

By: Carona

S.B. No. 552

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the creation of the Energy Efficiency Coordination  
3 Council and to statewide energy efficiency; providing penalties.

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

5 SECTION 1. Subtitle E, Title 4, Government Code, is amended  
6 by adding Chapter 470 to read as follows:

7 CHAPTER 470. ENERGY EFFICIENCY COORDINATION COUNCIL

8 SUBCHAPTER A. GENERAL PROVISIONS

9 Sec. 470.001. DEFINITIONS. In this chapter:

10 (1) "Council" means the Energy Efficiency  
11 Coordination Council.

12 (2) "Director" means the director of the council.

13 (3) "Energy efficiency program" means any program  
14 designed, implemented, regulated, or administered for the purpose  
15 of reducing the use of energy by:

16 (A) a state agency;

17 (B) an institution of higher education;

18 (C) a utility provider; or

19 (D) an entity designated by a person described in  
20 Paragraph (A), (B), or (C).

21 (4) "Energy efficiency service provider" means a  
22 private contractor or other provider of energy efficiency products  
23 or services in this state.

24 (5) "Institution of higher education" has the meaning

1 assigned by Section 61.003, Education Code.

2 (6) "Presiding officer" means the presiding officer of  
3 the council.

4 (7) "State agency" means an agency, department,  
5 commission, or office of the executive branch of state government.

6 (8) "Utility provider" means:

7 (A) a municipal, cooperative, or other electric  
8 utility or retail electric provider;

9 (B) a water or wastewater utility; or

10 (C) a gas utility.

11 Sec. 470.002. APPLICATION OF SUNSET ACT. The council is  
12 subject to Chapter 325 (Texas Sunset Act). Unless continued in  
13 existence as provided by that chapter, the council is abolished and  
14 this chapter expires September 1, 2023.

15 Sec. 470.003. APPLICATION OF PUBLIC INFORMATION; OPEN  
16 MEETINGS. The council is subject to Chapters 551 and 552.

17 [Sections 470.004-470.050 reserved for expansion]

18 SUBCHAPTER B. COUNCIL

19 Sec. 470.051. ESTABLISHMENT. The council is established to  
20 maximize energy efficiency statewide while protecting the  
21 environment.

22 Sec. 470.052. COUNCIL MEMBERSHIP. (a) The council is  
23 composed of the following 15 members:

24 (1) 11 ex officio members as follows:

25 (A) the chairperson of the Texas Commission on  
26 Environmental Quality;

27 (B) the chief executive officer of the Electric

1 Reliability Council of Texas;

2 (C) the chairperson of the Public Utilities  
3 Commission of Texas;

4 (D) the chairperson of the Railroad Commission of  
5 Texas;

6 (E) the director of the State Energy Conservation  
7 Office;

8 (F) the executive director of the Texas  
9 Department of Housing and Community Affairs;

10 (G) the executive director of the Texas  
11 Facilities Commission;

12 (H) the executive administrator of the Texas  
13 Water Development Board;

14 (I) the presiding officer of the Water  
15 Conservation Advisory Council;

16 (J) the executive director of the Texas  
17 Department of Rural Affairs; and

18 (K) the director of the Energy Systems Laboratory  
19 at the Texas Engineering Experiment Station of The Texas A&M  
20 University System; and

21 (2) four public members as follows:

22 (A) one member appointed by the lieutenant  
23 governor to represent low-income ratepayers;

24 (B) one member appointed by the governor at the  
25 recommendation of the speaker of the house of representatives to  
26 represent residential ratepayers;

27 (C) one member appointed by the lieutenant

1 governor to represent either commercial or industrial ratepayers;  
2 and

3 (D) one member appointed by the governor at the  
4 recommendation of the speaker of the house of representatives to  
5 represent an environmental organization.

6 (b) The four public members must be appointed with the  
7 advice and consent of the senate.

8 (c) Appointments to the council shall be made without regard  
9 to the race, color, disability, sex, religion, age, or national  
10 origin of the appointees.

