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S.B. No. 624

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the permitting of renewable energy generation
3 facilities by the Public Utility Commission of Texas; authorizing
4 fees.

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

6 SECTION 1. Chapter 35, Utilities Code, is amended by adding
7 Subchapter F to read as follows:

8 SUBCHAPTER F. RENEWABLE ENERGY GENERATION FACILITY PERMIT

9 Sec. 35.201. DEFINITIONS; APPLICABILITY. (a) In this
10 subchapter:

11 (1) "Permit holder" means a person who holds a permit
12 issued under this subchapter.

13 (2) "Person" includes an electric cooperative and a
14 municipally owned utility.

15 (3) "Renewable energy generation facility" means:

16 (A) a wind power facility as defined by Section
17 301.0001; or

18 (B) a solar power facility as defined by Section
19 302.0001.

20 (b) This subchapter applies to a renewable energy
21 generation facility regardless of whether the facility is the
22 subject of a wind power facility agreement or solar power facility
23 agreement entered into under Chapter 301 or 302.

24 (c) This subchapter does not apply to a solar power facility

1 located in the corporate boundaries of a home-rule municipality.

2 Sec. 35.202. LEGISLATIVE POLICY AND PURPOSE. The
3 conservation and development of all the natural resources of this
4 state are declared to be public rights and duties. It is also
5 declared that balancing private property rights, the need to
6 increase electric generation, and the need to mitigate unreasonable
7 impacts of renewable energy generation facilities on wildlife,
8 water, and land in this state is in the public interest. In the
9 exercise of the police power of this state, it is necessary and
10 desirable to provide additional means so that the installation and
11 removal of renewable energy generation facilities is placed under
12 the authority and direction of the commission.

13 Sec. 35.203. PERMIT REQUIRED; APPLICATION. (a) A person
14 may not interconnect a renewable energy generation facility with a
15 capacity of 10 megawatts or more to a transmission facility unless:

16 (1) the person holds a permit to operate a renewable
17 energy generation facility issued by the commission under this
18 subchapter; or

19 (2) the commission by order approves the construction.

20 (b) A person may apply for a permit to operate a renewable
21 energy generation facility by filing with the commission:

22 (1) a description of the location of the facility;

23 (2) a description of the type of facility;

24 (3) a copy of any information filed with the Federal
25 Energy Regulatory Commission in connection with registration with
26 that commission;

27 (4) any assumed business or professional name of the

1 applicant filed under Chapter 71, Business & Commerce Code;

2 (5) an environmental impact review conducted by the
3 Parks and Wildlife Department under Section 12.0012, Parks and
4 Wildlife Code;

5 (6) any wind power facility agreement or solar power
6 facility agreement applicable to the facility entered into under
7 Chapter 301 or 302 by the applicant;

8 (7) the address of an Internet website that provides
9 information about the proposed facility; and

10 (8) any other information required by commission rule,
11 provided that in requiring that information the commission shall
12 protect the competitive process in a manner that ensures the
13 confidentiality of competitively sensitive information.

14 (c) Notwithstanding Subsection (a), a person who
15 interconnected a renewable energy generation facility to a
16 transmission facility before September 1, 2023, must apply for a
17 permit under this subchapter only if the person:

18 (1) increases the amount of electricity generated by
19 the facility by five megawatts or more; or

20 (2) materially changes the placement of the renewable
21 energy generation facility.

22 Sec. 35.204. NOTICE AND MEETING. (a) The commission by rule
23 shall require an applicant for a permit or a permit amendment to:

24 (1) provide notice of the application to the county
25 judge of each county located within 25 miles of the boundary of the
26 renewable energy generation facility that is the subject of the
27 permit;

1 (2) hold a public meeting to obtain public input on the
2 proposed permit or permit amendment; and

3 (3) after applying for the permit or permit amendment,
4 publish for at least two consecutive publications in a newspaper of
5 general circulation in each county in which the renewable energy
6 generation facility that is the subject of the permit will be or is
7 located a notice that includes:

8 (A) the time and place of the public meeting; and

9 (B) a link to a publicly accessible Internet
10 website that provides information about the facility and
11 information regarding the public meeting.

