

By: Carona

S.B. No. 1340

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Energy Efficiency Council and to statewide energy efficiency; providing penalties.

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

SECTION 1. Subchapter B, Chapter 55, Education Code, is amended by adding Section 55.115 to read as follows:

Sec. 55.115. HIGH-PERFORMANCE, SUSTAINABLE DESIGN, CONSTRUCTION, AND RENOVATION STANDARDS FOR CERTAIN FACILITIES. (a) This section applies to the construction of an institution of higher education building, structure, or other facility, or the renovation of a building, structure, or other facility the cost of which is more than 50 percent of the value of the building, structure, or other facility, any part of the construction or renovation of which is financed by revenue bonds issued under this subchapter.

(b) A building, structure, or other facility to which this section applies must be designed and constructed or renovated so that the building, structure, or other facility complies with high-performance building standards, approved by the board of regents of the institution, that provide minimum requirements for energy use, natural resources use, and indoor air quality. In approving high-performance building standards, a board of regents shall consider the standards approved by the Texas Facilities Commission under Section 2166.409, Government Code, and may solicit

1 and consider recommendations from the advisory committee appointed  
2 under that section.

3 (c) In addition to meeting the requirements of Subsection  
4 (b), a building, structure, or other facility to which this section  
5 applies must be designed and constructed or renovated to comply  
6 with the applicable energy and water conservation design standards  
7 established by the State Energy Conservation Office under Section  
8 447.004, Government Code.

9 SECTION 2. Subtitle E, Title 4, Government Code, is amended  
10 by adding Chapter 470 to read as follows:

11 CHAPTER 470. ENERGY EFFICIENCY COUNCIL

12 SUBCHAPTER A. GENERAL PROVISIONS

13 Sec. 470.001. DEFINITIONS. In this chapter:

14 (1) "Council" means the Energy Efficiency Council.

15 (2) "Energy efficiency program" means a program  
16 designed to:

17 (A) reduce inefficient energy use;

18 (B) reduce peak energy demand;

19 (C) reduce energy consumption;

20 (D) promote compliance with energy efficient  
21 building design standards; or

22 (E) pay for the implementation of energy cost  
23 reduction measures.

24 (3) "Program administrator" includes any of the  
25 following entities that administer an energy efficiency program:

26 (A) a state agency, including the Public Utility  
27 Commission of Texas, the Railroad Commission of Texas, the State

1 Energy Conservation Office, and the Texas Department of Housing and  
2 Community Affairs;

3 (B) a political subdivision of this state;

4 (C) a private or public utility service provider,  
5 including an electric cooperative or municipally owned utility;

6 (D) a school district; or

7 (E) an institution of higher education.

8 Sec. 470.002. PURPOSE. The Energy Efficiency Council is a  
9 council established in the comptroller's office to:

10 (1) monitor energy efficiency programs in this state;

11 (2) make recommendations for improving energy  
12 efficiency programs in this state; and

13 (3) provide a central repository for information on  
14 energy efficiency programs in this state.

15 Sec. 470.003. ENERGY EFFICIENCY PROGRAM POLICIES. A  
16 program administrator shall consider any applicable  
17 recommendations of the council when creating or implementing the  
18 energy efficiency program.

19 [Sections 470.004-470.050 reserved for expansion]

20 SUBCHAPTER B. COUNCIL

21 Sec. 470.051. COUNCIL MEMBERSHIP. (a) The council is  
22 composed of the following 15 members:

23 (1) 12 ex officio members as follows:

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

26 (B) the chief executive officer of the Electric  
27 Reliability Council of Texas;

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

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

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

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

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

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

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

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

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

20                   (L) the public counsel of the Office of Public  
21 Utility Counsel to represent residential ratepayers; and

22                   (2) three public members as follows:

23                   (A) one member to represent low-income  
24 ratepayers;

25                   (B) one member to represent either commercial or  
26 industrial ratepayers; and

27                   (C) one member to represent an environmental

1 organization.

2 (b) The three public members are appointed by the governor  
3 with the advice and consent of the senate.

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

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

9 Sec. 470.052. TERMS; VACANCY. (a) Appointed members of the  
10 council serve staggered six-year terms, with the terms of one or two  
11 members, as applicable, expiring on February 1 of each odd-numbered  
12 year.

13 (b) A vacancy in the office of an appointed member of the  
14 council shall be filled for the unexpired term.

15 Sec. 470.053. ELIGIBILITY OF PUBLIC MEMBERS. A person may  
16 not be a public member of the council if the person or the person's  
17 spouse:

18 (1) is registered, certified, or licensed by a  
19 regulatory agency as a utility provider or energy efficiency  
20 service provider;

21 (2) is employed by or participates in the management  
22 of a business entity or other organization regulated by or  
23 receiving money from the council;

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

27 (4) uses or receives a substantial amount of tangible

1 goods, services, or money from the council other than compensation  
2 or reimbursement authorized by law for council membership,  
3 attendance, or expenses.