11 (d) The ex officio members and the appointed members serve  
12 as voting members of the council.

13 Sec. 470.053. TERMS; VACANCY. (a) Appointed members of the  
14 council serve staggered six-year terms, with the terms of one or two  
15 members, as applicable, expiring on February 1 of each odd-numbered  
16 year.

17 (b) A vacancy in the office of an appointed member of the  
18 council shall be filled for the unexpired term in the same manner as  
19 the original appointment.

20 Sec. 470.054. ELIGIBILITY OF PUBLIC MEMBERS. A person may  
21 not be a public member of the council if the person or the person's  
22 spouse:

23 (1) is registered, certified, or licensed by a  
24 regulatory agency as a utility provider or energy efficiency  
25 service provider;

26 (2) is employed by or participates in the management  
27 of a business entity or other organization regulated by or

1 receiving money from the council;

2 (3) owns or controls, directly or indirectly, more  
3 than a 10 percent interest in a business entity or other  
4 organization regulated by or receiving money from the council; or

5 (4) uses or receives a substantial amount of tangible  
6 goods, services, or money from the council other than compensation  
7 or reimbursement authorized by law for council membership,  
8 attendance, or expenses.

9 Sec. 470.055. CONFLICT OF INTEREST. (a) In this section,  
10 "Texas trade association" means a cooperative and voluntarily  
11 joined statewide association of business or professional  
12 competitors in this state designed to assist its members and its  
13 industry or profession in dealing with mutual business or  
14 professional problems and in promoting their common interest.

15 (b) A person may not be a public member of the council and  
16 may not be a council employee employed in a "bona fide executive,  
17 administrative, or professional capacity," as that phrase is used  
18 for purposes of establishing an exemption to the overtime  
19 provisions of the federal Fair Labor Standards Act of 1938 (29  
20 U.S.C. Section 201 et seq.) if:

21 (1) the person is an officer, employee, or paid  
22 consultant of a Texas trade association of utility providers or  
23 energy efficiency service providers; or

24 (2) the person's spouse is an officer, manager, or paid  
25 consultant of a Texas trade association of utility providers or  
26 energy efficiency service providers.

27 (c) A person may not be a member of the council or act as the

1 general counsel to the council if the person is required to register  
2 as a lobbyist under Chapter 305 because of the person's activities  
3 for compensation on behalf of a profession related to the operation  
4 of the council.

5 Sec. 470.056. GROUNDS FOR REMOVAL. (a) It is a ground for  
6 removal from the council that an appointed member:

7 (1) is ineligible for membership under Section 470.054  
8 or 470.055;

9 (2) cannot, because of illness or disability,  
10 discharge the member's duties for a substantial part of the member's  
11 term; or

12 (3) is absent from more than half of the regularly  
13 scheduled council meetings that the member is eligible to attend  
14 during a calendar year without an excuse approved by a majority vote  
15 of the council.

16 (b) The validity of an action of the council is not affected  
17 by the fact that it is taken when a ground for removal of a council  
18 member exists.

19 (c) If the director has knowledge that a potential ground  
20 for removal exists, the director shall notify the presiding officer  
21 of the council of the potential ground. The presiding officer shall  
22 then notify the governor and the attorney general that a potential  
23 ground for removal exists. If the potential ground for removal  
24 involves the presiding officer, the director shall notify the next  
25 highest ranking officer of the council, who shall then notify the  
26 governor and the attorney general that a potential ground for  
27 removal exists.

1       Sec. 470.057. APPOINTED MEMBER TRAINING PROGRAM. (a) A  
2 person who is appointed to and qualifies for office as a member of  
3 the council may not vote, deliberate, or be counted as a member in  
4 attendance at a meeting of the council until the person completes a  
5 training program that complies with this section.

