

By: Watson

S.B. No. 330

A BILL TO BE ENTITLED

AN ACT

relating to renewable energy capacity, jobs, and trading credits.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The purpose of this Act is to continue Texas' leadership in installing clean, renewable energy in Texas in a market-based manner that provides price protection for businesses and consumers.

SECTION 2. Section 36.053(d), Utilities Code, is amended to read as follows:

(d) If the commission issues a certificate of convenience and necessity or, acting under Section 39.203(e), orders an electric utility or a transmission and distribution utility to construct or enlarge transmission or transmission-related facilities to facilitate meeting the goals [~~goal~~] for generating capacity from renewable energy technologies established by Sections [~~under Section~~] 39.904(a) and (a-1), the commission shall find that the facilities are used and useful to the utility in providing service for purposes of this section and are prudent and includable in the rate base, regardless of the extent of the utility's actual use of the facilities.

SECTION 3. Section 37.056(c), Utilities Code, is amended to read as follows:

(c) The commission shall grant each certificate on a nondiscriminatory basis after considering:

- 1           (1) the adequacy of existing service;
- 2           (2) the need for additional service;
- 3           (3) the effect of granting the certificate on the
- 4 recipient of the certificate and any electric utility serving the
- 5 proximate area; and
- 6           (4) other factors, such as:
- 7                 (A) community values;
- 8                 (B) recreational and park areas;
- 9                 (C) historical and aesthetic values;
- 10                (D) environmental integrity;
- 11                (E) the probable improvement of service or
- 12 lowering of cost to consumers in the area if the certificate is
- 13 granted; and
- 14                (F) to the extent applicable, the effect of
- 15 granting the certificate on the ability of this state to meet the
- 16 goals [~~goal~~] established by Sections [~~Section~~] 39.904(a) and (a-1)
- 17 of this title.

18           SECTION 4. Section 39.203(e), Utilities Code, is amended to

19 read as follows:

20           (e) The commission may require an electric utility or a

21 transmission and distribution utility to construct or enlarge

22 facilities to ensure safe and reliable service for the state's

23 electric markets and to reduce transmission constraints within

24 ERCOT in a cost-effective manner where the constraints are such

25 that they are not being resolved through Chapter 37 or the ERCOT

26 transmission planning process. The commission shall require an

27 electric utility or a transmission and distribution utility to

1 construct or enlarge transmission or transmission-related  
2 facilities for the purpose of meeting the goals [~~goal~~] for  
3 generating capacity from renewable energy technologies established  
4 by Sections [~~under Section~~] 39.904(a) and (a-1). In any proceeding  
5 brought under Chapter 37, an electric utility or transmission and  
6 distribution utility ordered to construct or enlarge facilities  
7 under this subchapter need not prove that the construction ordered  
8 is necessary for the service, accommodation, convenience, or safety  
9 of the public and need not address the factors listed in Sections  
10 37.056(c)(1)-(3) and (4)(E). Notwithstanding any other law,  
11 including Section 37.057, in any proceeding brought under Chapter  
12 37 by an electric utility or a transmission and distribution  
13 utility related to an application for a certificate of public  
14 convenience and necessity to construct or enlarge transmission or  
15 transmission-related facilities under this subsection, the  
16 commission shall issue a final order before the 181st day after the  
17 date the application is filed with the commission. If the  
18 commission does not issue a final order before that date, the  
19 application is approved.

20 SECTION 5. Section 39.904, Utilities Code, is amended by  
21 amending Subsections (a), (b), (c), (d), (n), and (o) and adding  
22 Subsections (a-1), (c-1), (n-1), and (p) to read as follows:

23 (a) It is the intent of the legislature that by January 1,  
24 2015, an additional 5,000 megawatts of generating capacity from  
25 tier 1 renewable energy technologies will have been installed in  
26 this state. The cumulative installed renewable capacity in this  
27 state shall total 5,880 megawatts by January 1, 2015, and the