12 (b) A public meeting held under this section must be held in
13 a location that is:

14 (1) not more than 25 miles from the boundary of the
15 renewable energy generation facility that is the subject of the
16 permit; or

17 (2) if a suitable meeting place is not available in a
18 location described by Subdivision (1), in the nearest suitable
19 meeting location.

20 (c) The commission may not approve or deny an application
21 for a permit or permit amendment before the 30th day after the date
22 the applicant conducts the public meeting required by this section.

23 (d) Notwithstanding any other provision of this subchapter,
24 the commission may approve an application to amend a permit without
25 requiring a public meeting if:

26 (1) the applicant is not applying to:

27 (A) significantly increase the amount of

1 electricity generated under the permit; or

2 (B) materially change the placement of the
3 renewable energy generation facility;

4 (2) the commission determines that the applicant's
5 compliance history raises no issues regarding the applicant's
6 ability to comply with a material term of the permit; and

7 (3) the commission:

8 (A) gives notice of the application to the county
9 judge of each county and the governing body of each municipality in
10 which the facility is located at least 30 days before the date of
11 the commission's approval of the application; and

12 (B) allows the county judges and governing bodies
13 to present information to the commission on the application.

14 Sec. 35.205. APPROVAL OR DENIAL OF APPLICATION. (a) The
15 commission may approve an application only if the commission finds
16 that issuance or amendment of the permit would not violate state or
17 federal law or rule and would not interfere with the purpose of this
18 subchapter.

19 (b) In considering an application for the issuance or
20 amendment of a permit, the commission shall consider the compliance
21 history of the applicant.

22 (c) A permit holder does not have a vested right in a permit.

23 Sec. 35.206. CONDITIONS OF PERMIT. (a) For each permit,
24 the commission shall prescribe the conditions under which it is
25 issued, including:

26 (1) the boundary of the permitted facility location;

27 (2) the maximum number of renewable energy generation

1 facilities authorized by the permit; and

2 (3) any monitoring and reporting requirements
3 prescribed by the commission for the permit holder.

4 (b) The commission, on its own motion after reasonable
5 notice and hearing, may require a permit holder to conform to new or
6 additional conditions to comply with this subchapter or rules
7 adopted under this subchapter.

8 (c) A permit holder shall:

9 (1) for a solar power facility, ensure that all
10 permitted facility equipment is located at least:

11 (A) 100 feet from any property line, unless the
12 permit holder has obtained a written waiver from each owner of
13 property located less than 100 feet from the permitted facility;
14 and

15 (B) 200 feet from any habitable structure, unless
16 the permit holder has obtained a written waiver from each owner of
17 the habitable structure;

18 (2) for a wind power facility, ensure that all
19 permitted facility equipment is located at least 3,000 feet from
20 the property line of each property that borders the property on
21 which the permitted facility is located, unless the permit holder
22 has obtained a written waiver from each owner of property located
23 less than 3,000 feet from the permitted facility;

24 (3) provide a publicly accessible Internet website
25 that displays:

26 (A) a map of the boundaries of the permitted
27 facility;

1 (B) any interconnection request numbers assigned
2 to the permitted facility;

3 (C) the name of the owner of the permitted
4 facility; and

5 (D) any other information required by the
6 commission; and

7 (4) provide evidence to the commission that the permit
8 holder has complied with Chapter 301 or 302, as applicable, by
9 providing financial assurance in the form of a bond.

10 (d) The distance from the property line required by
11 Subsection (c)(2) must be measured as a straight line from the
12 vertical centerline of the wind turbine to the nearest point on the
13 property line.

14 Sec. 35.207. MONITORING AND REPORTING. The commission by
15 rule may, in coordination with the Parks and Wildlife Department,
16 require a permit holder to:

17 (1) monitor, record, and report on environmental
18 impacts created by the permitted facility;

19 (2) conduct wildlife assessments around the permitted
20 facility and provide assessment results to the Parks and Wildlife
21 Department in a form and according to deadlines required by the
22 department;

23 (3) adapt operations based on information obtained
24 under Subdivisions (1) and (2) to minimize facility effects on
25 bats, birds, and other wildlife; and

26 (4) provide to the commission and the Parks and
27 Wildlife Department other information about the operation of the

1 permitted facility.