6       (b) The training program must provide the person with  
7 information regarding:

8           (1) this chapter;

9           (2) the programs, functions, rules, and budget of the  
10 council;

11           (3) the results of the most recent formal audit of the  
12 council;

13           (4) the requirements of laws relating to open  
14 meetings, public information, administrative procedure, and  
15 conflicts of interest; and

16           (5) any applicable ethics policies adopted by the  
17 council or the Texas Ethics Commission.

18       (c) A person appointed to the council is entitled to  
19 reimbursement, as provided by the General Appropriations Act, for  
20 the travel expenses incurred in attending the training program  
21 regardless of whether the attendance at the program occurs before  
22 or after the person qualifies for office.

23       Sec. 470.058. PRESIDING OFFICER. The director of the State  
24 Energy Conservation Office serves as presiding officer of the  
25 council.

26       Sec. 470.059. MEETINGS. (a) The council shall meet at  
27 least quarterly and at other times at the call of the presiding

1 officer.

2 (b) Each meeting of the council must be webcast and archived  
3 online.

4 [Sections 470.060-470.100 reserved for expansion]

5 SUBCHAPTER C. GENERAL DUTIES OF COUNCIL AND DIRECTOR

6 Sec. 470.101. RULES. The council shall adopt rules  
7 necessary to administer this chapter and rules governing the  
8 development and implementation of the state energy efficiency plan.

9 Sec. 470.102. PUBLIC TESTIMONY. The council shall develop  
10 and implement policies that provide the public with an opportunity  
11 to appear before the council and to speak on any issue under the  
12 jurisdiction of the council.

13 Sec. 470.103. DIVISION OF POLICY AND DIRECTOR  
14 RESPONSIBILITIES. The council shall develop and implement policies  
15 that clearly separate the policymaking responsibilities of the  
16 council and the management responsibilities of the director and the  
17 staff of the council.

18 Sec. 470.104. COMPLAINTS. (a) The council shall maintain a  
19 system to promptly and efficiently act on complaints filed with the  
20 council. The council shall maintain information about parties to  
21 the complaint, the subject matter of the complaint, a summary of the  
22 results of the review or investigation of the complaint, and its  
23 disposition.

24 (b) The council shall make information available describing  
25 its procedures for complaint investigation and resolution.

26 (c) The council shall periodically notify the complaint  
27 parties of the status of the complaint until final disposition.



1       Sec. 470.105. USE OF TECHNOLOGY. The council shall  
2 implement a policy requiring the council to use appropriate  
3 technological solutions to improve the council's ability to perform  
4 its functions. The policy must ensure that the public is able to  
5 interact with the council on the Internet.

6       Sec. 470.106. NEGOTIATED RULEMAKING AND ALTERNATIVE  
7 DISPUTE RESOLUTION PROCEDURES. (a) The council shall develop and  
8 implement a policy to encourage the use of:

9           (1) negotiated rulemaking procedures under Chapter  
10 2008 for the adoption of council rules; and

11           (2) appropriate alternative dispute resolution  
12 procedures under Chapter 2009 to assist in the resolution of  
13 internal and external disputes under the council's jurisdiction.

14       (b) The council's procedures relating to alternative  
15 dispute resolution must conform, to the extent possible, to any  
16 model guidelines issued by the State Office of Administrative  
17 Hearings for the use of alternative dispute resolution by state  
18 agencies.

19       (c) The council shall:

20           (1) coordinate the implementation of the policy  
21 adopted under Subsection (a);

22           (2) provide training as needed to implement the  
23 procedures for negotiated rulemaking or alternative dispute  
24 resolution; and

25           (3) collect data concerning the effectiveness of those  
26 procedures.

27       Sec. 470.107. DIRECTOR. (a) The director of the State

1 Energy Conservation Office shall appoint a representative of the  
2 office to serve as director for the council.

3 (b) The director shall:

4 (1) set the date, time, and place of council meetings;  
5 and

6 (2) provide administrative support to the council  
7 using existing resources and appropriations of the State Energy  
8 Conservation Office.

9 (c) If the council is abolished, all materials must be  
10 transferred to the director and the state archives.