1 commission shall establish a target of 10,000 megawatts of  
2 installed renewable capacity by January 1, 2025. The cumulative  
3 installed tier 1 renewable capacity in this state shall total  
4 ~~[2,280 megawatts by January 1, 2007, 3,272 megawatts by January 1,~~  
5 ~~2009, 4,264 megawatts by January 1, 2011,]~~ 5,256 megawatts by  
6 January 1, 2013, and 5,880 megawatts by January 1, 2015. ~~[Of the~~  
7 ~~renewable energy technology generating capacity installed to meet~~  
8 ~~the goal of this subsection after September 1, 2005, the commission~~  
9 ~~shall establish a target of having at least 500 megawatts of~~  
10 ~~capacity from a renewable energy technology other than a source~~  
11 ~~using wind energy.]~~

12 (a-1) It is the goal of the legislature that by January 1,  
13 2020, an additional 1,500 megawatts of generating capacity from  
14 tier 2 renewable energy will have been installed in this state. The  
15 cumulative installed tier 2 renewable capacity in this state shall  
16 total at least 100 megawatts by January 1, 2012; 200 megawatts by  
17 January 1, 2013; 350 megawatts by January 1, 2014; 500 megawatts by  
18 January 1, 2015; 750 megawatts by January 1, 2016; 900 megawatts by  
19 January 1, 2017; 1,000 megawatts by January 1, 2018; 1,250  
20 megawatts by January 1, 2019; and 1,500 megawatts by January 1,  
21 2020. On January 1, 2016, if the commission determines the state  
22 has not made significant progress toward the goals of this  
23 subsection, then the commission may take action to suspend future  
24 obligations under this subsection.

25 (b) The commission shall establish a tier 1 renewable energy  
26 credits trading program and a tier 2 renewable energy credits  
27 trading program. Any retail electric provider, municipally owned

1 utility, or electric cooperative that does not satisfy the  
2 requirements of Subsection (a) or (a-1) by directly owning or  
3 purchasing capacity using renewable energy technologies shall  
4 purchase sufficient renewable energy credits to satisfy the  
5 requirements by holding renewable energy credits in lieu of  
6 capacity from renewable energy technologies. In calculating  
7 capacity factors for tier 2 renewable energy credits, the  
8 commission shall encourage a diverse portfolio of tier 2 renewable  
9 energy technologies. The commission may adopt rules to establish a  
10 sub-tier within the tier 2 renewable energy credits trading program  
11 for one or more types of renewable energy technology included in the  
12 tier 2 program.

13 (c) The [~~Not later than January 1, 2000, the~~] commission  
14 shall adopt rules necessary to administer and enforce this section.  
15 At a minimum, the rules shall:

16 (1) establish the minimum annual renewable energy  
17 requirement for each retail electric provider, municipally owned  
18 utility, and electric cooperative operating in this state in a  
19 manner reasonably calculated by the commission to produce, on a  
20 statewide basis, compliance with the requirements [~~requirement~~]  
21 prescribed by Subsections (a) and (a-1) [~~Subsection (a)~~]; and

22 (2) specify reasonable performance standards that all  
23 renewable capacity additions must meet to count against the  
24 requirements [~~requirement~~] prescribed by Subsections (a) and (a-1)  
25 [~~Subsection (a)~~] and that:

26 (A) are designed and operated so as to maximize  
27 the energy output from the capacity additions in accordance with

1 then-current industry standards; and

2 (B) encourage the development, construction, and  
3 operation of new renewable energy projects at those sites in this  
4 state that have the greatest economic potential for capture and  
5 development of this state's environmentally beneficial renewable  
6 resources.

7 (c-1) Not later than January 1, 2013, the commission shall  
8 adopt rules necessary to provide a "Made in Texas" incentive for  
9 tier 1 and tier 2 renewable energy credits generated by electricity  
10 generation equipment that is manufactured in Texas. The commission  
11 by rule shall define "manufactured" for the purposes of this  
12 subsection. The incentive provided by this subsection is available  
13 for the first three years after the electricity generation  
14 equipment first produces electricity on a commercial basis.

