

1-1 By: Carona S.B. No. 1125
1-2 (In the Senate - Filed March 3, 2011; March 16, 2011, read
1-3 first time and referred to Committee on Business and Commerce;
1-4 April 11, 2011, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; April 11, 2011,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1125 By: Carona

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

1-10 relating to energy efficiency goals and programs and the
1-11 participation of loads in certain energy markets.

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

1-13 SECTION 1. Section 39.905, Utilities Code, is amended by
1-14 amending Subsections (a) and (b) and adding Subsections (h) through
1-15 (l) to read as follows:

1-16 (a) It is the goal of the legislature that:

1-17 (1) electric utilities will administer energy
1-18 efficiency incentive programs in a market-neutral,
1-19 nondiscriminatory manner but will not offer underlying competitive
1-20 services;

1-21 (2) all customers, in all customer classes, will have
1-22 a choice of and access to energy efficiency alternatives and other
1-23 choices from the market that allow each customer to reduce energy
1-24 consumption, summer and winter peak demand, or energy costs;

1-25 (3) each electric utility annually will provide,
1-26 through market-based standard offer programs or through [limited,
1-27 targeted[, market-transformation programs, incentives sufficient
1-28 for retail electric providers and competitive energy service
1-29 providers to acquire additional cost-effective energy efficiency,
1-30 subject to cost ceilings established by the commission, for the
1-31 utility's residential and commercial customers equivalent to [at
1-32 least]:

1-33 (A) not less than:

1-34 (i) 30 [10] percent of the electric
1-35 utility's annual growth in demand of residential and commercial
1-36 customers by December 31 of each year, beginning with the 2013
1-37 calendar year; and

1-38 (ii) the amount of energy efficiency to be
1-39 acquired for the utility's residential and commercial customers for
1-40 the most recent preceding year [2007]; and

1-41 (B) for an electric utility whose amount of
1-42 energy efficiency to be acquired under this subsection is
1-43 equivalent to at least four-tenths of one percent of the electric
1-44 utility's summer weather-adjusted peak demand for residential and
1-45 commercial customers in the previous calendar year, not less than:

1-46 (i) four-tenths of one percent of the
1-47 utility's summer weather-adjusted peak demand for residential and
1-48 commercial customers by December 31 of each subsequent year; and

1-49 (ii) the amount of energy efficiency to be
1-50 acquired for the utility's residential and commercial customers for
1-51 the most recent preceding year [15 percent of the electric
1-52 utility's annual growth in demand of residential and commercial
1-53 customers by December 31, 2008, provided that the electric
1-54 utility's program expenditures for 2008 funding may not be greater
1-55 than 75 percent above the utility's program budget for 2007 for
1-56 residential and commercial customers, as included in the April 1,
1-57 2006, filing; and

1-58 [(C) 20 percent of the electric utility's annual
1-59 growth in demand of residential and commercial customers by
1-60 December 31, 2009, provided that the electric utility's program
1-61 expenditures for 2009 funding may not be greater than 150 percent
1-62 above the utility's program budget for 2007 for residential and
1-63 commercial customers, as included in the April 1, 2006, filing];

2-1 (4) each electric utility in the ERCOT region shall
2-2 use its best efforts to encourage and facilitate the involvement of
2-3 the region's retail electric providers in the delivery of
2-4 efficiency programs and demand response programs under this
2-5 section;

2-6 (5) retail electric providers in the ERCOT region, and
2-7 electric utilities outside of the ERCOT region, shall provide
2-8 customers with energy efficiency educational materials; and

2-9 (6) notwithstanding Subsection (a)(3), electric
2-10 utilities shall continue to make available, at 2007 funding and
2-11 participation levels, any load management standard offer programs
2-12 developed for industrial customers and implemented prior to May 1,
2-13 2007.

