

## **BILL ANALYSIS**

C.S.H.B. 3137  
By: Crownover  
State Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Combined heating and power (CHP) plants, also known as cogeneration facilities, are considered to be a form of green energy and to reduce greenhouse gases, which is a critical goal in nonattainment air quality zones. While conventional boilers and chillers typically discharge waste heat into the atmosphere, CHP plants are designed to recycle waste heat to produce additional energy commodities such as chilled water for cooling and steam for heating. Additionally, CHP plants generally require less fuel to produce a given energy output when compared with conventional boilers and chillers and are not subject to as much transmission and distribution loss as electricity traveling over power lines.

The City of Denton has applied for a permit to construct and operate a CHP plant to be located in Denton, Texas, with construction scheduled to begin soon. The goal of the Denton CHP facility is to provide customers with an efficient, clean, and secure source of power and thermal energy commodities such as steam and chilled water.

C.S.H.B. 3137 seeks to provide incentives for economic development and growth while simultaneously promoting the use of green energy by authorizing certain municipalities to build, own, and operate combined heating and power plants and to sell energy commodities that result from operating such a system.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 3137 amends the Local Government Code to authorize a home-rule municipality that has a population of more than 100,000, owns and operates an electric utility that is a member of a municipal power agency, and is located adjacent to a county with a population of more than two million, to buy, own, construct, maintain, and operate a combined heating and power system or plant and related infrastructure. The bill authorizes the governing body of the municipality to designate a combined heating and power economic development district that includes territory that is within three miles of the combined heating and power plant, is wholly located within the municipality's corporate boundaries, and does not have an interstate or federal highway located within the district's boundaries on the date the territory is designated. The bill authorizes the municipality to sell an energy commodity from the system or plant, including electricity, chilled water, steam, or gas. The bill limits the sale of such gas to industrial customers located in the combined heating and power economic development district. The bill requires the municipality to assess fees against a municipal entity selling gas to industrial customers in the combined heating and power economic district that are substantially the same as the fees assessed against a gas utility that is not owned by the municipality for occupation of a municipal right-of-way. The bill establishes that to the extent the bill's provisions conflict with a municipal charter provision, the bill's provisions control.

**EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 3137 contains a provision not included in the original establishing that to the extent the bill's provisions conflict with a municipal charter provision, the bill's provisions control.

C.S.H.B. 3137 contains a provision not included in the original adding as an additional condition to the designation of a combined heating and power economic development district that the territory included in the district not have an interstate or federal highway within its boundaries on the date the territory is designated.

C.S.H.B. 3137 contains a provision not included in the original limiting the municipality's sale of gas to industrial customers located in the combined heating and power economic development district.

C.S.H.B. 3137 contains a provision not included in the original requiring the municipality to assess fees against a municipal entity selling gas to industrial customers in the combined heating and power economic district that are substantially the same as the fees assessed against a gas utility that is not owned by the municipality for occupation of a municipal right-of-way.

C.S.H.B. 3137 differs from the original by incorporating its provisions as a new statutory section, whereas the original incorporates its changes as an amendment to an existing statute.

C.S.H.B. 3137 differs from the original in nonsubstantive ways by using language reflective of certain bill drafting conventions.