11 Sec. 470.108. ADVISORY AND AD HOC COMMITTEES. The council  
12 may form advisory or ad hoc committees composed of individuals from  
13 the public and private sectors to review policy matters related to  
14 the council's purpose.

15 Sec. 470.109. STANDING ADVISORY COMMITTEE. (a) The  
16 council shall establish a standing advisory committee composed of  
17 15 members. The council shall appoint one member to represent each  
18 of the following:

- 19 (1) low-income communities;  
20 (2) historically disadvantaged communities;  
21 (3) the elderly;  
22 (4) local governments;  
23 (5) public schools;  
24 (6) institutions of higher education;  
25 (7) small business;  
26 (8) agriculture;  
27 (9) the nonprofit sector;

- 1           (10) the environment;
- 2           (11) public health;
- 3           (12) the energy efficiency service industry;
- 4           (13) ratepayers from the deregulated market;
- 5           (14) ratepayers from the cooperative electric market;
- 6 and
- 7           (15) ratepayers from municipally owned utilities.

8           (b) Each member of the standing advisory committee shall  
9 serve as liaison to the council on energy efficiency as related to  
10 the interest represented.

11           (c) The standing advisory committee shall make  
12 recommendations to the council regarding the effect of energy  
13 efficiency programs on the interests listed in Subsection (a) and  
14 creating or improving energy efficiency programs to better serve  
15 those interests.

16           (d) In accordance with Subchapter E, the standing advisory  
17 committee may request that persons submit documents and data to the  
18 council and seek the assistance of the staff of any state agency,  
19 utility provider, or energy efficiency service provider.

20           (e) The standing advisory committee shall meet at least four  
21 times each calendar year.

22           (f) The standing advisory committee is subject to Chapters  
23 551 and 552.

24           (g) Chapter 2110 does not apply to the standing advisory  
25 committee.

26           [Sections 470.110-470.150 reserved for expansion]

27                   SUBCHAPTER D. FINANCIAL PROVISIONS

1       Sec. 470.151. ACCEPTANCE OF GIFTS OR GRANTS. (a) In  
2 addition to legislative appropriations, the council may accept  
3 gifts and grants from the federal government, state government, and  
4 private sources to carry out the purposes of this chapter.

5       (b) The use of a gift or grant is subject to the limitations  
6 contained in the gift or grant.

7       Sec. 470.152. ENERGY EFFICIENCY ACCOUNT. The energy  
8 efficiency account is a dedicated account in the general revenue  
9 fund. The account consists of:

10           (1) appropriations of money by the legislature to the  
11 council;

12           (2) gifts, grants, and other donations received for  
13 the account; and

14           (3) interest earned on the investment of money in the  
15 account.

16       [Sections 470.153-470.200 reserved for expansion]

17       SUBCHAPTER E. STATE ENERGY EFFICIENCY PLAN

18       Sec. 470.201. PROPOSED STATE ENERGY EFFICIENCY PLAN. (a)  
19 The director shall prepare a proposed state energy efficiency plan  
20 every six years and shall revise and update the plan biennially.

21       (b) The state energy efficiency plan must:

22           (1) propose strategies to correct deficiencies in  
23 energy efficiency programs and efforts throughout this state;

24           (2) propose strategies to utilize new technology to  
25 achieve greater energy efficiency throughout this state;

26           (3) propose strategies to involve institutions of  
27 higher education in energy efficiency, including through research

1 and development; and

2 (4) provide recommendations to the legislature and  
3 governor for implementation of the strategies proposed by the plan.

4 (c) The council shall establish guidelines for the  
5 development of the state energy efficiency plan and provide  
6 guidance to the director in developing the plan.

7 (d) The director shall consult with all appropriate energy  
8 efficiency-related state agencies before development of the state  
9 energy efficiency plan.

10 (e) The director shall submit the proposed plan to the  
11 council for approval by a majority vote.