4 Sec. 470.054. CONFLICT OF INTEREST. (a) In this section,  
5 "Texas trade association" means a cooperative and voluntarily  
6 joined statewide association of business or professional  
7 competitors in this state designed to assist its members and its  
8 industry or profession in dealing with mutual business or  
9 professional problems and in promoting their common interest.

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

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

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

22 (c) A person may not be a member of the council or act as the  
23 general counsel to the council if the person is required to register  
24 as a lobbyist under Chapter 305 because of the person's activities  
25 for compensation on behalf of a profession related to the operation  
26 of the council.

27 Sec. 470.055. GROUNDS FOR REMOVAL. (a) It is a ground for

1 removal from the council that an appointed member:

2 (1) is ineligible for membership under Section 470.053  
3 or 470.054;

4 (2) cannot, because of illness or disability,  
5 discharge the member's duties for a substantial part of the member's  
6 term; or

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

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

14 (c) If the director has knowledge that a potential ground  
15 for removal exists, the director shall notify the presiding officer  
16 of the council of the potential ground. The presiding officer shall  
17 then notify the governor and the attorney general that a potential  
18 ground for removal exists. If the potential ground for removal  
19 involves the presiding officer, the director shall notify the next  
20 highest ranking officer of the council, who shall then notify the  
21 governor and the attorney general that a potential ground for  
22 removal exists.

23 Sec. 470.056. APPOINTED MEMBER TRAINING PROGRAM. (a) A  
24 person who is appointed to and qualifies for office as a member of  
25 the council may not vote, deliberate, or be counted as a member in  
26 attendance at a meeting of the council until the person completes a  
27 training program that complies with this section.

1       (b) The training program must provide the person with  
2 information regarding:

3           (1) this chapter;

4           (2) the programs, functions, rules, and budget of the  
5 council;

6           (3) the results of the most recent formal audit of the  
7 council;

8           (4) the requirements of laws relating to open  
9 meetings, public information, administrative procedure, and  
10 conflicts of interest; and

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

13       (c) A person appointed to the council is entitled to  
14 reimbursement, as provided by the General Appropriations Act, for  
15 the travel expenses incurred in attending the training program  
16 regardless of whether the attendance at the program occurs before  
17 or after the person qualifies for office.

18       Sec. 470.057. PRESIDING OFFICER. The director of the State  
19 Energy Conservation Office serves as presiding officer of the  
20 council.

21       Sec. 470.058. MEETINGS. The council shall meet at least two  
22 times a year and at other times at the call of the presiding  
23 officer.

24       [Sections 470.059-470.100 reserved for expansion]

25           SUBCHAPTER C. GENERAL DUTIES OF COUNCIL

26       Sec. 470.101. COLLECTION AND SUBMISSION OF ENERGY  
27 INFORMATION. (a) The council shall:



1           (1) collect information regarding energy savings and  
2 demand reduction by reviewing energy efficiency programs in this  
3 state; and

4           (2) submit the information collected to:

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

7                   (B) the State Energy Conservation Office; and

8                   (C) the Electric Reliability Council of Texas.

9           (b) Each state agency, utility provider, and energy  
10 efficiency service provider shall submit information required  
11 under this chapter or council rule to the council in an electronic  
12 format and within the time required by this chapter or council rule.

13           (c) The State Energy Conservation Office shall annually  
14 submit the following information to the Electric Reliability  
15 Council of Texas:

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

19                   (2) the total energy savings and demand reduction  
20 potential for use in the reliability council's long-term  
21 forecasting.

22           (d) The Texas Engineering Experiment Station of The Texas  
23 A&M University System shall submit information on pollution  
24 reduction, including reductions in nitrogen oxides, volatile  
25 organic compounds, and carbon dioxide, that results from energy  
26 efficiency programs to the Texas Commission on Environmental  
27 Quality and the United States Environmental Protection Agency for

1 inclusion in the state's air quality plans.

2 Sec. 470.102. INTERNET WEBSITE. The council shall create  
3 and maintain a public Internet website. The website must meet the  
4 state's minimum standards for accessibility and include:

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

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

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

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

16 Sec. 470.103. ADMINISTRATIVE SUPPORT. To the extent  
17 resources are available, the State Energy Conservation Office shall  
18 provide the council with administrative support, including meeting  
19 space and staff necessary to assist the council in carrying out the  
20 council's duties under this chapter.

21 Sec. 470.104. ACCEPTANCE OF GIFTS, GRANTS, OR DONATIONS.  
22 The council may solicit and the comptroller may accept for the  
23 council gifts, grants, and donations from any public or private  
24 source for the purposes of this chapter.

