

1-1 By: Fraser S.B. No. 15
1-2 (In the Senate - Filed March 11, 2011; March 14, 2011, read
1-3 first time and referred to Committee on Natural Resources;
1-4 April 13, 2011, reported adversely, with favorable Committee
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1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 15 By: Fraser

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

1-10 relating to state energy policy and the planning of energy
1-11 development and utilization.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 ARTICLE 1

1-14 SECTION 1.01. This article may be cited as the Energy Policy
1-15 Act.

1-16 SECTION 1.02. The Utilities Code is amended by adding Title
1-17 6 to read as follows:

1-18 TITLE 6. ENERGY POLICY ACT

1-19 CHAPTER 300. STRATEGIC ENERGY PLANNING

1-20 SUBCHAPTER A. GENERAL PROVISIONS

1-21 Sec. 300.001. PURPOSE AND FINDINGS. (a) This title is
1-22 enacted to promote, in accordance with the public interest, the
1-23 strategic planning of energy development, production, delivery,
1-24 commercialization, and utilization in this state.

1-25 (b) The purpose of this title is to establish a statewide
1-26 energy policy planning entity and process that recognizes:

1-27 (1) public health and general welfare as a critical
1-28 concern in the development of energy policies;

1-29 (2) energy as a valuable and vital commodity in the
1-30 state's economy;

1-31 (3) protection of the environment as a major
1-32 consideration in the production of energy and utilization of
1-33 natural resources;

1-34 (4) cost-effective, market-based solutions as a
1-35 preferred policy for energy planning;

1-36 (5) utilization of Texas-based resources to help
1-37 provide energy security, stability, and reliability; and

1-38 (6) the importance of portfolio diversity in promoting
1-39 energy system flexibility, affordability, and efficiency.

1-40 Sec. 300.002. DEFINITIONS. In this title:

1-41 (1) "Council" means the Texas Energy Policy Council.

1-42 (2) "Office" means the State Energy Conservation
1-43 Office.

1-44 (3) "Plan" means the statewide energy policy plan.

1-45 Sec. 300.003. TEXAS ENERGY POLICY COUNCIL. (a) The Texas
1-46 Energy Policy Council is created to develop and present a statewide
1-47 energy policy plan to the legislature. The plan must include a
1-48 20-year planning horizon and be updated to reflect changing
1-49 conditions and should be considered a living document.

1-50 (b) The council is composed of 12 members as follows:

1-51 (1) the chairman of the Public Utility Commission of
1-52 Texas;

1-53 (2) the chairman of the Railroad Commission of Texas;

1-54 (3) the chairman of the Texas Commission on
1-55 Environmental Quality;

1-56 (4) the president and chief executive officer of the
1-57 Electric Reliability Council of Texas;

1-58 (5) the commissioner of the General Land Office;

1-59 (6) two members of the senate appointed by the
1-60 lieutenant governor;

1-61 (7) two members of the house of representatives
1-62 appointed by the speaker of the house of representatives;

1-63 (8) one member of the academic community with

2-1 expertise in energy appointed by the governor;
 2-2 (9) one member of the academic community with
 2-3 expertise in environmental issues related to energy appointed by
 2-4 the governor; and

2-5 (10) the director of the office.

2-6 (c) The governor shall designate the presiding officer from
 2-7 among the members of the council.

2-8 (d) An appointed member of the council serves for a full
 2-9 planning cycle and may be reappointed at the pleasure of the
 2-10 appointing official.

2-11 (e) The council shall meet at least quarterly in
 2-12 even-numbered years while developing a plan for submission to the
 2-13 legislature. The council may meet annually in odd-numbered years
 2-14 after submitting plans to the legislature.

2-15 (f) The council shall develop and implement policies and
 2-16 procedures that provide the public with reasonable opportunity to
 2-17 appear before the council and to speak on issues under the
 2-18 jurisdiction of the council.

2-19 (g) The office is designated as the state agency responsible
 2-20 for administering the council. Staff from the office shall be
 2-21 tasked, as necessary, with assisting the council in carrying out
 2-22 its duties.

2-23 Sec. 300.004. POWERS, DUTIES, AND RESPONSIBILITIES OF
 2-24 COUNCIL. (a) In developing the plan, the council shall:

2-25 (1) encourage cooperation and coordination between
 2-26 public and private entities regarding energy usage, planning,
 2-27 research and development, and commercialization;

2-28 (2) seek policies that promote a diverse portfolio of
 2-29 clean, reliable, and competitively priced energy sources;

2-30 (3) promote research, pilot projects, and
 2-31 market-based incentives to explore and expand long-term energy
 2-32 options;

2-33 (4) develop policies to prevent supply interruptions
 2-34 and infrastructure failure;

2-35 (5) examine the impact on the environment of energy
 2-36 exploration, production, and use;

2-37 (6) take into account the statewide and regional water
 2-38 planning process; and

2-39 (7) make recommendations for increasing public
 2-40 knowledge of energy use issues and public awareness of the
 2-41 importance of more efficient consumption of energy.