12 Sec. 470.202. STATE ENERGY EFFICIENCY PROGRAMS, GOALS, AND  
13 RECOMMENDATIONS. (a) The council shall coordinate with state  
14 agencies, utility providers, energy efficiency service providers,  
15 and other organizations and persons to develop and administer  
16 energy efficiency programs.

17 (b) The council shall set statewide savings targets for  
18 electricity, natural gas, and electric consumption that results  
19 from the diversion, transportation, delivery, treatment, or  
20 purification of water, wastewater, and storm water to reduce peak  
21 demand and overall demand for the resources by at least 20 percent  
22 not later than 2020 compared to the peak demand and overall demand  
23 for the resources in 2011. The council biennially shall:

24 (1) assess the statewide progress toward achieving the  
25 goals; and

26 (2) update the goals based on the statewide  
27 assessment, potential for achieving the goals, and development of

1 new technology.

2 (c) The council shall evaluate, review, and make  
3 recommendations for improvements to energy efficiency programs and  
4 proposed energy efficiency programs in its annual and biennial  
5 reports.

6 (d) The council shall make recommendations for best  
7 practices for state agencies, utility providers, and energy  
8 efficiency service providers to coordinate, increase the  
9 comprehensiveness, and reduce costs in the delivery of energy  
10 efficiency products and services to customers.

11 (e) Each state agency shall consider the council's  
12 recommendations and submit to the council written comments on the  
13 feasibility of the recommendations not later than the 180th day  
14 after the date the agency receives the council's recommendations.

15 Sec. 470.203. COLLECTION AND SUBMISSION OF ENERGY  
16 INFORMATION. (a) The council shall:

17 (1) collect information regarding energy savings and  
18 demand reduction by reviewing energy efficiency programs in this  
19 state; and

20 (2) submit the information collected to:

21 (A) the Energy Systems Laboratory at the Texas  
22 Engineering Experiment Station of The Texas A&M University System;

23 (B) the State Energy Conservation Office; and

24 (C) the Electric Reliability Council of Texas.

25 (b) Each state agency, utility provider, and energy  
26 efficiency service provider shall submit information required  
27 under this chapter or council rule to the council in an electronic

1 format and within the time required by this chapter or council rule.

2 (c) The State Energy Conservation Office shall annually  
3 submit the following information to the Electric Reliability  
4 Council of Texas:

5 (1) the total energy savings and demand reduction  
6 determined by the office from all available sources for use in the  
7 reliability council's annual reports; and

8 (2) the total energy savings and demand reduction  
9 potential for use in the reliability council's long-term  
10 forecasting.

11 (d) The Texas Engineering Experiment Station of The Texas  
12 A&M University System shall submit information on pollution  
13 reduction, including reductions in nitrogen oxides, volatile  
14 organic compounds, and carbon dioxide, that results from energy  
15 efficiency programs to the Texas Commission on Environmental  
16 Quality and the United States Environmental Protection Agency for  
17 inclusion in the state's air quality plans.

18 Sec. 470.204. STANDARDIZED CONTRACTS, REPORTING METHODS,  
19 AND DISCLOSURE FORMS. (a) The council shall study and create:

20 (1) standardized energy contracts, including  
21 contracts that have as a contracting party:

22 (A) a state agency;

23 (B) a utility provider;

24 (C) an energy efficiency service provider; or

25 (D) a residential consumer;

26 (2) a standardized method of reporting information  
27 required under this chapter or council rule; and

1           (3) a standard disclosure form for energy service  
2 efficiency providers to provide to consumers to assist consumers in  
3 making informed decisions on energy efficiency investments or  
4 purchases.

5           (b) The disclosure form required under Subsection (a)(3)  
6 must include:

7           (1) information on the full scope of incentives,  
8 including all utility, municipal, county, state, and federal  
9 incentives, available to a consumer for energy efficiency measures  
10 the consumer considers;

11           (2) information on the incentives provided to an  
12 energy efficiency service provider to market an energy efficiency  
13 program offered to consumers by the provider;

14           (3) information on any other incentives available for  
15 related energy efficiency programs, products, or services; and

16           (4) the consumer's estimated energy savings and time  
17 required to achieve the savings.

