needs of low-income and vulnerable ratepayers, appointed by the governor.

(c) The governor shall designate the presiding officer from among the members of the council.

(d) An appointed member of the council serves for a full planning cycle and may be reappointed at the pleasure of the appointing official.

(e) The council shall meet at least quarterly in even-numbered years while developing a plan for submission to the legislature. The council may meet annually in odd-numbered years after submitting plans to the legislature.

(f) The council shall develop and implement policies and

procedures that provide the public with reasonable opportunity to appear before the council and to speak on issues under the jurisdiction of the council.

(g) The commission is designated as the state agency responsible for administering the council. Staff from the commission shall be tasked, as necessary, with assisting the council in carrying out its duties.

Sec. 300.004. POWERS, DUTIES, AND RESPONSIBILITIES OF COUNCIL. (a) In developing the plan, the council shall:

(1) encourage cooperation and coordination between public and private entities regarding energy usage, planning, research and development, and commercialization;

(2) seek policies that promote a diverse portfolio of clean, reliable, and competitively priced energy sources;

(3) promote research, pilot projects, and market-based incentives to explore and expand long-term energy options;

(4) develop policies to prevent supply interruptions and infrastructure failure;

(5) examine the impact on the environment of energy exploration, production, and use;

(6) take into account the statewide and regional water planning process;

(7) make recommendations for increasing public knowledge of energy use issues and public awareness of the importance of more efficient consumption of energy; and

(8) take into account the needs of low-income and vulnerable Texans.

(b) The council shall submit to the legislature the initial plan by December 1, 2012. Thereafter, the council shall report to the legislature by December 1 of each even-numbered year the status of the plan's implementation and make any recommendations for legislative action as necessary to implement or revise the plan. The council may update the plan as necessary to reflect evolving conditions.

Sec. 300.005. FUELS AND TECHNOLOGIES. (a) The council shall consider the following fuel sources, types of generation, and

innovative technologies associated with these fuels and types of generation when creating the plan. These fuels, types of generation, and technologies include:

- (1) oil and natural gas;
- (2) coal and lignite;
- (3) nuclear;
- (4) renewable energy technologies;
- (5) geothermal;
- (6) methane;
- (7) distributed generation;
- (8) fuel cells and storage;
- (9) water conservation technologies that could be utilized in the exploration, production, and generation of energy resources; and
- (10) any other fuels and technologies as defined in Section 39.904(d), including solar and wind technologies.

(b) The council shall develop policies that ensure fuel resources available to the state are utilized in a balanced and efficient manner. The council shall consider the economic viability, price stability and volatility, and environmental impact of types of fuel and technology when making its recommendations. The council shall also consider all types of generation technology to identify in its recommendations current or potential operational or administrative advantages or disadvantages of each type of technology to which a protocol of the Electric Reliability Council of Texas applies.

Sec. 300.006. ENERGY EFFICIENT TECHNOLOGY. (a) In order to reduce the energy demand of customers in this state, the council shall consider energy-efficient technologies when formulating the plan and include them in its recommendations. Energy-efficient technologies shall be considered for the following:

- (1) residential, commercial, industrial, and state and local energy users; and
- (2) any other user group or application the council deems appropriate.

(b) The council shall consider the economic viability and competitiveness of new technologies when making its

recommendations.

(c) The council shall consider the ability of energy-efficient technologies to reduce the demand for energy and the need for additional transmission capacity in the state and shall consider opportunities for reducing transmission constraints by using these technologies.

Sec. 300.007. TRANSMISSION. (a) The council shall consider and recommend strategies to ensure that customers in this state have access to reliable energy.

(b) The council shall consider transmission constraints, and make recommendations in the plan to alleviate or prevent those constraints, for the following sources of energy:

- (1) oil and natural gas;
- (2) coal and lignite;
- (3) wind and solar; and
- (4) electricity.

Sec. 300.008. ALTERNATIVE FUEL VEHICLES. (a) The council shall consider and make recommendations on strategies and incentives that promote the use of alternative fuel vehicles such as natural gas vehicles and plug-in electric vehicles.

(b) The council shall consider the economic feasibility of alternative fuel vehicles and infrastructure constraints and may make recommendations on incentives to incorporate and promote these vehicles as a component of the plan.

Sec. 300.009. ENVIRONMENT. (a) The council, when creating the plan or in formulating recommendations, shall consider the effects of energy exploration, production, and consumption on the environment.

(b) The council shall recommend strategies that protect and preserve the environment of the state and allow for access to and the production of safe, economically viable, and reliable sources of energy. The council shall consider:

- (1) air quality;
- (2) water quality;
- (3) water supply; and
- (4) waste disposal.