25 Sec. 470.105. ENERGY EFFICIENCY PROGRAM MONITORING AND  
26 RECOMMENDATIONS. (a) The council shall monitor energy efficiency  
27 programs in this state.

1       (b) The council may submit to a program administrator  
2 recommendations on means to encourage greater energy efficiency on  
3 a regular basis.

4       Sec. 470.106. LIST OF ENERGY EFFICIENCY PROGRAMS. The  
5 council shall develop and periodically update a list of currently  
6 operating energy efficiency programs in this state. The council  
7 shall publish the list on its Internet website.

8       Sec. 470.107. BIENNIAL PROGRAMS REPORT. (a) The council  
9 biennially shall prepare a report on energy efficiency programs in  
10 this state. The council shall submit the report to the legislature  
11 not later than October 1 of each even-numbered year.

12       (b) The report must include:

13               (1) a comprehensive review of the energy efficiency  
14 programs on the list required by Section 470.106, including  
15 information on the costs and benefits of the programs;

16               (2) a study comparing energy efficiency programs in  
17 this state to similar programs in:

18                       (A) California;

19                       (B) Florida;

20                       (C) New York; and

21                       (D) each other state the council determines to  
22 have programs appropriate for the comparisons; and

23               (3) recommendations for improving energy efficiency  
24 programs in this state.

25       (c) The report may include recommendations for creating new  
26 energy efficiency programs in this state.

27       SECTION 3. Subchapter I, Chapter 2166, Government Code, is

1 amended by adding Section 2166.409 to read as follows:

2 Sec. 2166.409. HIGH-PERFORMANCE, SUSTAINABLE DESIGN,  
3 CONSTRUCTION, AND RENOVATION STANDARDS FOR STATE BUILDINGS. (a)  
4 This section applies to the construction of a state building, or the  
5 renovation of a state building the cost of which is more than 50  
6 percent of the value of the building, including a building for  
7 education, assembly, or office occupancy under the charge and  
8 control of the Texas Department of Transportation, the Parks and  
9 Wildlife Department, the Texas Department of Housing and Community  
10 Affairs, the Texas State Affordable Housing Corporation, or the  
11 Veterans' Land Board that is otherwise exempt from this chapter  
12 under Section 2166.003. This section does not apply to a facility  
13 under the charge and control of the Texas Department of Criminal  
14 Justice or the Texas Youth Commission.

15 (b) A building to which this section applies must be  
16 designed and constructed or renovated so that the building achieves  
17 certification under a high-performance building standard approved  
18 by the commission that:

19 (1) is developed and revised through a nationally  
20 recognized consensus-based process or by a municipally owned  
21 utility in this state;

22 (2) provides minimum requirements for energy use,  
23 natural resources use, and indoor air quality;

24 (3) requires substantiating documentation for  
25 certification;

26 (4) requires on-site, third-party, post-construction  
27 review and verification for certification, or a third-party,

1 post-construction, rigorous review of documentation and  
2 verification for certification; and

3 (5) encourages the use of materials or products  
4 manufactured or produced in this state.

5 (c) The commission shall appoint an advisory committee to  
6 advise the commission in determining which high-performance  
7 building standards to approve for use under Subsection (b). At  
8 least once each year, the advisory committee shall review available  
9 high-performance building standards and make recommendations to  
10 the commission. The advisory committee consists of:

11 (1) the director of facilities construction and space  
12 management appointed under Section 2152.104, who serves as the  
13 presiding officer of the committee;

14 (2) six individuals with experience and expertise in  
15 high-performance buildings or related products, including  
16 experience and expertise in energy efficiency, water efficiency, or  
17 low-impact site development, with one individual selected from each  
18 of the following lists of nominees:

19 (A) a list submitted by the president of the  
20 Texas Society of Architects;

21 (B) a list submitted by the presidents of the  
22 Texas Council of Engineering Companies and Texas Society of  
23 Professional Engineers;

24 (C) a list submitted by the president of the  
25 Associated Builders and Contractors of Texas and the presiding  
26 officer of the executive committee of the Associated General  
27 Contractors, Texas Building Branch;

1           (D) a list submitted by the president of the  
2 Texas chapter of the American Society of Landscape Architects;

3           (E) a list submitted by the president of the  
4 Texas Chemical Council; and

5           (F) a list submitted by the president of the  
6 Texas chapter of the Urban Land Institute;

7           (3) one individual appointed by the comptroller who  
8 represents the State Energy Conservation Office;

9           (4) one individual representing a state agency that  
10 has a substantial ongoing construction program; and

11           (5) one individual representing the interests of  
12 historically underutilized businesses.

