

By: Strama

H.B. No. 3582

A BILL TO BE ENTITLED

AN ACT

relating to emission and water reduction in permitted generation facilities.

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

SECTION 1. Section 382.003, Health and Safety Code, is amended by adding (1-b) to read as follows:

(1-b) "Emission and Water Reduction Project" means a project in which a generation facility has a valid permit under this chapter and which applies for a modified permit under this chapter before January 1, 2020, in order to achieve:

(A) a 50% reduction in the annual average emission rate for nitrogen oxides;

(B) a 25% reduction in the rate of water consumption; and

(C) to maintain or exceed the previous rated capacity of the facility.

SECTION 2. The Health and Safety Code is amended by adding Chapter 395 to read as follows:

CHAPTER 395. EMISSION AND WATER REDUCTION INITIATIVE FOR

PERMITTED GENERATION FACILITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 395.001. DEFINITIONS. In this chapter:

(1) "Best available control technology" has the meaning assigned by Section 169 of the federal Clean Air Act (42

1 U.S.C. Section 7479(3)).

2 (2) "Commission" means the Texas Commission on
3 Environmental Quality.

4 (3) "Facility" has the meaning assigned by Section
5 382.003.

6 (4) "Incremental cost" has the meaning assigned by
7 Section 386.001.

8 (5) "New technology" means emissions control
9 technology that results in emissions reductions that exceed state
10 or federal requirements in effect at the time of submission of a new
11 technology implementation grant application.

12 (6) "Stationary source" has the meaning assigned by
13 Section 302 of the federal Clean Air Act (42 U.S.C. Section
14 7602(z)).

15 Sec. 395.002. EMISSION AND WATER REDUCTION INITIATIVE. (a)
16 The commission shall establish and administer an emission and water
17 reduction initiative to assist with the re-powering of electric
18 generation facilities as a means of reducing emissions and water
19 consumption in this state. Under the initiative, the commission
20 shall provide loan guarantees or other financial incentives for
21 eligible projects to facilitate the re-powering and modification
22 needed to reduce emissions and water consumption.

23 (b) Emission and Water Reduction Projects as defined by
24 Section 382.003 may be considered eligible projects.

25 Sec. 395.003. GUIDELINES AND CRITERIA. (a) The commission
26 shall adopt loan guaranty guidelines and criteria consistent with
27 the requirements of this chapter.

1 (b) The guidelines must include:

2 (1) protocols to compute projected emissions and water
3 reductions;

4 (2) safeguards to ensure that the projects funded
5 result in emissions reductions not otherwise required by state or
6 federal law;

7 (3) rules to establish loan guarantees not to exceed
8 85% of the direct cost of the project with the total cost of
9 installed capacity not to exceed \$1000 per KW; and

10 (4) rules to ensure the loan guaranty will expire upon
11 the earlier of:

12 (A) three years after the Public Utility
13 Commission implements a forward capacity market; or

14 (B) the loan to value of the clean energy project
15 falls at or below 50%; or

16 (C) 18 years from the date of approval.

17 (c) The commission may propose revisions to the guidelines
18 and criteria adopted under this section as necessary to improve the
19 ability of the initiative to achieve the its goals.

20 (d) The commission may adopt emergency rules under Section
21 2001.034, Government Code, with abbreviated notice, to carry out
22 any rulemaking necessary to implement this chapter.

23 (e) Except as provided by Subsection (d), the rulemaking
24 requirements of Chapter 2001, Government Code, do not apply to the
25 adoption or revision of guidelines and criteria under this section.

26 Sec. 395.004. AVAILABILITY OF EMISSIONS REDUCTION CREDITS
27 IN CERTAIN NONATTAINMENT AREAS. A project funded under this

1 chapter must comply with Sections 386.055 and 386.056, as
2 applicable.

3 SUBCHAPTER B. INITIATIVE APPLICATIONS AND REVIEW

4 Sec. 395.101. APPLICATION FOR LOAN GUARANTY. (a) The owner
5 of a facility located in this state may apply for a loan guaranty
6 under the initiative established under Section 395.002. To improve
7 the ability of the initiative to achieve its goals, the commission
8 may adopt guidelines to allow a person other than the owner to apply
9 for and receive a loan guaranty.

10 (b) An application for a loan guaranty under this chapter
11 must be made on a form provided by the commission and must contain
12 information required by the commission, including:

13 (1) a detailed description of the proposed project;
14 (2) information necessary for the commission to
15 determine whether the project meets the commission's eligibility
16 requirements, including a statement of the amounts of any other
17 public financial assistance the project will receive; and

18 (3) other information the commission may require.