15 (d) For purposes of [In] this section:

16 (1) "Tier 1 renewable energy technology" [,"renewable  
17 energy technology"] means any technology that exclusively relies on  
18 an energy source that is naturally regenerated over a short time and  
19 derived directly from the sun, indirectly from the sun, or from  
20 moving water or other natural movements and mechanisms of the  
21 environment. Renewable energy technologies include those that rely  
22 on energy derived directly from the sun, on wind, geothermal,  
23 hydroelectric, wave, or tidal energy, or on biomass or  
24 biomass-based waste products, including landfill gas. A renewable  
25 energy technology does not rely on energy resources derived from  
26 fossil fuels, waste products from fossil fuels, or waste products  
27 from inorganic sources.

1           (2) "Tier 2 renewable energy" means tier 1 renewable  
2 energy technology, excluding energy derived from wind, with a  
3 capacity of more than 150 kilowatts.

4           (n) Notwithstanding any other provision of law, the  
5 commission shall have the authority to cap the price of renewable  
6 energy credits and may suspend the goals [~~goal~~] contained in  
7 Subsections (a) and (a-1) [~~Subsection (a)~~] if such suspension is  
8 necessary to protect the reliability and operation of the grid.

9           (n-1) The commission shall reduce the requirement under  
10 Subsection (c)(1) for a retail electric provider, municipally owned  
11 utility, or electric cooperative that is subject to a renewable  
12 energy requirement under this section if the commission determines  
13 that compliance with the goals of Subsection (a-1) and a federal  
14 renewable portfolio standard that is more stringent than those  
15 goals would result in a net rate increase of one percent or more for  
16 retail customers.

17           (o) The commission may establish tier 1 and tier 2 [~~an~~]  
18 alternative compliance payments [~~payment~~]. An entity that has a  
19 renewable energy purchase requirement under this section may elect  
20 to pay the alternative compliance payment instead of applying  
21 renewable energy credits toward the satisfaction of the entity's  
22 obligation under this section. [~~The commission may establish a~~  
23 ~~separate alternative compliance payment for the goal of 500~~  
24 ~~megawatts of capacity from renewable energy technologies other than~~  
25 ~~wind energy.~~] The tier 1 alternative compliance payment for a  
26 renewable energy purchase requirement that could be satisfied with  
27 a renewable energy credit from wind energy may not be less than

1 \$2.50 per credit or greater than \$20 per credit. The tier 2  
2 alternative compliance payment for a renewable energy purchase  
3 requirement that could be satisfied with a tier 2 renewable energy  
4 credit may not be set above \$90 per credit before December 31, 2014;  
5 \$80 per credit before December 31, 2015; \$65 per credit before  
6 December 31, 2016; \$45 per credit before December 31, 2017; \$40 per  
7 credit before December 31, 2018; \$35 per credit before December 31,  
8 2019; and \$30 per credit before December 31, 2020. [~~Prior to~~  
9 ~~September 1, 2009, an alternative compliance payment under this~~  
10 ~~subsection may not be set above \$5 per credit.] In implementing  
11 this subsection, the commission shall consider:~~

12 (1) the effect of renewable energy credit prices on  
13 retail competition;

14 (2) the effect of renewable energy credit prices on  
15 electric rates;

16 (3) the effect of the alternative compliance payment  
17 level on the renewable energy credit market; and

18 (4) any other factors necessary to ensure the  
19 continued development of the renewable energy industry in this  
20 state while protecting ratepayers from unnecessary rate increases.

21 (p) If the commission suspends the tier 2 renewable energy  
22 goals under Subsection (a-1), retail electric providers shall  
23 refund, under the guidance of the commission, all alternative  
24 compliance payment funds collected to the residential and  
25 commercial electric customers covered by this subchapter. If the  
26 commission does not suspend the tier 2 renewable energy goal under  
27 Subsection (a-1), the alternative compliance payment funds



1 collected by the commission shall be used for the purposes of a  
2 solar rebate program established by the commission.

3 SECTION 6. This Act takes effect September 1, 2011.