2 Sec. 35.208. RENEWABLE ENERGY GENERATION FACILITY CLEANUP
3 FUND. (a) The renewable energy generation facility cleanup fund is
4 a dedicated account in the general revenue fund.

5 (b) The fund consists of:

6 (1) environmental impact fees collected under Section
7 35.209;

8 (2) gifts, grants, and donations; and

9 (3) legislative appropriations.

10 (c) Money in the fund may be used only by the commission to
11 implement this subchapter.

12 Sec. 35.209. ENVIRONMENTAL IMPACT FEE. (a) An annual
13 environmental impact fee is imposed on each permit holder.

14 (b) Environmental impact fees must be deposited in the
15 renewable energy generation facility cleanup fund.

16 (c) The fee for each year is imposed on each permit in effect
17 during any part of the year. The commission may establish reduced
18 fees for inactive permits.

19 (d) The commission by rule shall adopt a fee schedule for
20 determining the amount of the fee to be charged. In determining the
21 amount of a fee under this section, the commission may consider:

22 (1) the efficiency of the renewable energy generation
23 facility;

24 (2) the area and size of the renewable energy
25 generation facility;

26 (3) the renewable energy generation facility's
27 environmental impact score provided under Section 12.0012, Parks

1 and Wildlife Code; and

2 (4) expenses necessary to implement this subchapter.

3 Sec. 35.210. FEDERAL FUNDS. The commission may execute
4 agreements with the United States Environmental Protection Agency
5 or any other federal agency that administers programs providing
6 federal cooperation, assistance, grants, or loans for research,
7 development, investigation, training, planning, studies,
8 programming, or construction related to methods, procedures,
9 mitigation, and facilities for the removal of renewable energy
10 generation facilities. The commission may accept federal funds for
11 these purposes and for other purposes consistent with the
12 objectives of this subchapter and may use the funds as prescribed by
13 law or as provided by agreement.

14 Sec. 35.211. POWER TO REGULATE AND SUPERVISE. (a) For
15 purposes of this subchapter, a provision of Subchapter B or E,
16 Chapter 14, that authorizes the commission to regulate a public
17 utility also applies to a person required to obtain a permit under
18 this subchapter, including an electric cooperative and a
19 municipally owned utility.

20 (b) The commission may adopt and enforce rules reasonably
21 required in the exercise of its powers under this subchapter.

22 Sec. 35.212. ENFORCEMENT AND PENALTIES. For the purposes
23 of enforcing this subchapter, a reference in Chapter 15 to a person
24 includes any person required to obtain a permit under this
25 subchapter, including an electric cooperative and a municipally
26 owned utility.

27 SECTION 2. Subchapter A, Chapter 12, Parks and Wildlife

1 Code, is amended by adding Section 12.0012 to read as follows:

2 Sec. 12.0012. ENVIRONMENTAL IMPACT REVIEW FOR RENEWABLE
3 ENERGY GENERATION FACILITIES. The commission by rule shall adopt a
4 system for providing an environmental impact review in a format
5 established by the commission to an applicant for a renewable
6 energy generation facility permit under Section 35.203, Utilities
7 Code, based on materials provided by the applicant. The system must
8 establish:

9 (1) a process for a person to apply for and receive
10 from the department an environmental impact review;

11 (2) criteria for the department to evaluate the
12 environmental impact of a proposed renewable energy generation
13 facility, including:

14 (A) the facility's prioritization of natural
15 resource conservation, wildlife conservation management, and
16 agricultural use of land;

17 (B) use of the land on which the facility is
18 located for agricultural purposes;

19 (C) the applicant's commitment to and planned
20 implementation of avoidance and minimization measures to conserve
21 natural resources; and

22 (D) agricultural best practices developed by the
23 department in coordination with the Texas A&M AgriLife Extension
24 Service;

25 (3) a method for the department to provide an
26 environmental impact score for a renewable energy generation
27 facility, based on the criteria described by Subdivision (2);

1 (4) fees for providing the environmental impact
2 reviews, in an amount sufficient to cover the department's costs of
3 implementing this section; and

4 (5) guidelines for the department's use of any map
5 applications necessary for the implementation of this section,
6 including the applicant's mapping of specific areas and other
7 aspects required by the department to produce an effective and
8 timely review.

9 SECTION 3. This Act takes effect September 1, 2023.