SECTION _____. Chapter 39, Utilities Code, is amended by

adding Subchapter L to read as follows:

SUBCHAPTER L. REPORT ON RESERVES AND VOLUNTARY EMISSIONS

REDUCTIONS PLAN

Sec. 39.551. STATEMENT OF INTENT. It is not the intent of this subchapter to:

(1) transfer environmental regulation from the Railroad Commission of Texas or the Texas Commission on Environmental Quality to the commission; or

(2) reduce the competitiveness of the existing energy market in Texas by re-regulating the market or requiring the decommissioning of any lawfully operating generating plant.

Sec. 39.552. REPORT ON RESERVES. (a) Not later than December 1, 2011, the Railroad Commission of Texas shall prepare and submit to the commission a report on coal and gas reserves in this state that includes information relating to:

(1) natural gas reserves in this state proven and probable on November 1, 2011;

(2) estimates of the proven and probable natural gas reserves in this state for each of the next 15 years;

(3) estimates of natural gas prices and potential price volatility for each of the next 15 years;

(4) coal reserves in this state proven and probable on November 1, 2011;

(5) estimates of the proven and probable coal reserves in this state for each of the next 15 years; and

(6) estimates of coal prices and potential price volatility for each of the next 15 years.

(b) The Railroad Commission of Texas may request financial information and forecasts from the comptroller to assist the Railroad Commission of Texas in carrying out its duties under this section. The comptroller shall provide that information and those forecasts to the Railroad Commission of Texas as quickly as possible after receiving such request.

Sec. 39.553. REPORT AND PLAN. (a) The commission shall prepare a report on electric energy generation in this state. The report must include an analysis of and policy recommendations for how to most cost-effectively comply with environmental regulation.

(b) In preparing the report, the commission shall:

(1) analyze information from the reports submitted under this subchapter by electric generating facilities and the Railroad Commission of Texas; and

(2) use information already in the possession of existing regulators by consulting with the Railroad Commission of Texas, the Texas Commission on Environmental Quality, the Electric Reliability Council of Texas, the Southwest Power Pool, the Southeastern Electric Reliability Council, and the Western Electricity Coordinating Council.

(c) The report must evaluate and consider measures that will:

(1) maintain electric grid reliability;

(2) ensure the availability of electric energy at reasonable rates;

(3) reduce air pollution, as defined by Section 382.003, Health and Safety Code;

(4) increase the state's ability to comply with state and federal clean air standards in nonattainment and near-nonattainment areas; and

(5) reduce the use of water for electricity generation in this state.

(d) The report must identify the 10 percent of electric generation capacity that will be most impacted by compliance with environmental regulation.

(e) The report must identify combinations of market factors, plant operating characteristics, federal and state environmental regulations promulgated after January 1, 2011, and other conditions that might make it more economically attractive for the electric generation capacity identified in the report to be retired rather than comply with the regulations. The market factors considered in the analysis must include:

(1) long-term prices and price volatility for fuel sources used to generate electricity in this state;

(2) price projections for the cost of electricity going forward and factors that are relevant to determining the market price of electricity; and

(3) the potential impact of the voluntary decommissioning of existing units of electric generation capacity from facilities in this state.

(f) The report must consider plant operating characteristics including variable and fixed operating costs of electric generation facilities identified in the report. The analysis must also incorporate a range of costs projected by credible sources for complying with the specified federal and state air pollution regulations. In conducting this analysis, the commission shall consider electric generation facilities in this state of various vintages, sizes, fuel types, conversion efficiencies, and emission characteristics. The analysis must:

(1) estimate the amount of electric generation capacity that is likely to voluntarily be retired rather than incur the additional expense of complying with the federal and state air pollution regulations;

(2) provide an analysis of the cost and the impact on electric rates, and provide price projections, associated with voluntarily retiring electric generation facilities included in the report;

(3) identify any additional barriers to the retirement of the types of electric generation capacity identified and provide recommendations on how to most cost-effectively and voluntarily reduce air pollution, including recommendations to accelerate the permitting process for certain types of low-polluting generation; and

(4) identify the types, costs, and effects of incentives to promote the goals of this section.

(g) Not later than October 1, 2012, the commission shall make a draft of the report available for public review and comment for a period of not less than 30 days.

(h) Not later than December 1, 2012, the commission shall finalize and publish the report.

(i) Implementation of the requirements of this section shall be contingent upon receiving gifts, grants, or donations sufficient to cover the expenses incurred by the commission.

SECTION _____. As soon as practicable after the effective

date of this Act, the designated appointing officials shall appoint the members to the Texas Energy Policy Council established under Chapter 300, Utilities Code, as added by this Act.

SECTION _____. This Act takes effect September 1, 2011.

(2) Strike SECTION 4 of the bill (page 4, lines 51-55).