19 Sec. 395.102. LOAN GUARANTY APPLICATION REVIEW PROCEDURES.

20 (a) The commission shall review an application for a loan guaranty
21 for a project authorized under this chapter according to dates
22 specified in a request for grant applications. If the commission
23 determines that an application is incomplete, the commission shall
24 notify the applicant and provide an explanation of the information
25 missing from the application. The commission shall evaluate the
26 completed application according to the guidelines and criteria
27 adopted under Section 395.003.

1 (b) To the extent possible, the commission shall coordinate
2 project review and approval with any timing constraints related to
3 project purchases or installations to be made by an applicant.

4 (c) The commission may deny a loan guaranty application for
5 a project that does not meet the applicable criteria or that the
6 commission determines is not made in good faith, is not credible, or
7 is not in compliance with this chapter or the goals of this chapter.

8 (d) Subject to the availability of funding, the commission
9 shall award a loan guaranty under this chapter in conjunction with
10 the execution of a contract that obligates the commission to make
11 the loan guaranty and the recipient to perform the actions
12 described by the recipient's application.

13 Sec. 395.103. EVIDENCE OF EMISSIONS REDUCTION POTENTIAL
14 REQUIRED. (a) An application for a emissions and water reduction
15 project under this chapter must show reasonable evidence that the
16 proposed project is capable of providing a significant reduction in
17 emissions and water consumption.

18 (b) The commission shall consider specifically, for each
19 application:

- 20 (1) the projected potential for reduced emissions; and
21 (2) the projected potential for reduced water
22 consumption

23 Sec. 395.104. REPORTING REQUIREMENTS. The commission
24 annually shall prepare a report that summarizes the applications
25 received and loan guarantees awarded in the preceding year.

26 SUBCHAPTER C. PROJECT REQUIREMENTS

27 Sec. 391.201. ELIGIBILITY OF PROJECTS FOR LOAN GUARANTEES.

1 (a) The commission shall establish criteria for prioritizing
2 projects eligible to receive loan guarantees under this chapter.
3 The commission shall review and may modify the criteria and
4 priorities as appropriate.

5 (b) A proposed project must meet the requirements of this
6 section to be eligible for a loan guarantee under the initiative
7 established under Section 391.002.

8 (d) An emissions and water reduction project must document,
9 in a manner acceptable to the commission, an achieved reduction
10 from the baseline emissions adopted by the commission for the
11 relevant facility or stationary source.

12 (e) If a baseline emissions standard does not exist for a
13 facility, the commission, for purposes of this subchapter, shall
14 adopt an appropriate baseline emissions level for comparison
15 purposes.

16 (f) An emissions and water reduction project must document,
17 in a manner acceptable to the commission, an achieved reduction in
18 water consumption. Planned water usage for proposed projects must
19 be consistent with the state water plan.

20 (g) Upon completion of the project, the installed capacity
21 must meet or exceed the previous rated capacity of the facility.

22 Sec. 395.203. DETERMINATION OF LOAN GUARANTY AMOUNT AND
23 DURATION OF LOAN GUARANTY.

24 (a) The commission may not award a loan guaranty that, net
25 of taxes, exceeds 85% of the project cost with the total project
26 cost not to exceed \$1000 per KW of installed capacity.

27 (b) The loan guaranty will expire upon the earlier of :

1 (1) 18 years from the date of approval;

2 (2) three years after the Public Utility Commission
3 implements a forward capacity market; or

4 (3) at any such time that the loan to value of the
5 emission and water reduction project falls at or below 50%.

6 Sec. 395.205. PREFERENCES. (a) On awarding grants under
7 this chapter the commission shall give preference to projects that
8 are located in non-attainment or near non-attainment areas of
9 Texas.

10 SUBCHAPTER D. FUNDING; EXPIRATION

11 Sec. 395.302. COMPTROLLER REVIEW OF USE OF GRANT FUNDS. (a)
12 The comptroller annually shall conduct a review of each recipient
13 of a emission and water reduction project loan guaranty under this
14 chapter to ensure that the recipient's use of the loan complies with
15 state law and the terms of the award.

16 (b) To assist with a review under this section, the
17 commission shall provide the comptroller with all monitoring
18 reports received from loan guaranty recipients and any other
19 documentation requested by the comptroller.

20 (c) On a finding of any misuse of loan money or other
21 noncompliance with grant requirements, the comptroller shall
22 provide a report to the commission with recommendations for
23 subsequent action.

24 (d) The comptroller shall notify the Commission and the
25 applicant when the loan to value of the emission and water reduction
26 project falls at or below %50 and the loan guarantee is withdrawn.

27 (d) The comptroller may adopt rules to implement this

1 section.

2 Sec. 391.304. EXPIRATION. This chapter expires August 31,
3 2019.

4 SECTION 3: This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect September 1, 2013.