2-42 (b) The council shall submit to the legislature the initial
 2-43 plan by December 1, 2012. Thereafter, the council shall report to
 2-44 the legislature by December 1 of each even-numbered year the status
 2-45 of the plan's implementation and make any recommendations for
 2-46 legislative action as necessary to implement or revise the plan.
 2-47 The council may update the plan as necessary to reflect evolving
 2-48 conditions.

2-49 Sec. 300.005. FUELS AND TECHNOLOGIES. (a) The council
 2-50 shall consider the following fuel sources, types of generation, and
 2-51 innovative technologies associated with these fuels and types of
 2-52 generation when creating the plan. These fuels, types of
 2-53 generation, and technologies include:

2-54 (1) oil and natural gas;

2-55 (2) coal and lignite;

2-56 (3) nuclear;

2-57 (4) renewable energy technologies;

2-58 (5) geothermal;

2-59 (6) methane;

2-60 (7) distributed generation;

2-61 (8) fuel cells and storage;

2-62 (9) water conservation technologies that could be
 2-63 utilized in the exploration, production, and generation of energy
 2-64 resources; and

2-65 (10) any other fuels and technologies as defined in
 2-66 Section 39.904(d).

2-67 (b) The council shall develop policies that ensure fuel
 2-68 resources available to the state are utilized in a balanced and
 2-69 efficient manner. The council shall consider the economic

3-1 viability, price stability and volatility, and environmental
3-2 impact of types of fuel and technology when making its
3-3 recommendations.

3-4 Sec. 300.006. ENERGY EFFICIENT TECHNOLOGY. (a) In order
3-5 to reduce the energy demand of customers in this state, the council
3-6 shall consider energy-efficient technologies when formulating the
3-7 plan and include them in its recommendations. Energy-efficient
3-8 technologies shall be considered for the following:

3-9 (1) residential, commercial, industrial, and state
3-10 and local energy users; and

3-11 (2) any other user group or application the council
3-12 deems appropriate.

3-13 (b) The council shall consider the economic viability and
3-14 competitiveness of new technologies when making its
3-15 recommendations.

3-16 (c) The council shall consider the ability of
3-17 energy-efficient technologies to reduce the demand for energy and
3-18 the need for additional transmission capacity in the state and
3-19 shall consider opportunities for reducing transmission constraints
3-20 by using these technologies.

3-21 Sec. 300.007. TRANSMISSION. (a) The council shall
3-22 consider and recommend strategies to ensure that customers in this
3-23 state have access to reliable energy.

3-24 (b) The council shall consider transmission constraints,
3-25 and make recommendations in the plan to alleviate or prevent those
3-26 constraints, for the following sources of energy:

3-27 (1) oil and natural gas;

3-28 (2) coal and lignite;

3-29 (3) wind and solar; and

3-30 (4) electricity.

3-31 Sec. 300.008. ALTERNATIVE FUEL VEHICLES. (a) The council
3-32 shall consider and make recommendations on strategies and
3-33 incentives that promote the use of alternative fuel vehicles such
3-34 as natural gas vehicles and plug-in electric vehicles.

3-35 (b) The council shall consider the economic feasibility of
3-36 alternative fuel vehicles and infrastructure constraints and may
3-37 make recommendations on incentives to incorporate and promote these
3-38 vehicles as a component of the plan.

3-39 Sec. 300.009. ENVIRONMENT. (a) The council, when creating
3-40 the plan or in formulating recommendations, shall consider the
3-41 effects of energy exploration, production, and consumption on the
3-42 environment.

3-43 (b) The council shall recommend strategies that protect and
3-44 preserve the environment of the state and allow for access to and
3-45 the production of safe, economically viable, and reliable sources
3-46 of energy. The council shall consider:

3-47 (1) air quality;

3-48 (2) water quality;

3-49 (3) water supply; and

3-50 (4) waste disposal.

3-51 ARTICLE 2

3-52 SECTION 2.01. Chapter 39, Utilities Code, is amended by
3-53 adding Subchapter L to read as follows:

3-54 SUBCHAPTER L. REPORT ON RESERVES AND VOLUNTARY EMISSIONS
3-55 REDUCTIONS PLAN

3-56 Sec. 39.551. STATEMENT OF INTENT. It is not the intent of
3-57 this subchapter to:

3-58 (1) transfer environmental regulation from the
3-59 Railroad Commission of Texas or the Texas Commission on
3-60 Environmental Quality to the commission; or

3-61 (2) reduce the competitiveness of the existing energy
3-62 market in Texas by re-regulating the market or requiring the
3-63 decommissioning of any lawfully operating generating plant.

3-64 Sec. 39.552. REPORT ON RESERVES. (a) Not later than
3-65 December 1, 2011, the Railroad Commission of Texas shall prepare
3-66 and submit to the commission a report on coal and gas reserves in
3-67 this state that includes information relating to:

3-68 (1) natural gas reserves in this state proven and
3-69 probable on November 1, 2011;

4-1 (2) estimates of the proven and probable natural gas
 4-2 reserves in this state for each of the next 15 years;

4-3 (3) estimates of natural gas prices and potential
 4-4 price volatility for each of the next 15 years;

4-5 (4) coal reserves in this state proven and probable on
 4-6 November 1, 2011;

4-7 (5) estimates of the proven and probable coal reserves
 4-8 in this state for each of the next 15 years; and

4-9 (6) estimates of coal prices and potential price
 4-10 volatility for each of the next 15 years.