18           (c) An energy efficiency service provider shall provide the  
19 standard disclosure form to each consumer considering making an  
20 energy efficiency investment or purchase from the provider.

21           Sec. 470.205. IMPLEMENTATION OF STATE ENERGY EFFICIENCY  
22 PLAN. The council shall promote the implementation of the state  
23 energy efficiency plan.

24           Sec. 470.206. DATA COLLECTION. The director, in accordance  
25 with rules adopted by the council, shall set standards and collect  
26 and distribute data necessary to support specific state energy  
27 efficiency plan goals.



Sec. 470.207. FAILURE TO SUBMIT DATA; CIVIL PENALTY. (a)

If the director does not receive necessary data from a utility provider or energy efficiency service provider required to report the data under this chapter or council rule, the council shall send to the person a notice requiring the person to submit the data not later than the 30th day after the date on which the person receives the notice.

(b) A person that does not submit the data during the 30-day period is subject to a civil penalty of not more than \$500 for each day the entity fails to submit the data following the 30-day period.

(c) The attorney general, on request of the director, shall bring an action in the name of the state to recover the civil penalty under this section. The attorney general is entitled to recover all reasonable costs of prosecuting the action, including reasonable attorney's fees, investigative costs, witness fees, deposition costs, and court costs.

Sec. 470.208. INTERNET WEBSITE. The council shall create and maintain a public Internet website. The website must meet the state's minimum standards for accessibility and include:

(1) each annual and biennial report produced by the council;

(2) a user-friendly page that allows a consumer to search by the consumer's address energy efficiency programs available in the consumer's service area;

(3) comprehensive information on energy efficiency that allows the website to serve as the state's main resource for all energy efficiency information; and

1           (4) a list of every energy efficiency program reviewed  
2 by the council organized by state agency, public utility, or energy  
3 efficiency service provider with appropriate links.

4           Sec. 470.209. ANNUAL REPORT. (a) The council annually  
5 shall prepare a report that includes:

6           (1) information about each energy efficiency program  
7 reviewed by the council;

8           (2) the goals of each energy efficiency program;

9           (3) the actual results, including the costs, benefits,  
10 and emissions reductions, associated with each energy efficiency  
11 program;

12           (4) the energy savings associated with each energy  
13 efficiency program;

14           (5) the job creation results of each energy efficiency  
15 program;

16           (6) an assessment of the potential for efficiency in  
17 electric, gas, and water use;

18           (7) recommendations for program changes to increase  
19 the efficiency of energy use in this state;

20           (8) recommendations for the standardization of data  
21 collection and reporting on the costs, benefits, and emissions  
22 reductions;

23           (9) the likely impact of energy efficiency programs on  
24 utility rates; and

25           (10) any other data the council by rule requires.

26           (b) The council shall:

27           (1) submit each annual report to:

1                   (A) each state agency with an energy efficiency  
2 program; and

3                   (B) the Electric Reliability Council of Texas;  
4 and

5                   (2) post the reports on its Internet website.

6                   (c) Each state agency, utility provider, energy efficiency  
7 service provider, or other person required to submit an annual  
8 report to the council under this chapter or council rule must submit  
9 the report not later than October 1 of each year.

10                  Sec. 470.210. BIENNIAL REPORT. (a) The council shall  
11 submit an electronic report to each member of the legislature not  
12 later than October 1 of each even-numbered year.

13                  (b) The biennial report must include:

14                   (1) an executive summary of the council's  
15 accomplishments and a link to the council's public website;

16                   (2) the information typically provided in an annual  
17 report;

18                   (3) updates to the state energy efficiency plan;

19                   (4) a comparison of the structure, goals, and results  
20 of energy efficiency programs in this state to the structure,  
21 goals, and results of energy efficiency programs of the five most  
22 populous states and of any other state the council considers  
23 appropriate; and

24                   (5) policy recommendations to the legislature that  
25 require statutory revisions.

