

1-1 By: Chisum, Strama (Senate Sponsor - Carona) H.B. No. 3595  
1-2 (In the Senate - Received from the House May 12, 2011;  
1-3 May 12, 2011, read first time and referred to Committee on Business  
1-4 and Commerce; May 20, 2011, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 6, Nays 3;  
1-6 May 20, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 3595 By: Carona

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

1-10 relating to energy efficiency goals and energy efficiency programs.  
1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
1-12 SECTION 1. Subtitle E, Title 4, Government Code, is amended  
1-13 by adding Chapter 470 to read as follows:

1-14 CHAPTER 470. ENERGY EFFICIENCY COUNCIL

1-15 Sec. 470.001. DEFINITIONS. In this chapter:

1-16 (1) "Council" means the energy efficiency council.

1-17 (2) "Energy efficiency program" means a program that  
1-18 uses state or federal funding to:

1-19 (A) reduce inefficient energy use;

1-20 (B) reduce peak energy demand;

1-21 (C) reduce energy consumption;

1-22 (D) promote compliance with energy efficient  
1-23 building design standards; or

1-24 (E) pay for the implementation of energy cost  
1-25 reduction measures.

1-26 (3) "Program administrator" includes any of the  
1-27 following entities that administer an energy efficiency program:

1-28 (A) a state agency, including the Public Utility  
1-29 Commission of Texas, the Railroad Commission of Texas, the State  
1-30 Energy Conservation Office, and the Texas Department of Housing and  
1-31 Community Affairs;

1-32 (B) a political subdivision of this state;

1-33 (C) a private or public utility service provider  
1-34 other than a retail electric provider, including an electric  
1-35 cooperative or municipally owned utility;

1-36 (D) a school district; or

1-37 (E) an institution of higher education.

1-38 Sec. 470.002. PURPOSE. The energy efficiency council is a  
1-39 council established in the comptroller's office to:

1-40 (1) monitor energy efficiency programs in this state;

1-41 (2) make recommendations for improving energy  
1-42 efficiency programs in this state; and

1-43 (3) provide a central repository for information on  
1-44 energy efficiency programs in this state.

1-45 Sec. 470.003. ENERGY EFFICIENCY PROGRAM POLICIES. A  
1-46 program administrator shall consider any applicable  
1-47 recommendations of the council when creating or implementing the  
1-48 energy efficiency program.

1-49 Sec. 470.004. COUNCIL MEMBERSHIP. (a) The council is  
1-50 composed of the following 16 members:

1-51 (1) 12 ex officio members as follows:

1-52 (A) the presiding officer of the Texas Commission  
1-53 on Environmental Quality;

1-54 (B) the chief executive officer of the Electric  
1-55 Reliability Council of Texas;

1-56 (C) the presiding officer of the Public Utility  
1-57 Commission of Texas;

1-58 (D) the presiding officer of the Railroad  
1-59 Commission of Texas;

1-60 (E) the comptroller or an employee of the State  
1-61 Energy Conservation Office designated by the comptroller;

1-62 (F) the director of the Texas Department of  
1-63 Housing and Community Affairs;