13           (d) In addition to meeting the requirements of Subsection  
14 (b), a building to which this section applies must be designed and  
15 constructed or renovated so that the building:

16           (1) meets the American Society of Heating,  
17 Refrigerating and Air-Conditioning Engineers energy standards in  
18 effect on September 1, 2011, or the International Energy  
19 Conservation Code in effect on September 1, 2011, or an updated  
20 version of those standards or that code adopted by the State Energy  
21 Conservation Office under Subsection (e), if applicable; and

22           (2) achieves a 15 percent reduction in water use when  
23 compared to water use based on plumbing fixtures selected in  
24 accordance with the Energy Policy Act of 1992 (Pub. L. No. 102-486).

25           (e) If the State Energy Conservation Office determines,  
26 based on written recommendations from the Energy Systems Laboratory  
27 at the Texas Engineering Experiment Station of The Texas A&M

1 University System, that the latest published edition of the  
2 American Society of Heating, Refrigerating and Air-Conditioning  
3 Engineers energy standards or the International Energy  
4 Conservation Code will result in energy efficiency and air quality  
5 that is equivalent to or better than the energy efficiency and air  
6 quality achievable under the editions described by Subsection  
7 (d)(1), the office by rule shall adopt the equivalent or more  
8 stringent editions and substitute them for the standards or code  
9 described by Subsection (d)(1). The rule, if adopted, must  
10 establish an effective date for the new standards or code but not  
11 earlier than nine months after the date of adoption. The laboratory  
12 shall make its recommendations not later than six months after the  
13 date of publication of the new editions.

14 (f) A contract between the commission and a private design  
15 professional relating to services in connection with the  
16 construction or renovation of a building to which this section  
17 applies must provide that, for billing purposes, any service  
18 provided by the private design professional that is necessary to  
19 satisfy the requirements of Subsection (b) or (d) is considered an  
20 additional service rather than a basic service.

21 SECTION 4. Section 384.001, Health and Safety Code, is  
22 amended by adding Subdivision (2-a) to read as follows:

23 (2-a) "Laboratory" means the Energy Systems Laboratory  
24 at the Texas Engineering Experiment Station of The Texas A&M  
25 University System.

26 SECTION 5. Section 384.002, Health and Safety Code, is  
27 amended to read as follows:

1           Sec. 384.002. PURPOSE. (a) The purpose of an area emission  
2 reduction credit organization shall be to promote the coexistence  
3 of the improvement of air quality and economic development within  
4 the region through the acquisition and distribution of emission  
5 reduction credits. Its activities may include the use of emission  
6 reduction credits to help meet federal reasonable further progress  
7 requirements as well as using emission reduction credits to  
8 facilitate the issuance of permits.

9           (b) An organization may establish an energy efficiency  
10 market emission reduction credit program through which a utility,  
11 municipal utility, electric cooperative, state or local  
12 government, or energy service company that has a program of energy  
13 efficiency measures established in a nonattainment or near  
14 nonattainment area may register savings from that entity's energy  
15 efficiency measures as emission reduction credits and sell or trade  
16 the credits in an effort to reduce emissions of air pollutants in  
17 urban areas of this state. Emission reduction credits gained  
18 through energy efficiency measures must be certified by the  
19 laboratory as having achieved the actual emission reduction.

20           SECTION 6. Section 384.014, Health and Safety Code, is  
21 amended to read as follows:

22           Sec. 384.014. ANNUAL REPORT. By March 1 of each year each  
23 area organization shall file with the commission, the laboratory,  
24 and the regional council of governments an annual report for the  
25 preceding calendar year. The annual report shall contain:

- 26           (1) a financial accounting;
- 27           (2)~~]~~ an accounting of emission reduction credits;~~]~~



1 and

2 (3) a listing of all emission reduction credit  
3 transactions entered into by the organization, including any  
4 transactions related to the creation of an energy efficiency market  
5 emission reduction credit program.

6 SECTION 7. Section 388.002(4), Health and Safety Code, is  
7 amended to read as follows:

8 (4) "Code-certified inspector" means an inspector who  
9 is certified by the International Code Council, the Building  
10 Officials and Code Administrators International, Inc., the  
11 International Conference of Building Officials, or the Southern  
12 Building Code Congress International to have met minimum standards  
13 for interpretation and enforcement of requirements of the  
14 International Energy Conservation Code [~~and the energy efficiency~~  
15 ~~chapter of the International Residential Code~~].

16 SECTION 8. Section 388.003, Health and Safety Code, is  
17 amended by amending Subsections (a), (b-2), (c), (d), (e), and (f)  
18 and adding Subsections (a-1) and (c-1) to read as follows:

19 (a) To achieve energy conservation in the construction of,  
20 renovations to, and additions to all [single-family] residential,  
21 commercial, and industrial buildings in this state, the State  
22 Energy Conservation Office, in consultation with the laboratory,  
23 shall adopt the International Energy Conservation Code, as  
24 published at the end of each three-year code development cycle, as  
25 the minimum requirements for those buildings [construction, the  
26 ~~energy efficiency chapter of the International Residential Code, as~~  
27 ~~it existed on May 1, 2001, is adopted as the energy code in this~~

1 ~~state for single-family residential construction]~~.