2-14 (b) The commission shall provide oversight and adopt rules
2-15 and procedures to ensure that the utilities can achieve the goal of
2-16 this section, including:

2-17 (1) establishing an energy efficiency cost recovery
2-18 factor for ensuring timely and reasonable cost recovery for utility
2-19 expenditures made to satisfy the goal of this section;

2-20 (2) establishing an incentive under Section 36.204 to
2-21 reward utilities administering programs under this section that
2-22 exceed the minimum goals established by this section;

2-23 (3) providing a utility that is unable to establish an
2-24 energy efficiency cost recovery factor in a timely manner due to a
2-25 rate freeze with a mechanism to enable the utility to:

2-26 (A) defer the costs of complying with this
2-27 section; and

2-28 (B) recover the deferred costs through an energy
2-29 efficiency cost recovery factor on the expiration of the rate
2-30 freeze period;

2-31 (4) ensuring that the costs associated with programs
2-32 provided under this section and any shareholder bonus awarded are
2-33 borne by the customer classes that receive the services under the
2-34 programs; ~~and~~

2-35 (5) ensuring the program rules encourage the value of
2-36 the incentives to be passed on to the end-use customer;

2-37 (6) ensuring that programs are evaluated, measured,
2-38 and verified using a framework established by the commission that
2-39 promotes effective program design and consistent and streamlined
2-40 reporting; and

2-41 (7) ensuring that an independent organization
2-42 certified under Section 39.151 allows load participation in all
2-43 energy markets for residential, commercial, and industrial
2-44 customer classes, either directly or through aggregators of retail
2-45 customers, to the extent that load participation by each of those
2-46 customer classes complies with reasonable requirements adopted by
2-47 the organization relating to the reliability and adequacy of the
2-48 regional electric network in a manner that will increase market
2-49 efficiency, competition, and customer benefits.

2-50 (h) For an electric utility operating in an area not open to
2-51 competition, the utility may achieve the goal of this section by:

2-52 (1) providing rebate or incentive funds directly to
2-53 customers to promote or facilitate the success of programs
2-54 implemented under this section; or

2-55 (2) developing, subject to commission approval, new
2-56 programs other than standard offer programs and market
2-57 transformation programs, to the extent that the new programs
2-58 satisfy the same cost-effectiveness requirements as standard offer
2-59 programs and market transformation programs.

2-60 (i) Energy efficiency measure recommendations provided
2-61 directly to residential, commercial, and nonprofit,
2-62 nongovernmental consumers by energy service providers must include
2-63 a written disclosure regarding whether the energy service provider
2-64 receives any financial benefit from recommending particular energy
2-65 efficiency measures, specifying the energy efficiency measures
2-66 from which it receives a financial benefit.

2-67 (j) For an electric utility operating in an area open to
2-68 competition, on demonstration to the commission, after a contested
2-69 case hearing, that the requirements under Subsection (a) cannot be

3-1 met in a rural area through retail electric providers or
3-2 competitive energy service providers, the utility may achieve the
3-3 goal of this section by providing rebate or incentive funds
3-4 directly to customers in the rural area to promote or facilitate the
3-5 success of programs implemented under this section.

3-6 (k) An electric utility may use energy audit programs to
3-7 achieve the goal of this section if:

3-8 (1) the programs do not constitute more than three
3-9 percent of total program costs under this section; and

3-10 (2) the addition of the programs does not cause a
3-11 utility's portfolio of programs to no longer be cost-effective.

3-12 (l) To help a residential or nongovernmental nonprofit
3-13 customer make informed decisions regarding energy efficiency, the
3-14 commission may consider program designs that ensure, to the extent
3-15 practicable, that the customer is provided with information using
3-16 standardized forms and terms that allow the customer to compare
3-17 offers for varying degrees of energy efficiency attainable using a
3-18 measure the customer is considering by cost, estimated energy
3-19 savings, and payback periods.

3-20 SECTION 2. Subsection (b-2), Section 39.905, Utilities
3-21 Code, is repealed.

3-22 SECTION 3. This Act takes effect September 1, 2011.

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