4-11 (b) The Railroad Commission of Texas may request financial
 4-12 information and forecasts from the comptroller to assist the
 4-13 Railroad Commission of Texas in carrying out its duties under this
 4-14 section. The comptroller shall provide that information and those
 4-15 forecasts to the Railroad Commission of Texas as quickly as
 4-16 possible after receiving such request.

4-17 Sec. 39.553. REPORT AND PLAN. (a) The commission shall
 4-18 prepare a report on electric energy generation in this state. The
 4-19 report must include an analysis of and policy recommendations for
 4-20 how to most cost-effectively comply with environmental regulation.

4-21 (b) In preparing the report, the commission shall:

4-22 (1) analyze information from the reports submitted
 4-23 under this subchapter by electric generating facilities and the
 4-24 Railroad Commission of Texas; and

4-25 (2) use information already in the possession of
 4-26 existing regulators by consulting with the Railroad Commission of
 4-27 Texas, the Texas Commission on Environmental Quality, the Electric
 4-28 Reliability Council of Texas, the Southwest Power Pool, the
 4-29 Southeastern Electric Reliability Council, and the Western
 4-30 Electricity Coordinating Council.

4-31 (c) The report must evaluate and consider measures that
 4-32 will:

4-33 (1) maintain electric grid reliability;

4-34 (2) ensure the availability of electric energy at
 4-35 reasonable rates;

4-36 (3) reduce air pollution, as defined by Section
 4-37 382.003, Health and Safety Code;

4-38 (4) increase the state's ability to comply with state
 4-39 and federal clean air standards in nonattainment and
 4-40 near-nonattainment areas; and

4-41 (5) reduce the use of water for electricity generation
 4-42 in this state.

4-43 (d) The report must identify the 10 percent of electric
 4-44 generation capacity that will be most impacted by compliance with
 4-45 environmental regulation.

4-46 (e) The report must identify combinations of market
 4-47 factors, plant operating characteristics, federal and state
 4-48 environmental regulations promulgated after January 1, 2011, and
 4-49 other conditions that might make it more economically attractive
 4-50 for the electric generation capacity identified in the report to be
 4-51 retired rather than comply with the regulations. The market
 4-52 factors considered in the analysis must include:

4-53 (1) long-term prices and price volatility for fuel
 4-54 sources used to generate electricity in this state;

4-55 (2) price projections for the cost of electricity
 4-56 going forward and factors that are relevant to determining the
 4-57 market price of electricity; and

4-58 (3) the potential impact of the voluntary
 4-59 decommissioning of existing units of electric generation capacity
 4-60 from facilities in this state.

4-61 (f) The report must consider plant operating
 4-62 characteristics including variable and fixed operating costs of
 4-63 electric generation facilities identified in the report. The
 4-64 analysis must also incorporate a range of costs projected by
 4-65 credible sources for complying with the specified federal and state
 4-66 air pollution regulations. In conducting this analysis, the
 4-67 commission shall consider electric generation facilities in this
 4-68 state of various vintages, sizes, fuel types, conversion
 4-69 efficiencies, and emission characteristics. The analysis must:

5-1 (1) estimate the amount of electric generation
5-2 capacity that is likely to voluntarily be retired rather than incur
5-3 the additional expense of complying with the federal and state air
5-4 pollution regulations;

5-5 (2) provide an analysis of the cost and the impact on
5-6 electric rates, and provide price projections, associated with
5-7 voluntarily retiring electric generation facilities included in
5-8 the report;

5-9 (3) identify any additional barriers to the retirement
5-10 of the types of electric generation capacity identified and provide
5-11 recommendations on how to most cost-effectively and voluntarily
5-12 reduce air pollution, including recommendations to accelerate the
5-13 permitting process for certain types of low-polluting generation;
5-14 and

5-15 (4) identify the types, costs, and effects of
5-16 incentives to promote the goals of this section.

5-17 (g) Not later than October 1, 2012, the commission shall
5-18 make a draft of the report available for public review and comment
5-19 for a period of not less than 30 days.

5-20 (h) Not later than December 1, 2012, the commission shall
5-21 finalize and publish the report.

5-22 SECTION 2.02. Section 39.904, Utilities Code, is amended by
5-23 adding Subsection (p) to read as follows:

5-24 (p) This section is intended to increase the amount of
5-25 renewable generating capacity as provided by Subsection (a) and is
5-26 not intended, unless specifically stated otherwise in this section,
5-27 to provide operational or competitive advantages to renewable
5-28 energy generators to the detriment of other generation resources.

5-29 ARTICLE 3

5-30 SECTION 3.01. As soon as practicable after the effective
5-31 date of this Act, the designated appointing officials shall appoint
5-32 the members to the Texas Energy Policy Council established under
5-33 Chapter 300, Utilities Code, as added by this Act.

5-34 SECTION 3.02. This Act takes effect September 1, 2011.

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