2 (a-1) The State Energy Conservation Office shall set an  
3 effective date for an energy code adopted under Subsection (a) that  
4 is not later than nine months after publication of a new edition of  
5 the code at the end of each three-year code development cycle of the  
6 International Energy Conservation Code.

7 (b-2) The State Energy Conservation Office by rule shall  
8 establish a procedure for persons who have an interest in the  
9 adoption of energy codes [~~under Subsection (b-1)~~] to have an  
10 opportunity to comment on the codes under consideration. The  
11 office shall consider persons who have an interest in adoption of  
12 energy [~~these~~] codes to include:

13 (1) commercial and residential builders, architects,  
14 and engineers;

15 (2) municipal, county, and other local government  
16 authorities; [~~and~~]

17 (3) environmental groups; and

18 (4) the laboratory.

19 (c) A municipality shall establish procedures:

20 (1) for the administration and enforcement of the code  
21 [~~codes~~]; [~~and~~]

22 (2) to ensure that code-certified inspectors shall  
23 perform inspections and enforce the code in the inspectors'  
24 jurisdictions; and

25 (3) to track and report to the State Energy  
26 Conservation Office on implementation of the code.

27 (c-1) A report under Subsection (c)(3) must include a

1 description of the measures taken to enforce the most recently  
2 adopted version of the International Energy Conservation Code and  
3 an assessment of the rate of compliance.

4 (d) A municipality or county may establish procedures to  
5 adopt local amendments to the International Energy Conservation  
6 Code [~~and the energy efficiency chapter of the International~~  
7 ~~Residential Code~~].

8 (e) Local amendments may not result in less stringent energy  
9 efficiency requirements in nonattainment areas and in affected  
10 counties than the requirements of the [~~energy efficiency chapter of~~  
11 ~~the International Residential Code or~~] International Energy  
12 Conservation Code. Local amendments must comply with the National  
13 Appliance Energy Conservation Act of 1987 (42 U.S.C. Sections  
14 6291-6309), as amended. The laboratory, at the request of a  
15 municipality or county, shall determine the relative impact of  
16 proposed local amendments to an energy code, including whether  
17 proposed amendments are substantially equal to or less stringent  
18 than the unamended code. For the purpose of establishing uniform  
19 requirements throughout a region, and on request of a council of  
20 governments, a county, or a municipality, the laboratory may  
21 recommend a climatically appropriate modification or a climate zone  
22 designation for a county or group of counties that is different from  
23 the climate zone designation in the unamended code. The laboratory  
24 shall:

25 (1) provide to counties and municipalities  
26 suggestions for modifications to the code to increase the county's  
27 or municipality's energy efficiency by 15 percent above the

1 efficiency achieved under the unamended code;

2 (2) provide technical assistance to a local government  
3 considering whether to adopt the suggested modifications described  
4 by Subdivision (1);

5 (3) report its findings to the council, county, or  
6 municipality, including an estimate based on suggested local  
7 amendments of:

8 (A) any energy savings potential above the  
9 unamended [base] code; and

10 (B) any resulting reduction in the emission of  
11 air pollutants [from local amendments]; [and]

12 (4) [~~2~~] annually submit a report to the commission:

13 (A) identifying the municipalities and counties  
14 whose codes are more stringent than the unamended code, and whose  
15 codes are equally stringent or less stringent than the unamended  
16 code; and

17 (B) quantifying energy savings and emissions  
18 reductions from this program; and

19 (5) report the results under Subdivision (4)(B) to the  
20 commission and the Electric Reliability Council of Texas, and to  
21 the United States Environmental Protection Agency for inclusion in  
22 the state implementation plan for pollution reduction.

23 (f) Each municipality, and each county that has established  
24 procedures under Subsection (d), shall periodically review and  
25 consider revisions made by the International Code Council to the  
26 International Energy Conservation Code [~~and the energy efficiency~~  
27 ~~chapter of the International Residential Code adopted after May 1,~~

1 2001].

2 SECTION 9. Section 388.004(a), Health and Safety Code, is  
3 amended to read as follows:

4 (a) For construction outside of the local jurisdiction of a  
5 municipality:

6 (1) a building certified by a national, state, or  
7 local accredited energy efficiency program shall be considered in  
8 compliance;

9 (2) a building with inspections from private  
10 code-certified inspectors using the [~~energy efficiency chapter of~~  
11 ~~the International Residential Code or~~] International Energy  
12 Conservation Code shall be considered in compliance; and

13 (3) a builder who does not have access to either of the  
14 above methods for a building shall certify compliance using a form  
15 provided by the laboratory, enumerating the code-compliance  
16 features of the building.