2-1 (G) the executive director of the Texas  
2-2 Facilities Commission;  
2-3 (H) the executive administrator of the Texas  
2-4 Water Development Board;  
2-5 (I) the presiding officer of the Water  
2-6 Conservation Advisory Council;  
2-7 (J) the executive director of the Texas  
2-8 Department of Rural Affairs;  
2-9 (K) the director of the Energy Systems Laboratory  
2-10 at the Texas Engineering Experiment Station of The Texas A&M  
2-11 University System; and  
2-12 (L) the chief executive of the Office of Public  
2-13 Utility Counsel; and  
2-14 (2) four public members appointed by the governor as  
2-15 follows:  
2-16 (A) one member to represent low-income  
2-17 ratepayers;  
2-18 (B) one member to represent commercial or  
2-19 industrial ratepayers;  
2-20 (C) one member to represent an environmental  
2-21 organization; and  
2-22 (D) one member to represent the taxpayers of this  
2-23 state.  
2-24 (b) The four public members must be appointed with the  
2-25 advice and consent of the senate.  
2-26 (c) The ex officio members and the appointed members serve  
2-27 as voting members of the council.  
2-28 (d) The comptroller or the employee designated under  
2-29 Subsection (a)(1)(E) shall serve as presiding officer of the  
2-30 council.  
2-31 (e) The council shall meet at least two times per year at the  
2-32 call of the presiding officer.  
2-33 (f) Council members may not receive compensation for  
2-34 services but, subject to the availability of funding, may receive  
2-35 reimbursement for actual and necessary expenses incurred while  
2-36 performing council business.  
2-37 (g) Appointments to council positions shall be made without  
2-38 regard to the race, color, disability, sex, religion, age, or  
2-39 national origin of the appointees.  
2-40 Sec. 470.005. TERMS; VACANCY. (a) Appointed council  
2-41 members serve staggered two-year terms, with the terms of one or two  
2-42 members, as applicable, expiring on February 1.  
2-43 (b) A vacancy on the council in the position of an appointed  
2-44 council member shall be filled in the same manner as the original  
2-45 appointment. The person appointed serves for the remainder of the  
2-46 unexpired term.  
2-47 Sec. 470.006. GROUNDS FOR REMOVAL. (a) It is a ground for  
2-48 removal from the council that a member:  
2-49 (1) does not maintain during service on the council  
2-50 the qualifications required by Section 470.004(a)(1);  
2-51 (2) cannot, because of illness or disability,  
2-52 discharge the member's duties for a substantial part of the member's  
2-53 term; or  
2-54 (3) is absent from more than half of the regularly  
2-55 scheduled council meetings that the member is eligible to attend  
2-56 during a calendar year without an excuse approved by a majority vote  
2-57 of the council.  
2-58 (b) The validity of an action of the council is not affected  
2-59 by the fact that it is taken when a ground for removal of a council  
2-60 member exists.  
2-61 (c) If the presiding officer has knowledge that a potential  
2-62 ground for removal exists, the presiding officer shall notify the  
2-63 appointing authority and the attorney general that a potential  
2-64 ground for removal exists.  
2-65 Sec. 470.007. ADMINISTRATIVE SUPPORT. To the extent  
2-66 resources are available, the State Energy Conservation Office shall  
2-67 provide the council with administrative support, including meeting  
2-68 space and staff necessary to assist the council in carrying out the  
2-69 council's duties under this chapter.

3-1 Sec. 470.008. ACCEPTANCE OF GIFTS, GRANTS, OR DONATIONS.  
3-2 The council may solicit and the comptroller may accept for the  
3-3 council gifts, grants, and donations from any public or private  
3-4 source for the purposes of this chapter.

3-5 Sec. 470.009. ENERGY EFFICIENCY PROGRAM MONITORING AND  
3-6 RECOMMENDATIONS. (a) The council shall monitor energy efficiency  
3-7 programs in this state.

3-8 (b) The council may submit to a program administrator  
3-9 recommendations on means to encourage greater energy efficiency on  
3-10 a regular basis.

3-11 Sec. 470.010. OFFICIAL INTERNET WEBSITES. The council  
3-12 shall use the following official Internet websites for the  
3-13 publication of information as required by this chapter:

3-14 (1) the Internet website of the State Energy  
3-15 Conservation Office; and

3-16 (2) the Internet website of the Public Utility  
3-17 Commission of Texas.

3-18 Sec. 470.011. LIST OF ENERGY EFFICIENCY PROGRAMS. (a) The  
3-19 council shall:

3-20 (1) develop a list of currently operating energy  
3-21 efficiency programs in this state and publish the list on the  
3-22 official Internet websites under Section 470.010; and

3-23 (2) work with the State Energy Conservation Office and  
3-24 the Public Utility Commission of Texas to develop and publish on the  
3-25 official Internet websites under Section 470.010 a user-friendly  
3-26 page that allows a consumer to search by the consumer's address  
3-27 energy efficiency programs available in the consumer's service  
3-28 area.

3-29 (b) The State Energy Conservation Office and the Public  
3-30 Utility Commission of Texas shall each provide a link on their  
3-31 Internet websites to the page described by Subsection (a)(2).

3-32 Sec. 470.012. BIENNIAL PROGRAMS REPORT. (a) The council  
3-33 biennially shall prepare a report on energy efficiency programs in  
3-34 this state. The council shall submit the report to the legislature  
3-35 not later than October 1 of each even-numbered year.

