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 for generating capacity from renewable energy technologies established by Sections 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) the adequacy of existing service;
(2) the need for additional service;
(3) the effect of granting the certificate on the recipient of the certificate and any electric utility serving the proximate area; and
(4) other factors, such as:
(A) community values;
(B) recreational and park areas;
(C) historical and aesthetic values;
(D) environmental integrity;
(E) the probable improvement of service or lowering of cost to consumers in the area if the certificate is granted; and
(F) to the extent applicable, the effect of granting the certificate on the ability of this state to meet the goals [goal] established by Sections [Section] 39.904(a) and (a-1) of this title.

SECTION 4. Section 39.203(e), Utilities Code, is amended to read as follows:
(e) The commission may require an electric utility or a transmission and distribution utility to construct or enlarge facilities to ensure safe and reliable service for the state's electric markets and to reduce transmission constraints within ERCOT in a cost-effective manner where the constraints are such that they are not being resolved through Chapter 37 or the ERCOT transmission planning process. The commission shall require an electric utility or a transmission and distribution utility to
construct or enlarge transmission or transmission-related facilities for the purpose of meeting the goals for generating capacity from renewable energy technologies established by Sections [under Section] 39.904(a) and (a-1). In any proceeding brought under Chapter 37, an electric utility or transmission and distribution utility ordered to construct or enlarge facilities under this subchapter need not prove that the construction ordered is necessary for the service, accommodation, convenience, or safety of the public and need not address the factors listed in Sections 37.056(c)(1)-(3) and (4)(E). Notwithstanding any other law, including Section 37.057, in any proceeding brought under Chapter 37 by an electric utility or a transmission and distribution utility related to an application for a certificate of public convenience and necessity to construct or enlarge transmission or transmission-related facilities under this subsection, the commission shall issue a final order before the 181st day after the date the application is filed with the commission. If the commission does not issue a final order before that date, the application is approved.

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

(a) It is the intent of the legislature that by January 1, 2015, an additional 5,000 megawatts of generating capacity from tier 1 renewable energy technologies will have been installed in this state. The cumulative installed tier 1 renewable capacity in this state shall total 5,880 megawatts by January 1, 2015, and the
commission shall establish a target of 10,000 megawatts of installed renewable capacity by January 1, 2025. The cumulative installed renewable capacity in this state shall total 2,280 megawatts by January 1, 2007, 3,272 megawatts by January 1, 2009, 4,264 megawatts by January 1, 2011, 5,256 megawatts by January 1, 2013, and 5,880 megawatts by January 1, 2015. Of the renewable energy technology generating capacity installed to meet the goal of this subsection after September 1, 2005, the commission shall establish a target of having at least 500 megawatts of capacity from a renewable energy technology other than a source using wind energy.

(a-1) It is the goal of the legislature that by January 1, 2022, an additional 1,500 megawatts of generating capacity from tier 2 renewable energy technologies will have been installed in this state. The cumulative installed tier 2 renewable capacity in this state shall total at least 100 megawatts by January 1, 2014; 200 megawatts by January 1, 2015; 350 megawatts by January 1, 2016; 500 megawatts by January 1, 2017; 750 megawatts by January 1, 2018; 900 megawatts by January 1, 2019; 1,000 megawatts by January 1, 2020; 1,250 megawatts by January 1, 2021; and 1,500 megawatts by January 1, 2022. On January 1, 2018, if the commission determines the state has not made significant progress toward the goal of this subsection, then the commission may take action to suspend future obligations under this subsection.

(b) The commission shall establish a tier 1 renewable energy credits trading program and a tier 2 renewable energy credits trading program. Any retail electric provider, municipally owned
utility, or electric cooperative that does not satisfy the requirements of Subsection (a) or (a-1) by directly owning or purchasing capacity using renewable energy technologies shall purchase sufficient renewable energy credits to satisfy the requirements by holding renewable energy credits in lieu of capacity from renewable energy technologies. In calculating capacity factors for tier 2 renewable energy credits, the commission shall encourage a diverse portfolio of tier 2 renewable energy technologies. The commission may adopt rules to establish a sub-tier within the tier 2 renewable energy credits trading program for one or more types of renewable energy technology included in the tier 2 program.

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

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

(2) specify reasonable performance standards that all renewable capacity additions must meet to count against the requirements prescribed by Subsections (a) and (a-1) and that:

(A) are designed and operated so as to maximize the energy output from the capacity additions in accordance with
then-current industry standards; and

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

(d) For purposes of this section:

(1) "Renewable energy technology" means a tier 1 or
tier 2 renewable energy technology.

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

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

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

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

(o) The commission may establish tier 1 and tier 2 alternative compliance payments. An entity that has a renewable energy purchase requirement under this section may elect to pay the alternative compliance payment instead of applying renewable energy credits toward the satisfaction of the entity's obligation under this section. The commission may establish a separate alternative compliance payment for the goal of 500 megawatts of capacity from renewable energy technologies other than wind energy. The tier 1 alternative compliance payment for a renewable energy purchase requirement that could be satisfied with a renewable energy credit from wind energy may not be less than $2.50 per credit or greater than $20 per credit. The tier 2 alternative compliance payment for a renewable energy purchase requirement that could be satisfied with a tier 2 renewable energy credit may not be set above $90 per credit before December 31, 2016; $80 per credit before December 31, 2017; $65 per credit before December 31, 2018; $45 per credit before December 31, 2019; $40 per
credit before December 31, 2020; $35 per credit before December 31, 2021; and $30 per credit before December 31, 2022. [Prior to September 1, 2009, an alternative compliance payment under this subsection may not be set above $5 per credit.] In implementing this subsection, the commission shall consider:

(1) the effect of renewable energy credit prices on retail competition;
(2) the effect of renewable energy credit prices on electric rates;
(3) the effect of the alternative compliance payment level on the renewable energy credit market; and
(4) any other factors necessary to ensure the continued development of the renewable energy industry in this state while protecting ratepayers from unnecessary rate increases.

(p) If the commission suspends the tier 2 renewable energy technology goal under Subsection (a-1), retail electric providers shall refund, under the guidance of the commission, all alternative compliance payment funds collected to the residential and commercial electric customers covered by this subchapter. If the commission does not suspend the tier 2 renewable energy technology goal under Subsection (a-1), the alternative compliance payment funds collected by the commission shall be used for the purposes of a solar rebate program established by the commission.

SECTION 6. This Act takes effect September 1, 2013.