17 SECTION 10. Sections 388.005(c), (d), and (e), Health and  
18 Safety Code, are amended to read as follows:

19 (c) Each political subdivision, institution of higher  
20 education, or state agency shall establish a goal to reduce the  
21 electric consumption by the entity by at least five percent each  
22 state fiscal year for 10 [~~six~~] years, beginning September 1, 2011  
23 [~~2007~~].

24 (d) A political subdivision, institution of higher  
25 education, or state agency that does not attain the goals  
26 established under Subsection (c) must include in the report  
27 required by Subsection (e) justification that the entity has

1 already implemented all available measures. [~~An entity that~~  
2 ~~submits a report under this subsection indicating it has already~~  
3 ~~implemented all available measures is exempt from the annual~~  
4 ~~reporting requirement of Subsection (e) if a subsequent report~~  
5 ~~would indicate no change in status. An entity may be required to~~  
6 ~~provide notice that it is exempt to the State Energy Conservation~~  
7 ~~Office.~~]

8 (e) A political subdivision, institution of higher  
9 education, or state agency annually shall report to the State  
10 Energy Conservation Office, on forms provided by that office,  
11 regarding the entity's goal, the entity's efforts to meet the goal,  
12 and progress the entity has made under this section. The State  
13 Energy Conservation Office shall provide assistance and  
14 information to the entity to help the entity meet [~~the~~] goals  
15 established [~~set~~] under this section. The office must develop and  
16 make available a standardized form for reporting purposes.

17 SECTION 11. Section 388.006, Health and Safety Code, is  
18 amended to read as follows:

19 Sec. 388.006. STATE ENERGY CONSERVATION OFFICE EVALUATION.  
20 The State Energy Conservation Office annually shall provide the  
21 commission and the laboratory with an evaluation of the  
22 effectiveness of state and political subdivision energy efficiency  
23 programs, including programs under this chapter. The laboratory  
24 shall calculate, based on the evaluation and the forms submitted to  
25 the office, the amount of energy savings and estimated reduction in  
26 pollution achieved as a result of the implementation of programs.  
27 The laboratory shall share the information with the commission, the

1 United States Environmental Protection Agency, and the Electric  
2 Reliability Council of Texas to help with long-term forecasting and  
3 in estimating pollution reduction.

4 SECTION 12. Sections 388.007(a) and (c), Health and Safety  
5 Code, are amended to read as follows:

6 (a) The laboratory shall make available to builders,  
7 designers, engineers, and architects code implementation materials  
8 that explain the requirements of the International Energy  
9 Conservation Code [~~and the energy efficiency chapter of the~~  
10 ~~International Residential Code~~] and that describe methods of  
11 compliance acceptable to code officials.

12 (c) The laboratory may provide local jurisdictions with  
13 technical assistance concerning implementation and enforcement of  
14 the International Energy Conservation Code [~~and the energy~~  
15 ~~efficiency chapter of the International Residential Code~~].

16 SECTION 13. Section 388.008(a), Health and Safety Code, is  
17 amended to read as follows:

18 (a) The laboratory shall develop a standardized report  
19 format to be used by providers of home energy ratings. The  
20 laboratory may develop different report formats for rating newly  
21 constructed residences from those for existing residences. The  
22 form must be designed to give potential buyers information on a  
23 structure's energy performance, including:

- 24 (1) insulation;
- 25 (2) types of windows;
- 26 (3) heating and cooling equipment;
- 27 (4) water heating equipment;

- 1           (5) additional energy conserving features, if any;
- 2           (6) results of performance measurements of building
- 3 tightness and forced air distribution; and
- 4           (7) an overall rating of probable energy efficiency
- 5 relative to the minimum requirements of the International Energy
- 6 Conservation Code [~~or the energy efficiency chapter of the~~
- 7 ~~International Residential Code, as appropriate~~].