3-36 (b) The report must include:

3-37 (1) a comprehensive review of the energy efficiency  
3-38 programs on the list required by Section 470.011, including  
3-39 information on the goals, costs, and benefits of the programs, the  
3-40 results of each program, the energy savings and emissions  
3-41 reductions that each program achieves, and the jobs that each  
3-42 program creates;

3-43 (2) a study comparing energy efficiency programs in  
3-44 this state to similar programs in:

3-45 (A) California;

3-46 (B) Florida;

3-47 (C) New York; and

3-48 (D) each other state the council determines to  
3-49 have programs appropriate for the comparisons; and

3-50 (3) recommendations for improving energy efficiency  
3-51 programs in this state.

3-52 (c) The report may include recommendations for creating new  
3-53 energy efficiency programs in this state.

3-54 (d) The council shall publish the report on the official  
3-55 Internet websites under Section 470.010.

3-56 Sec. 470.013. APPLICABILITY OF ADVISORY COMMITTEE LAW.  
3-57 Chapter 2110 does not apply to the council.

3-58 SECTION 2. Section 39.905, Utilities Code, is amended by  
3-59 amending Subsection (d) and adding Subsection (h) to read as  
3-60 follows:

3-61 (d) The commission shall establish a procedure for  
3-62 reviewing and evaluating market-transformation program options  
3-63 described by this subsection and other options. In evaluating  
3-64 program options, the commission may consider the ability of a  
3-65 program option to reduce costs to customers through reduced demand,  
3-66 energy savings, and relief of congestion. Utilities may choose to  
3-67 implement any program option approved by the commission after its  
3-68 evaluation in order to satisfy the goal in Subsection (a),  
3-69 including:

- 4-1 (1) energy-smart schools;
- 4-2 (2) appliance retirement and recycling;
- 4-3 (3) air conditioning system tune-ups;
- 4-4 (4) the installation of variable speed motors and
- 4-5 drives;
- 4-6 (5) the use of trees or other landscaping for energy
- 4-7 efficiency;
- 4-8 (6) [~~5~~] customer energy management and demand
- 4-9 response programs;
- 4-10 (7) [~~6~~] high performance residential and commercial
- 4-11 buildings that will achieve the levels of energy efficiency
- 4-12 sufficient to qualify those buildings for federal tax incentives;
- 4-13 (8) commissioning services for commercial and
- 4-14 institutional buildings that result in operational and maintenance
- 4-15 practices that reduce the buildings' energy consumption;
- 4-16 (9) [~~7~~] programs for customers who rent or lease
- 4-17 their residence or commercial space;
- 4-18 (10) [~~8~~] programs providing energy monitoring
- 4-19 equipment to customers that enable a customer to better understand
- 4-20 the amount, price, and time of the customer's energy use;
- 4-21 (11) [~~9~~] energy audit programs for owners and other
- 4-22 residents of single-family or multifamily residences and for small
- 4-23 commercial customers;
- 4-24 (12) [~~10~~] net-zero energy new home programs;
- 4-25 (13) [~~11~~] solar thermal or solar electric programs;
- 4-26 [~~and~~]
- 4-27 (14) [~~12~~] programs for using windows and other
- 4-28 glazing systems, glass doors, and skylights in residential and
- 4-29 commercial buildings that reduce solar gain by at least 30 percent
- 4-30 from the level established for the federal Energy Star windows
- 4-31 program;
- 4-32 (15) data center efficiency programs; and
- 4-33 (16) energy use and education programs with measurable
- 4-34 and verifiable results that reduce energy consumption through
- 4-35 behavioral changes that lead to efficient use patterns and
- 4-36 practices.
- 4-37 (h) An entity that conducts an energy efficiency audit for a
- 4-38 residential, commercial, or nongovernmental nonprofit customer and
- 4-39 provides a report of the audit shall include in the audit report:
- 4-40 (1) a list of any energy efficiency products or
- 4-41 alternate energy service providers the entity is recommending that
- 4-42 the customer use; and
- 4-43 (2) a written disclosure of any financial benefit the
- 4-44 entity receives from recommending the use of each particular energy
- 4-45 efficiency product or particular alternate energy service
- 4-46 provider.
- 4-47 SECTION 3. As soon as practicable after the effective date
- 4-48 of this Act, the governor shall appoint members to the energy
- 4-49 efficiency council in accordance with Section 470.004, Government
- 4-50 Code, as added by this Act.
- 4-51 SECTION 4. This Act takes effect immediately if it receives
- 4-52 a vote of two-thirds of all the members elected to each house, as
- 4-53 provided by Section 39, Article III, Texas Constitution. If this
- 4-54 Act does not receive the vote necessary for immediate effect, this
- 4-55 Act takes effect September 1, 2011.

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