

By: Hancock

S.B. No. 2116

A BILL TO BE ENTITLED

AN ACT

relating to the sale of electric power to certain public customers.

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

SECTION 1. Section 52.133(d), Natural Resources Code, is amended to read as follows:

(d) The commissioner, the owner of the soil under Subchapter F, or the commissioner acting on behalf of and at the direction of an owner of the soil under Subchapter F, the board, or a board for lease may negotiate and execute contracts or any other instruments or agreements necessary to convert that portion of the royalty taken in kind into other forms of energy, other than ~~[including]~~ electricity.

SECTION 2. Section 53.026(b), Natural Resources Code, is amended to read as follows:

(b) The commissioner or the commissioner acting on behalf of and at the direction of the board or a board for lease may negotiate and execute a contract or any other instrument or agreement necessary to convert that portion of the royalty taken in kind to other forms of energy, other than ~~[including]~~ electricity.

SECTION 3. Section 53.077(b), Natural Resources Code, is amended to read as follows:

(b) The commissioner, each owner of the soil under this subchapter, or the commissioner acting on behalf of and at the direction of the owner of the soil under this subchapter may

1 negotiate and execute a contract or any other instrument or
2 agreement necessary to convert that portion of the royalty taken in
3 kind to other forms of energy, other than ~~[including]~~ electricity.

4 SECTION 4. Section [182.022](#), Tax Code, is amended by adding
5 Subsection (d) to read as follows:

6 (d) Notwithstanding any other provision of this chapter, a
7 tax under this chapter may not be imposed on the gross receipts from
8 the sale of electricity to a public school district customer.

9 SECTION 5. Section [35.102](#), Utilities Code, is transferred
10 to Subchapter A, Chapter [101](#), Utilities Code, redesignated as
11 Section 101.009, Utilities Code, and amended to read as follows:

12 Sec. [101.009](#) ~~[[35.102](#)]~~. STATE AUTHORITY TO SELL OR CONVEY
13 ~~[POWER OR]~~ NATURAL GAS. (a) In this section:

14 (1) "Commissioner" means the commissioner of the
15 General Land Office.

16 (2) "Public retail customer" means a retail customer
17 that is an agency of this state, a state institution of higher
18 education, a public school district, a political subdivision of
19 this state, a military installation of the United States, or a
20 United States Department of Veterans Affairs facility.

21 (b) The commissioner, acting on behalf of the state, may
22 sell or otherwise convey ~~[power or]~~ natural gas generated from
23 royalties taken in kind as provided by Sections [52.133\(f\)](#), [53.026](#),
24 and [53.077](#), Natural Resources Code, directly to a public retail
25 customer ~~[regardless of whether the public retail customer is also~~
26 ~~classified as a wholesale customer under other provisions of this~~
27 ~~title]~~.

1 (c) [~~(b)~~] To ensure that the state receives the maximum
2 benefit from the sale of [~~power or~~] natural gas generated from
3 royalties taken in kind, the commissioner shall use all feasible
4 means to sell that [~~power or~~] natural gas first to public retail
5 customers that are military installations of the United States,
6 agencies of this state, institutions of higher education, or public
7 school districts. The remainder of the [~~power or~~] natural gas, if
8 any, may be sold to public retail customers that are political
9 subdivisions of this state or to a United States Department of
10 Veterans Affairs facility.

11 SECTION 6. Section [104.2545](#)(d), Utilities Code, is amended
12 to read as follows:

13 (d) In this section, "public retail customer" has the
14 meaning assigned by Section [101.009](#) [~~35.101~~].

15 SECTION 7. (a) The heading to Subchapter D, Chapter [35](#),
16 Utilities Code, is repealed.

17 (b) Sections [35.101](#), [35.103](#), [35.104](#), [35.105](#), and [35.106](#),
18 Utilities Code, are repealed.

19 SECTION 8. The General Land Office or an entity operating
20 under a contract with the General Land Office may continue to
21 provide retail electric service in accordance with Subchapter D,
22 Chapter [35](#), Utilities Code, as that subchapter existed before the
23 effective date of this Act, under the terms of an agreement with a
24 customer entered into before the effective date of this Act, only
25 until the date the agreement expires. An agreement described by
26 this section may be extended to a date not later than January 1,
27 2024.

1 SECTION 9. The change in law made by this Act does not
2 affect taxes imposed before the effective date of this Act, and the
3 law in effect before the effective date of this Act is continued in
4 effect for purposes of the liability for and collection of those
5 taxes.

6 SECTION 10. (a) As soon as practicable after January 1,
7 2024, the Public Utility Commission of Texas, for an electric
8 utility regulated under Chapter 36, Utilities Code, shall provide
9 for the adjustment of the electric utility's billing of a public
10 school district customer to reflect any decrease in the utility's
11 tax liability to this state if the decrease is attributable to the
12 exemption in Section 182.022(d), Tax Code, as added by this Act. An
13 adjustment must be made effective at the same time as the decrease
14 in tax liability or as soon after that decrease occurs as is
15 reasonably practicable. The Public Utility Commission of Texas is
16 not required to provide for an adjustment if the commission enters
17 an order for the utility under Subchapter C or D, Chapter 36,
18 Utilities Code, that accounts for any decrease in the utility's tax
19 liability attributable to the exemption in Section 182.022(d), Tax
20 Code, as added by this Act. An adjustment is not a rate case under
21 Subchapter C or D, Chapter 36, Utilities Code.

22 (b) As soon as practicable after January 1, 2024, a retail
23 electric provider, as defined by Section 31.002, Utilities Code,
24 shall adjust the billing of a public school district customer to
25 reflect any decrease in the retail electric provider's tax
26 liability to this state if the decrease is attributable to the
27 exemption in Section 182.022(d), Tax Code, as added by this Act. An

1 adjustment must be made effective at the same time as the decrease
2 in tax liability or as soon after that decrease occurs as is
3 reasonably practicable.

4 SECTION 11. (a) Except as provided by Subsection (b) of
5 this section, this Act takes effect immediately if it receives a
6 vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2019.

10 (b) Section 182.022(d), Tax Code, as added by this Act,
11 takes effect January 1, 2024.