8           SECTION 14. Section 39.905, Utilities Code, is amended by

9 amending Subsections (a) and (b) and adding Subsection (h) to read

10 as follows:

11           (a) It is the goal of the legislature that:

12                 (1) electric utilities will administer energy

13 efficiency incentive programs in a market-neutral,

14 nondiscriminatory manner but will not offer underlying competitive

15 services;

16                 (2) all customers, in all customer classes, will have

17 a choice of and access to energy efficiency alternatives and other

18 choices from the market that allow each customer to reduce energy

19 consumption, peak demand, or energy costs;

20                 (3) each electric utility annually will provide,

21 through a cost-effective portfolio of market-based standard offer

22 programs or through limited, targeted, market-transformation

23 programs, incentives sufficient for retail electric providers and

24 competitive energy service providers to acquire additional

25 [cost-effective] energy efficiency for the utility's [residential,

26 and commercial] customers, other than customers who operate a

27 transmission-level voltage facility, equivalent to at least



1 one-half of one [+

2 [~~(A) 10~~] percent of the electric utility's peak  
3 [annual growth in] demand, not including demand from  
4 transmission-level industrial facilities, [of residential and  
5 commercial customers] by January 1, 2013 [~~December 31, 2007,~~

6 [~~(B) 15 percent of the electric utility's annual~~  
7 ~~growth in demand of residential and commercial customers by~~  
8 ~~December 31, 2008, provided that the electric utility's program~~  
9 ~~expenditures for 2008 funding may not be greater than 75 percent~~  
10 ~~above the utility's program budget for 2007 for residential and~~  
11 ~~commercial customers, as included in the April 1, 2006, filing, and~~

12 [~~(C) 20 percent of the electric utility's annual~~  
13 ~~growth in demand of residential and commercial customers by~~  
14 ~~December 31, 2009, provided that the electric utility's program~~  
15 ~~expenditures for 2009 funding may not be greater than 150 percent~~  
16 ~~above the utility's program budget for 2007 for residential and~~  
17 ~~commercial customers, as included in the April 1, 2006, filing];~~

18 (4) each electric utility in the ERCOT region shall  
19 use its best efforts to encourage and facilitate the involvement of  
20 the region's retail electric providers in the delivery of  
21 efficiency programs and demand response programs under this  
22 section;

23 (5) retail electric providers in the ERCOT region, and  
24 electric utilities outside of the ERCOT region, shall provide  
25 customers with energy efficiency educational materials; [~~and~~

26 (6) notwithstanding Subsection (a)(3), electric  
27 utilities shall continue to make available, at 2007 funding and

1 participation levels, any load management standard offer programs  
2 developed for industrial customers and implemented prior to May 1,  
3 2007; and

4 (7) electric utilities may communicate with and  
5 provide rebate or incentive funds to their customers to promote or  
6 facilitate the success of programs implemented under this section.

7 (b) The commission shall provide oversight and adopt rules  
8 and procedures to ensure that the utilities can achieve the goal of  
9 this section, including:

10 (1) establishing an energy efficiency cost recovery  
11 factor for ensuring timely and reasonable cost recovery for utility  
12 expenditures made to satisfy the goal of this section;

13 (2) establishing an incentive under Section 36.204 to  
14 reward utilities administering programs under this section that  
15 exceed the minimum goals established by this section;

16 (3) providing a utility that is unable to establish an  
17 energy efficiency cost recovery factor in a timely manner due to a  
18 rate freeze with a mechanism to enable the utility to:

19 (A) defer the costs of complying with this  
20 section; and

21 (B) recover the deferred costs through an energy  
22 efficiency cost recovery factor on the expiration of the rate  
23 freeze period;

24 (4) ensuring that the costs associated with programs  
25 provided under this section are borne by the customer classes that  
26 receive the services under the programs; ~~and~~

27 (5) ensuring the program rules encourage the value of

1 the incentives to be passed on to the end-use customer;

2 (6) ensuring that programs are evaluated, measured,  
3 and verified using a framework established by the commission that  
4 promotes effective program design and consistent and streamlined  
5 reporting; and

6 (7) ensuring that an independent organization  
7 certified under Section 39.151 allows load participation in all  
8 energy markets for residential, commercial, and industrial  
9 customer classes, either directly or through aggregators of retail  
10 customers, to increase market efficiency, competition, and  
11 customer benefits.

12 (h) The commission shall develop a standard disclosure form  
13 and require an energy efficiency provider to use the form to help  
14 consumers make better informed decisions regarding energy  
15 efficiency investments. The form must include disclosures  
16 regarding:

17 (1) the full scope of incentives that are available to  
18 the consumer for the energy efficiency measure the consumer is  
19 considering, including all utility, city, county, state, and  
20 national incentives;

21 (2) the value of any incentives used to reduce the  
22 costs of products or services offered passed on to the energy  
23 service provider marketing its energy efficiency program;

24 (3) other related energy efficiency incentives that  
25 are available to the consumer; and

26 (4) the consumer's estimated energy savings and  
27 payback period.

1 SECTION 15. Section 39.9051, Utilities Code, is amended by  
2 amending Subsection (f) and adding Subsections (g) and (h) to read  
3 as follows:

4 (f) Beginning April [~~Not later than September~~] 1, 2012  
5 [~~2009~~], a municipally owned utility must report each year to the  
6 State Energy Conservation Office, on [~~in~~] a standardized form  
7 developed by [~~and manner determined by the utility in consultation~~  
8 ~~with~~] the office, information regarding the combined effects of the  
9 energy efficiency activities of the utility from the previous  
10 calendar year, including the utility's annual goals, programs  
11 enacted to achieve those goals, and any achieved energy demand or  
12 savings goals.