26                  [Sections 470.211-470.250 reserved for expansion]

27                  SUBCHAPTER F. COST-EFFECTIVENESS STANDARDS FOR

ENERGY EFFICIENCY PROGRAMS

Sec. 470.251. SELECTION OF COST-EFFECTIVENESS STANDARDS.

(a) The council shall study various methods for evaluating, measuring, and verifying the cost-effectiveness of energy efficiency programs.

(b) On completion of the study, the council by rule may adopt cost-effectiveness standards. The council may:

(1) adopt one cost-effectiveness standard for all state energy efficiency programs; or

(2) authorize different cost-effectiveness standards for different energy efficiency programs if the council has a rational basis for the varying standards.

(c) The council shall review the study, as part of the state energy efficiency plan, and may adopt or amend rules on the best practices of cost-effectiveness standards.

(d) Until the council studies and adopts cost-effectiveness standards, the council shall evaluate the cost-effectiveness of energy efficiency programs in its annual reports using:

(1) the criteria listed in Section 470.252; and

(2) any other cost-effectiveness testing method used by a state agency in evaluating the agency's energy efficiency programs and shall include the agency's testing results in the annual report.

Sec. 470.252. COST-EFFECTIVENESS STANDARD. (a) The council shall evaluate whether a state agency's or utility provider's energy efficiency program is cost-effective by determining whether the program benefits exceed the program costs.

1        (b) Costs and benefits shall be considered regardless of  
2 whether the costs are paid for or benefits experienced by the  
3 participant, the business, the government agency, or any other  
4 individual.

5        (c) Program costs include:

6            (1) direct program costs, including program design,  
7 administration, incentives, implementation, marketing,  
8 measurement, and evaluation;

9            (2) incremental costs of an energy efficiency measure,  
10 including installation, over an equivalent baseline measure for new  
11 construction; and

12           (3) ongoing customer costs, including increased  
13 operation and maintenance costs, reduced productivity, and lost  
14 economic development opportunities, to the extent the costs can be  
15 reasonably quantified and valued.

16        (d) Program benefits include:

17           (1) avoided electric generation costs, including  
18 energy and capacity costs, using estimates of market prices and  
19 adjusting for line losses differentiated by time periods that  
20 influence market prices and market price reductions caused by the  
21 reduced energy demand, including peak and off-peak periods and  
22 summer and winter periods;

23           (2) avoided transmission and distribution costs,  
24 using estimates of transmission and distribution utility marginal  
25 transmission and distribution costs, differentiated by time  
26 periods that influence costs;

27           (3) avoided fossil fuel costs, using estimated savings

1 in oil, gas, coal, or other fossil fuel use, at estimated fossil  
2 fuel prices;

3 (4) other resource benefits, such as reduced water and  
4 sewer costs; and

5 (5) non-resource benefits, including customer  
6 benefits such as reduced operation and maintenance costs, deferred  
7 replacement costs, productivity improvements, economic development  
8 benefits, reduced health care and pollution costs, and any other  
9 environmental benefits.

10 (e) The present value of the energy efficiency program  
11 benefits shall be calculated over the projected life of the  
12 measures installed under the energy efficiency program.

13 SECTION 2. (a) In appointing the initial appointed members  
14 of the Energy Efficiency Coordination Council created under Chapter  
15 470, Government Code, as added by this Act, the governor shall  
16 appoint one member to a term expiring February 1, 2013, one member  
17 to a term expiring February 1, 2015, and two members to terms  
18 expiring February 1, 2017.

19 (b) The Energy Efficiency Coordination Council shall adopt  
20 rules, procedures, and forms necessary to implement Chapter 470,  
21 Government Code, as added by this Act, not later than May 1, 2012.

22 SECTION 3. This Act takes effect immediately if it receives  
23 a vote of two-thirds of all the members elected to each house, as  
24 provided by Section 39, Article III, Texas Constitution. If this  
25 Act does not receive the vote necessary for immediate effect, this  
26 Act takes effect September 1, 2011.