13 (g) The State Energy Conservation Office shall provide the  
14 reports made under Subsection (f) to the energy systems laboratory.  
15 The laboratory shall calculate the energy savings and estimated  
16 pollution reductions that resulted from the reported activities.

17 (h) The energy systems laboratory shall share the results of  
18 the analysis with the Public Utility Commission of Texas, ERCOT,  
19 the United States Environmental Protection Agency, and the Texas  
20 Commission on Environmental Quality.

21 SECTION 16. Section 39.9052, Utilities Code, is amended by  
22 amending Subsection (b) and adding Subsections (c) and (d) to read  
23 as follows:

24 (b) Beginning April [~~Not later than September~~] 1, 2012  
25 [~~2009~~], an electric cooperative that had retail sales of more than  
26 500,000 megawatt hours in 2005 must report each year to the State  
27 Energy Conservation Office, on [~~in~~] a standardized form developed

1 by [~~and manner determined by the electric cooperative in~~  
2 ~~consultation with~~] the office, information regarding the combined  
3 effects of the energy efficiency activities of the electric  
4 cooperative from the previous calendar year, including the electric  
5 cooperative's annual goals, programs enacted to achieve those  
6 goals, and any achieved energy demand or savings goals.

7 (c) The State Energy Conservation Office shall provide the  
8 reports made under Subsection (b) to the energy systems laboratory.  
9 The laboratory shall calculate the energy savings and estimated  
10 pollution reductions that resulted from the reported activities.

11 (d) The energy systems laboratory shall share the results of  
12 the analysis with the Public Utility Commission of Texas, ERCOT,  
13 the United States Environmental Protection Agency, and the Texas  
14 Commission on Environmental Quality.

15 SECTION 17. (a) The following sections of the Health and  
16 Safety Code are repealed:

- 17 (1) Section 388.002(6);  
18 (2) Sections 388.003(b) and (b-3);  
19 (3) Section 388.003(b-1), as added by Chapter 262  
20 (S.B. 12), Acts of the 80th Legislature, Regular Session, 2007; and  
21 (4) Section 388.003(b-1), as added by Chapter 939  
22 (H.B. 3693), Acts of the 80th Legislature, Regular Session, 2007.

23 (b) Section 39.905(b-2), Utilities Code, is repealed.

24 SECTION 18. (a) The Public Utility Commission of Texas  
25 shall conduct a study to determine:

- 26 (1) the effect of including avoided transmission and  
27 distribution capacity costs as a factor included in an analysis

1 used to determine whether programs are cost-effective;

2 (2) the appropriate cost of energy to be included as a  
3 factor included in an analysis used to determine whether programs  
4 are cost-effective;

5 (3) how the reductions in energy demand and energy  
6 consumption provided by energy efficiency programs affect the  
7 market clearing price in ERCOT for the balancing energy market  
8 during peak and nonpeak periods; and

9 (4) ways to include the associated changes in energy  
10 prices due to the effect of energy efficiency programs, as found  
11 under Subdivision (3) of this subsection, as a factor included in an  
12 analysis used to determine whether a program is cost-effective.

13 (b) The commission shall report its findings from the study  
14 conducted under this section to the legislature not later than  
15 September 1, 2012.

16 SECTION 19. (a) The State Energy Conservation Office shall  
17 conduct a study on the feasibility of:

18 (1) newly constructed residential buildings being  
19 designed to consume no more energy on a net annual basis than can be  
20 produced on-site from renewable energy sources by January 1, 2030;  
21 and

22 (2) all homes newly constructed in this state being  
23 designed to be ready for the installation of solar electric  
24 generation and to support electric vehicles by January 1, 2015.

25 (b) The State Energy Conservation Office shall, not later  
26 than January 1, 2013, make recommendations to the legislature on  
27 adopting standards to reach the goals described by Subsection (a)

1 of this section.

2 SECTION 20. Section 55.115, Education Code, as added by  
3 this Act, and Section 2166.409, Government Code, as added by this  
4 Act, apply only to an institution of higher education building,  
5 structure, or other facility or a state building for which the  
6 contract for design services is entered into on or after September  
7 1, 2012.

8 SECTION 21. In appointing the initial appointed members of  
9 the Energy Efficiency Council created under Chapter 470, Government  
10 Code, as added by this Act, the governor shall appoint one member to  
11 a term expiring February 1, 2013, one member to a term expiring  
12 February 1, 2015, and one member to a term expiring February 1,  
13 2017.

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